



June 27th, 2023

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 28th June 2023 at 10:00 am** in **Boardroom Council Offices Monaghan Row Newry.**

**Committee Membership 2023-2024:**

Councillor D Murphy **Chairperson**

Councillor J Tinnelly **Deputy Chairperson**

Councillor P Byrne

Councillor P Campbell

Councillor C Enright

Councillor A Finnegan

Councillor G Hanna

Councillor M Larkin

Councillor C King

Councillor D McAteer

Councillor S Murphy

Councillor M Rice

# Agenda

**1.0 Apologies and Chairperson's remarks.**

**2.0 Declarations of Interest.**

**3.0 Declarations of Interest in relation to Para. 25 of Planning Committee Operating Protocol - Members to be present for entire item.**

**4.0 Minutes of Planning Committee Meeting held on Wednesday 05 April 2023. (Attached)**

 *Planning Committee Minutes - 05.04.2023.pdf*

*Page 1*

**5.0 Addendum List. (Attached)**

 *Addendum list - 28-06-2023.pdf*

*Page 16*

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## *Development Management - Planning Applications for determination*

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**6.0 P/2010/0648/F - Proposed Retention of existing Offices, maintenance repair sheds, 3 No storage buildings, weighbridge and parking area in conjunction with operations carried out by Dumfries Freight Limited at premises located at No 179 Gosford Road, Newry. (Amended Description) - 179 Gosford Road Newry. (Case Officer Report attached)**

APPROVAL

ADDENDUM LIST

 *P-2012-0648 Gosford Rd.pdf*

*Page 18*

**7.0 P/2015/0164/F - Proposed housing development with associated siteworks and parking - Lands at Chequer Hill and south of College Gardens Newry. (Attached)**

APPROVAL

ADDENDUM LIST

 *P.2015.0164.F Housing Chequer Hill Newry 140623.pdf*

*Page 27*

**8.0 LA07/2021/1323/F - Demolition of existing car sales and**


**garage buildings and erection of residential development comprising 12No. semi-detached houses, 4No terraced houses and 29No. apartments (45No. units in total) with associated site works, road works, landscaping and car parking-68 to 72 & 74 Shore Road, Rostrevor. (Case Officer Report attached)**

REFUSAL


- A request for speaking rights has been received from Colum Sands, in **objection** to the application. (Submission attached)
- A request for speaking rights has been received from Brendan Starkey (Planning Consultant – O'Toole & Starkey), Gary McCausland (Applicant) and Alwyn Whiteman (Architect – Clarke & Whiteman), in **support** of the application . (Submission attached)

 **LA07.2021.1323.pdf**

**Page 50**

 **LA07-2021-1323-F (Objection).pdf**

**Page 67**


 **LA07.2021.1323.F - (support).pdf**

**Page 69**


**9.0 LA07/2022/0704/F - Erection of a dormer style farm dwelling and detached garage - Lands approx. 190m north of No 14 Old Road, Crossmaglen, Newry, BT35 9AL. (Case Officer Report attached)**

REFUSAL

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

 **LA07-2022-0704-F N of 14 Old Road signed(1).pdf**

**Page 71**

 **LA07 2022 0704 (Support).pdf**

**Page 77**

**10.0 LA07/2022/1313/O - 2 Storey Dwelling and Garage on an Infill site under Policy CTY8 of PPS21 - Lands to the immediate East of 3 Bog Road, Killeen. (Case Officer Report attached)**

REFUSAL

- Deferred to Planning Committee Meeting July 2023

## **11.0 LA07/2022/1411/- St. Marys Primary School, Lurganure. (Case Officer Report attached)**

APPROVAL

ADDENDUM LIST

Redevelopment of St. Marys Primary School, Lurganure. Works to include phased construction of new single storey primary school building, outdoor canopy covered play area, hard and soft play areas, landscaping, cycle stands, security fencing, new underground storm sewer drainage system, solar panelling on roof of new building, relocation of oil tank and provision of bin store and service yard area. Works to include demolition of principal's office building, external modular classroom and shelter/oil storage blocks. New internal road configuration to include separate car and bus pick up/drop off areas, pedestrian crossing points, additional car parking, separate temporary construction access off School Road and all associated works. Existing access of School Road to be maintained and upgraded.

## **12.0 LA07/2023/2337/F - The Square, Mary Street, Rostrevor.(Case Officer Report attached)**

APPROVAL

ADDENDUM LIST

Current site is a public community space with 2 benches and a table. Proposal is to install a sculpture of Tom Dunn (hedge schoolteacher) as per drawings in between these two granite benches. Sculpture will be cast in bronze and welded to a box frame foundation set in to the ground. Project is SEUPB funded and artist has been commissioned.


## **13.0 LA07/2022/1399/O - Dwelling and garage -Lands approximately**



## **22m north of No.72 Benagh Road, Newry.(Case Officer Report attached)**

### REFUSAL

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

 *LA07-2022-1399-O Benagh Rd.pdf*

*Page 107*


 *LA07 -2022 -1399 -O (support).pdf*

*Page 119*


## **14.0 LA07/2020/1768/DC - Discharge conditions 2 (Haulage Routes) and 28 (Landscaping Plan) of planning approval LA07/2015/1088/F - 100m west of 133 Carrigagh Road Finnis Dromara. (Case Officer Report attached)**

### APPROVAL


- A request for speaking rights has been received from Eddie Patterson in **objection** to the application. (Submission attached)
- A request for speaking rights has been received from Sarah McDowell Resolve Planning, in **support** of the application. (Submission attached)

 *2020\_1768 DC.pdf*

*Page 121*

 *LA07-2020-1768-DC (Objection).pdf*

*Page 127*


 *LA07\_2020\_1768 (support).pdf*

*Page 131*

## **15.0 LA07/2022/1257/RM -- Erect new dwelling and detached garage with associated access and site works - 40m SW of no. 67 Tullyframe Road, Atticall, Kilkeel. (Case Officer Report attached)**

### APPROVAL

- A request for speaking rights has been received from Brendan Quinn Agent, in **support** of the application.


 *LA07-2022-1257-RM Tullyframe.pdf*

*Page 140*

## **16.0 LA07/2022/0578/O - New Dwelling and Domestic Garage - Approx. 55m North-west of 61 Dromore Road Ballynahinch . (Case Officer Report attached)**

## REFUSAL

- A request for speaking rights has been received from Una Somerville Agent, in **support** of the application. (Submission attached)

 *LA07 2022 0578\_O Supporting statement.pdf* *Page 150*

 *LA07-2022-0578-O 61 Dromore Road.pdf* *Page 170*

 *LA07-2022-0578-O (support).pdf* *Page 176*

### **17.0 LA07/2022/0909/F - Wild Forest Lane Newcastle.(Case Officer Report attached)**

APPROVAL

ADDENDUM LIST

Approx 0.6km into the land there is significant erosion of the width of the lane with weak verge which would restrict vehicular access at this point. Proposal to carry out cleaning of the river bed of all vegetation , loose stone and debris before a form of bank stabilisation to the affected area using temporary shuttering and poured concrete

 *2022\_0909\_&\_WildForest Lane.pdf* *Page 178*

### **18.0 LA07/2022/1613/LBC - Castlewellan Forest Park Castlewellan. (Case Officer Report attached)**

CONSENT

ADDENDUM LIST

Refurbishment of old and new amenity blocks plus Dovecote tower to include external decorations to walls replacement of timber facias and soffits with new hardwood sections, painting of steel rainwater goods, replacement of windows within the Old Amenity Block, decoration to all external doors. Replacement of existing door in Dovecote Tower, forming of new fan light, replacement of non hydraulic lime plaster to tower base and sanitary refit out to male & female WC's

 *2022\_1613\_LBC.pdf* *Page 186*

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***Local Development Plan Items - Exempt Information***

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### **19.0 LDP Progress Report - Revised timetable and Work**




## Programme for finalising the draft Plan Strategy. (Attached)

This item is deemed to be exempt under paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 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

|  |                     |
|--|---------------------|
|  <i>PC Report re LDP Revised Timetable 2023.pdf</i> | <i>Not included</i> |
|  <i>LDP Revised Timetable 2023 - Draft.pdf</i>      | <i>Not included</i> |
|  <i>dPS Work Programme.pdf</i>                      | <i>Not included</i> |

## 20.0 Consultation Response - Revised Regional Strategic Planning Policy - Renewable and Low Carbon Energy. (Attached)

This item is deemed to be exempt under Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 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.

|  |                     |
|--|---------------------|
|  <i>PC Report re Renewable and Low Carbon Energy.pdf</i>                                    | <i>Not included</i> |
|  <i>NMDCC response -DRAFT.pdf</i>   | <i>Not included</i> |
|  <i>Review of Regional Strategic Planning Policy on Renewable - Low Carbon Energy.pdf</i> | <i>Not included</i> |

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### *For Discussion*

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## 21.0 Changes to Planning Committee Operating Protocol. (Attached)





|   |                 |
|---|-----------------|
|  <i>Planning Committee Operating Protocol - updated 17-11-2021.pdf</i> | <i>Page 194</i> |
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### *For Noting*

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## 22.0 Listing of Buildings of Special Architectural or Historic Interest. (Attached)

|   |                 |
|---|-----------------|
|  <i>CO1 23 255098 HB16 17 026 District Council Report 24 04 2023.pdf</i> | <i>Page 209</i> |
|  <i>Location Map HB16 17 026.PDF</i>                                     | <i>Page 214</i> |
|  <i>CO1 23 255128 HB16 18 028 District Council Report 24 04 2023.pdf</i> | <i>Page 215</i> |
|  <i>Location Map HB16 18 028.PDF</i>                                     | <i>Page 218</i> |

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|--|------------------------|
|  <b><i>CO1 23 255154 HB16 19 028 District Council Report 24 04 2023.pdf</i></b> | <b><i>Page 219</i></b> |
|  <b><i>Location Map HB16 19 028.PDF</i></b>                                     | <b><i>Page 223</i></b> |
|  <b><i>CO1 23 255184 HB16 20 009 District Council Report 24 04 2023.pdf</i></b> | <b><i>Page 224</i></b> |
|  <b><i>Location Map HB16 20 009.PDF</i></b>                                     | <b><i>Page 231</i></b> |

# Invitees

Cllr Terry Andrews

Cllr Callum Bowsie

Cllr Jim Brennan

Cllr Pete Byrne

Mr Gerard Byrne

Cllr Philip Campbell

Mr Andrew Cassells

Cllr William Clarke

Mrs Linda Cummins

Cllr Laura Devlin

Ms Louise Dillon

Cllr Cadogan Enright

Cllr Doire Finn

Cllr Aoife Finnegan

Cllr Conor Galbraith

Cllr Mark Gibbons

Cllr Oonagh Hanlon

Cllr Glyn Hanna

Cllr Valerie Harte

Cllr Roisin Howell

Cllr Jonathan Jackson

Cllr Geraldine Kearns

Mrs Josephine Kelly

Cllr Tierna Kelly

Cllr Cathal King

Ms Nora Largey

Cllr Mickey Larkin

Cllr David Lee-Surginor

Cllr Alan Lewis

Cllr Oonagh Magennis

Mr Conor Mallon

Cllr Aidan Mathers

Cllr Declan McAteer

Cllr Leeanne McEvoy

Jonathan McGilly

Cllr Andrew McMurray

Cllr Declan Murphy

Cllr Kate Murphy

Cllr Selina Murphy

Cllr Siobhan O'Hare

Cllr Áine Quinn

Cllr Henry Reilly

Cllr Michael Rice  
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Mr Peter Rooney  
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Cllr Michael Ruane  
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Cllr Michael Savage  
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Cllr Gareth Sharvin  
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Donna Starkey  
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Sarah Taggart  
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Cllr David Taylor  
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Cllr Jarlath Tinnelly  
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Cllr Jill Truesdale  
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Mrs Marie Ward  
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## **NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

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**Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 05 April 2023 at 10.30am in the Boardroom, Monaghan Row, Newry and via Microsoft Teams.**

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**Chairperson:** Councillor D McAteer

**In attendance:** **(Committee Members)**  
 Councillor R Burgess  
 Councillor P Byrne (Teams)  
 Councillor L Devlin (Teams)  
 Councillor G Hanna (Teams)  
 Councillor V Harte  
 Councillor M Larkin (Teams)  
 Councillor D Murphy  
 Councillor L McEvoy (Teams)  
 Councillor G O'Hare

**(Officials)**  
 Mr C Mallon Director of ERT  
 Mr A McKay Chief Planning Officer  
 Mr Pat Rooney Principal Planning Officer  
 Ms N Largey Legal Advisor  
 Mr Peter Rooney Legal Advisor  
 Ms A McAlarney Senior Planning Officer (Teams)  
 Mr M Keane Senior Planning Officer (Teams)  
 Ms P Manley Senior Planning Officer (Teams)  
 Mr A Donaldson Senior Planning Officer (Acting) (Teams)  
 Ms S Taggart Democratic Services Manager (Acting)  
 Ms L Dillon Democratic Services Officer  
 Ms L Cummins Democratic Services Officer  
 Ms C McAteer Democratic Services Officer

**P/029/2023: APOLOGIES AND CHAIRPERSON'S REMARKS**

Apologies were received from Councillor Lewis. Councillor Reilly was also not present at the meeting.

**P/030/2023: DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

**P/031/2023: DECLARATIONS OF INTEREST IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL- PARAGRAPH 25**

**Declarations of Interest in relation to Para.25 of Planning Committee Operating Protocol – Members to be present for entire item.**

- Item 8 - A site visit was held on 29 March 2023 - Cllrs Byrne, Harte, Larkin, Murphy, McAteer, McEvoy and O Hare, attended.

### **MINUTES FOR CONFIRMATION**

#### **P/032/2023: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 8 MARCH 2023**

Read: Minutes of Planning Committee Meeting held on Wednesday 8 March 2023. (Copy circulated)

**AGREED:** On the proposal of Councillor Murphy, seconded by Councillor Burgess, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 8 March 2023 as a true and accurate record.

### **FOR DISCUSSION/DECISION**

#### **P/033/2023: ADDENDUM LIST**

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 05 April 2023. (Copy circulated)

**AGREED:** On the proposal of Councillor Devlin, seconded by Councillor Hanna, the following was agreed:

- **LA07/2020/0767/O** - Proposed Residential Housing Development- Lands at Bridle Loanan NW of Ridgefield Grove and NE of Woodlands, Warrenpoint. **APPROVAL**
- **LA07/2022/0030/F** - Approximately 265 metres west of No. 30 Levallyreagh Road Rostrevor - Erection of replacement dwelling and garage with associated ancillary site works. (Amended access proposals received) **APPROVAL**
- **LA07/2022/0579/F** - Proposed 30m telecommunications column, with 3 no. antennae, 2 no. radio dishes and 1 no. equipment cabinet. Proposal includes compound and associated ancillary works - On lands at Carrickbracken Business Park immediately west of 121 Camlough Road Camlough BT35 7JR. **APPROVAL**
- **LA07/2022/0292/F** - Demolish the current modular unused 110m2 community centre. Proposal to build a new traditional 170m2 community centre on the current playground and provide a small carpark on the old community centre ground -2 Oriel Drive Downpatrick. **APPROVAL**
- **LA07/2020/1738/LBC** - Installation of New Lightning Protection System - Newcastle Centre 10-14 Central Promenade Newcastle. **CONSENT**

### **DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION**

#### **P/034/2023: PLANNING APPLICATIONS FOR DETERMINATION**

- (1) **LA07/2021/0987/F**



**Location:**

Lands at Watsons Road/Dorans Hill Newry including lands to the east of Watsons Road

**Proposal:**

Section 54 application seeking planning permission to vary condition no. 17 of P/2013/0242/F

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point Presentation:**

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

**Speaking rights:**

In objection

A statement of objection from a principal objector was submitted and was placed before the Committee together with a note from their Roads Engineer.

In support

Tom Stokes (via Teams), Karen McShane, Brian McConville and Damien Broderick presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members

Aloysius Loughran and Jason Killen, DfI Roads were also in attendance.

Mr McKay, Chief Planning Officer, said this application was a Section 54 application to vary a condition attached to a previous granting of planning permission in 2019 for 200 houses. He said the current application sought to vary one of the conditions attached to that approval which related essentially to the timing of the formal stopping up and abandonment process. He said it was a very narrow issue that they were seeking to deal with in this application – essentially when and how the stopping up and abandonment of parts of Watson's Road would happen.

Mr McKay said this was initially scheduled to come before Committee in July 2022 but as a result of procedural and other difficulties it had been deferred on a number of occasions and this was the first real opportunity Committee had to consider this matter.

Mr McKay said the application was to come before Committee in July 2022 but was deferred to sort out procedural issues; it was to have been brought back to Committee in September 2022 but at that point the objector raised new grounds of objection, specifically that this application was a major application with additional procedures that would apply in such cases. The application was deferred in September to allow legal opinion to be sought and on receipt of that information, the parties were advised that upon review Planning concurred that it was a major application with requirements in relation to design and access statements and additionally pre application community consultation would have to be engaged. He said these matters were disputed by the applicant and what resulted from that was a major application to vary this condition with the required design and access statement submitted. However, what they did not have was a pre application community consultation process and the reasons for not having that were set out in Section 6 of the Case Officer report.

Mr McKay said specifically it was the view of the Planning Department that it would not have been the intention of the NI Assembly that in framing the legislation, that Section 54 applications to vary conditions would always be caught by the need for pre application community consultation. He said Planners were additionally satisfied that the community had quite a significant opportunity both at

the original application stage and subsequently with this application, to engage and comment on the application.

Mr McKay drew to Members attention a number of specific matters. He said Members had received written submissions from the principal objector who was unavailable to attend today and they would be relying on this submission. He said the Planning Department was content that the issues raised in these submissions had been addressed through the Case Officer report and through substantive responses to letters of objection received over the lifetime of the application.

Mr McKay said on behalf of this same objector, over recent weeks, Solicitors did query the Council's position in relation to the need for pre application community consultation and the response provided to them was that the Case Officer report and the report before Members today set out the Council's position in that regard. Mr McKay said he was mentioning this because it was a major application and the need for pre application community consultation did not feature as part of the most recent submission that was made by the objectors but nevertheless there was an objection made previously and Members needed to be aware of it.

Mr McKay said there was in addition, a further letter of objection submitted on behalf of the principal objector on 16<sup>th</sup> March 2023 raising further grounds of objection relating to the timing of the proposed works creating conflict on the developing road network that the applicant; that the applicant did not control all of the land needed to deliver the roads; that the proposed re-wording of the condition was inconsistent with approved lands and that the Council should not be pre-determining the stopping up process. In relation to this, Mr McKay said Planners were content that those objections did not raise any substantial new matters that had not already been considered during the course of the application and addressed through the planning process.

Mr McKay said the remainder of the report set out in some detail the nature of the objections received, the consultation responses and Planners consideration of those matters and consideration of Planning Policy and other considerations.

In conclusion Mr McKay said the principle for residential development on this site had been established for some time and the focus of this application was the timing of the stopping up and abandonment. He said what was proposed and was being recommended for approval was that there would be a phasing of this development and the proposed abandonment process by way of the new condition would tie in with that phasing and would not compromise the delivery of the scheme or give rise to any unacceptable impacts in terms of highway safety, road safety and any other matters raised. He said Planners had regard to the guidance including guidance from DfI; they had consulted widely and their view was that on the merits of this case it was appropriate for the condition to be varied as such that the statutory abandonment and stopping up process would be completed prior to the occupation of dwellings beyond phase 1, 2 and 3. He said this judgement had been reached on the facts of the case and for the reasons set out in the Case Officer report.

Mr McKay said there was a challenge raised in relation to a recent judicial review judgement, the McCann Judgement, in terms of whether the Planning Department had critically evaluated the evidence in line with its duty to do so. He said they were content they had evaluated all the relevant evidence that had come to light in this application, including that from the objectors and were recommending the application for approval but ultimately it was for Members to weigh up all of the relevant evidence at the meeting.

Tom Stokes, TSA Planning, addressed the Committee in support of the application with Brain McConville, Chairman of MJM Group; Karen McShane, Roads Engineer and Damian Broderick, Technical Director TSA, available to answer any queries Members might have.

Mr Stokes referred to the statement of objection submitted on behalf of a neighbouring landowner and house builder. He said this site had full planning permission and all that was before the Members at today's meeting was a simple request to vary the wording of one condition which was an entirely normal and lawful request under Section 54 of the Planning Act.

He said Members would be aware that the application was due to be presented before the Committee in the past; however, was withdrawn on several occasions by Planning Officers as they diligently addressed the various points of objection made. Planners had now recommended approval and DfI had offered no objections to the proposals. He said Roads Service in their response had confirmed they were content that the stopping up was done in line with the phasing plan already approved and conditioned accordingly within the permission.

Mr Stokes said the roadworks associated with the delivery of phases 1-3 remained identical to the original planning approval. As mentioned in the wording of the condition this was a legislative process and as such must be adhered to regardless of there being a planning condition or not and for this reason was not normally subject to being made a planning condition. He confirmed the requirements of this legislative process were currently being attended to by the applicant, but this was a separate process.

He referred to the recent submission from the objector which was largely predicated on their perception that there was an area of stopping up and abandonment within the first phase and he questioned how it could be claimed that they had stated that the only stopping up was at the end of phase 3 when the new road would tie into the old. He said the applicant had commenced the process and had agreed with DfI Roads the extent of the stopping up and abandonment necessary to inform this process which would be at the end of phase 3 – therefore the objector was incorrect in their assertion.

Mr Stokes said the objector cited that there should be an updated transport assessment. He said this was incorrect on a number of fronts, not least the fact that the permission was extant and within time and secondly that the Section 54 process considered only the condition at hand and not the principle of approved development.

Mr Stokes said the phasing of the development and the extent of all the road upgrades in stages to accommodate the new development and improvements to Watson's Road were unrelated to this condition. He said this solution was tied down to other conditions, namely No. 13 -15. The application before Committee did not alter these conditions but merely aligned the wording of this condition to better reflect the separate legislative process to deliver the already approved upgrades. He said it was that agreed phasing and upgrade approach that DfI Roads continued to accept and endorse.

Mr Stokes said by the time the stage of the stopping up process was near the legislative process would be complete. Ultimately this housing development would provide significant benefits across many fronts, not only improving road safety within and throughout the site but would finally allow for some much-needed new housing to be delivered for Newry City by a local businessman.

In response to a query from Councillor Larkin, Mr Loughran, DfI confirmed that they were content with the proposals.

Councillor Murphy proposed and Councillor Larkin seconded that, having read the Case Officer report and submissions from both the applicant and objectors, to agree to accept the Officer recommendation of approval.

The proposal was put to a vote and voting was as follows:-



FOR: 10  
AGAINST: 0  
ABSTENTIONS: 0

The proposal was declared carried.

**AGREED:** On the proposal of Councillor Murphy , seconded by Councillor Larkin, it was agreed to accept the Officer recommendation of approval for planning application LA07/2021/0987/F - Section 54 application seeking planning permission to vary condition no. 17 of P/2013/0242/F - Lands at Watsons Road/Dorans Hill Newry including lands to the east of Watsons Road.

## (2) LA07/2022/0299/O

As Planning Application LA07/2022/0299/O was the subject of a site visit on 29 March 2023, in line with policy, no further speaking rights were permitted.

### **Location:**

Between 55 & 57 Drumalt Road Dorsey Newry (100m West of 55 & 60m South of 57).

### **Proposal:**

Proposed site 2 no. infill dwellings and garages.

### **Conclusion and Recommendation from Planning Official:**

Refusal

### **Power-point Presentation:**

Mr Pat Rooney, Principal Planning Officer provided Members with a short recap on the power point presentation previously presented to Committee.

Mr Rooney advised Members the Case Officer had received a phone call from the owner of the shed/outbuilding to advise it was to be removed from the site which, he said would have implications for the applicant, however, Mr Rooney said, on re-visiting the site, the structures still remained on-site.

### **Speaking rights:**

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

### In support

Mark Tumilty, agent was in attendance to answer any queries from Members.

### **Issues raised:**

- Mr Rooney confirmed Members could make their decision based on what was on the ground at the time of the site visit.
- Mr Tumilty provided clarification regarding his reliance on the shed as a third building, saying, it was based on previous PAC decisions and he said, to this regard, the PAC was not interested in the type of structure or if it was permanent or not, if it was in situ, the PAC considered it qualified as a building.
- Mr Rooney referred to a similar previous PAC decision, that had determined a structure was not permanent as it was not attached to the ground.

- Mr Rooney said the phone call he had referred to from the owner of the shed suggested it was to be moved. He said the Committee had taken a more cautious approach previously when determining a similar application in Creggan, and he said he had concerns regarding the implication of planning policies going forward if the current application was to be approved.
- Mr Rooney said Planning considered the gap site could accommodate more than two dwellings and he said this was not just a mathematical exercise, but on the ground as well.
- Mr Rooney said the evidence of electricity and water supply in the shed did not deem it to be a permanent structure.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/0299/O contrary to Officer recommendation on the basis that he considered the shed was a permanent structure given it had its own electricity meter and water services and having been on site, he said it was a larger structure than he had originally perceived it to be, and he considered it complied with CTY 8. Councillor Murphy seconded the proposal.

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

|              |   |
|--------------|---|
| FOR:         | 5 |
| AGAINST:     | 2 |
| ABSTENTIONS: | 0 |

The proposal was carried.

**AGREED:**                      **On the proposal of Councillor Larkin seconded by Councillor Murphy it was agreed to issue an approval in respect of Planning Application LA07/2022/0299/O contrary to Officer recommendation on the basis that the shed was a permanent structure and it complied with CTY 8.**

**Planning Officers be delegated authority to impose any relevant conditions.**

Planning Applications LA07/2022/0210/F and LA07/2022/0226/F were considered together.

### **(3)    LA07/2022/0210/F**

**Location:**

Ground floor unit 12 Seaview, Warrenpoint

**Proposal:**

Retention of existing outdoor customer seating area

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point Presentation:**

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

**Speaking rights:**

In objection

Mr Ciaran Rafferty, solicitor presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

#### **(4) LA07/2022/0226/F**

##### **Location:**

Ground Floor, Unit 12, Seaview, Warrenpoint

##### **Proposal:**

This is a category 11 section 54 application. Previous approval for retention of change of use to ground floor cafe unit & 2 no treatment rooms and ancillary services, condition 03 restricted opening hours to Mon-Sat 10.00 to 18.00. This application seeks variation to opening hours to provide opportunity for ticketed events and private catering.

Proposed opening times:

Monday to Saturday open to general public 9am to 6pm,  
Monday to Saturday open for ticketed events 6pm to 10pm  
Sunday open to general public Midday to 4pm,  
Open for private guest breakfasts 9am to 11am,  
Open for ticketed events 4pm-9pm.

There are two holiday apartments on the floors above the cafe. The cafe owner would like to open on a Sunday morning to serve breakfasts to the guests staying in the holiday apartments - the cafe would not be open to the general public on Sunday morning.

##### **Conclusion and Recommendation from Planning Official:**

Approval

##### **Power-point Presentation:**

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

##### **Speaking rights:**

###### In objection

Mr Ciaran Rafferty, solicitor presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

##### **Issues raised:**

- Ms Largey said there were two distinct issues: 1. Whether or not the planning conditions were enforceable and Planning advice was that they were and 2. Whether or not the planning applicant would comply with them, which she said, if they did not comply, they would put themselves at risk of prosecution.
- Mr Rooney said there were two aspects to the application 1. Variation to the conditions previously agreed, within the building and 2. Retention of seating area outside the building.
- Mr Rooney confirmed the proposed operating hours within the building were Monday – Saturday 9am – 10pm and Sunday 9am – 9pm; the outdoor operating hours would be Monday – Saturday 10am – 6pm and closed on Sundays.
- Mr Rafferty said marketing literature for the applicant demonstrated a breach of planning conditions and an enforcement case was pending; he said a return to the status quo of 2019 would be acceptable.
- Mr Rafferty advised an attempt to set up a meeting with the applicant and residents had failed.

- Mr Rafferty confirmed Navigator Financial Services operated from 12 Seaview from 2015 – 2018, after which the café opened without planning permission; retrospective planning was subsequently approved with conditions, and the operating hours followed those of Navigator Financial Services.
- Mr Rooney said access to the rear was through the building and the rear access was for emergency purposes only with no customer access.
- Mr Rooney advised fire safety concerns would be addressed under licensing arrangements.
- Mr Rooney said Planning makes a distinction between carparking for residential use and that of commercial use, and Planning considered there to be a sizeable amount of car parking along the seafront, and he said, given the scale of the proposed development, the existing car parking could cater for it.
- Mr Rafferty said the main areas of concern for residents were the increased operating hours and the development of the outdoor customer area which, he said, would lead to the deterioration of amenity for both residents and the public realm.
- Mr Rooney confirmed a condition of the approval was that no foods be cooked on site until an odour impact assessment was submitted and approved; the provision of an extraction system had been attached to current conditions.

**AGREED:**

**On the proposal of Councillor Hanna, seconded by Councillor Larkin it was unanimously agreed to defer Planning Applications LA07/2022/0210/F and LA07/2022/0226/F for a site visit by Members and, also, to allow time to get more input from Environmental Health with regard to potential environmental health implications.**

**(5) LA07/2022/0537/F**

**Location:**

55 Windmill Road Kilkeel, Newry

**Conclusion and Recommendation from Planning Official:**

Approval

**Proposal:**

Proposed demolition of the existing dwelling and garage, to facilitate construction of a replacement 2 no. storey detached dwelling and attached garage and all associated site and access works

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point Presentation:**

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

**Speaking rights:**

In objection

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

### In support

Mr Damien Broderick - TSA Planning (Agent), and Mr Ian Hill, applicant.

### **Issues raised:**

- Mr Rooney said the policy for a replacement dwelling stated the replacement should not have a greater visual impact than the building it was replacing, however, he said context and topography must be considered in each application and whilst he accepted the proposed footprint was greater than the existing dwelling, he said it was not excessive. Mr Rooney said the measurement to the ridge of the proposed dwelling was 8m as opposed to the current dwelling which was 6m to the ridge.
- Mr Rooney accepted the dwelling at No. 57 Windmill Road, referred to by Mr Beamish had been considered by Planning when determining the application, however, he said weight had not been attached to it.
- Mr Rooney said the impact of the proposed application in terms of distances, overlooking, dominance etc had been assessed and he did not accept the claim by Mr Beamish there were inaccuracies in Planning's handling of the application.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/0537/F as per Officer recommendation, Councillor Murphy seconded the proposal. The proposal was put to a vote by way of a show of hands and voting was as follows:

|              |    |
|--------------|----|
| FOR:         | 10 |
| AGAINST:     | 0  |
| ABSTENTIONS: | 0  |

The proposal was carried.

**AGREED:**                      **On the proposal of Councillor Larkin, seconded by Councillor Murphy it was unanimously agreed to issue an approval in respect of Planning Application LA07/2022/0537/F as per the information contained within the Case Officer report and presented to Committee.**

(Councillor Hanna left the meeting)

### **(6)    LA07/2022/1061/F**

#### **Location:**

250m North East of 10 Clontafleece Road Newry

#### **Proposal:**

Replacement dwelling & retention of existing dwelling to be used as domestic storage

#### **Conclusion and Recommendation from Planning Official:**

Refusal

#### **Power-point Presentation:**

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

#### **Speaking rights:**

### In support



Mr David Mounstephen, Mr Micah Jones, agent, Mr Jonny and Ms Catriona Tohill, applicants (Teams), presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

#### Issues raised:

- Mr Rooney acknowledged the example referred to by Mr Mounstephen of a dwelling close by had been approved by Planning, however, he considered it was not comparable to the proposed application as it was sited on lower ground and closer to the dwelling to be replaced.
- Mr Mounstephen considered the dwelling close by that had been approved was very similar to the proposed application in terms of siting.
- Mr Mounstephen said the visual impact of the proposed application was only apparent when at the site; there was a limited view of it when approaching from the west, and none when approaching from the east, due to screening.
- Mr Mounstephen said the existing building to be replaced had historical merit and the applicants were keen to retain it for ancillary storage and garage accommodation. He said it would be restored and any restrictions imposed by Planning would be implemented.
- Mr Rooney said Planning was open to modern day design, however he considered the proposed application did not measure up in that, even accepting the existing building was a vernacular structure, traditional design, particularly on sloping sites were based on houses stepping up the hill, and had there been an attempt to incorporate the existing building into the proposal, the proposed replacement building would have been sited gable end on to the existing building, thereby working with the contours rather than cutting across the contours.
- Mr Mounstephen said the approach to cut across the contours was to avoid digging into the hill.
- Mr Mounstephen said the dwelling close by that had been approved was more elevated, was located higher on the site in relation to the road, and the ridge height was 1100mm higher than the proposed application.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/1061/F contrary to Officer recommendation on the basis that he considered it fitted well on the site and it was a modern interpretation of a rural design, and although he acknowledged concerns by Planning regarding the siting, the dwelling close by, referred to by the agent, had set a precedent. Councillor Murphy seconded the proposal.

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

|              |   |
|--------------|---|
| FOR:         | 9 |
| AGAINST:     | 1 |
| ABSTENTIONS: | 0 |

The proposal was carried.

**AGREED:**                      **On the proposal of Councillor Larkin seconded by Councillor Murphy it was agreed to issue an approval in respect of Planning Application LA07/2022/1061/F contrary to Officer recommendation on the basis that the proposed design fitted well on the site and was a modern interpretation of a rural design.**

**Planning Officers be delegated authority to impose any relevant conditions.**

(Cllrs. Burgess and Byrne left the meeting)

**(7) LA07/2022/1179/O**

**Location:**

Lands approximately 8m south-east of no.143 Tullyah Road, Whitecross

**Proposal:**

Erection of dwelling and detached garage

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point Presentation:**

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

**Speaking rights:**

In support

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

**AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor Murphy it was unanimously agreed to defer Planning Application LA07/2022/1179/O for a site visit so Members could assess the site in more detail.**

**(8) LA07/2022/1532/F**

**Location:**

Approximately 150m NE of 11 Ardkeeragh Road Newry

**Proposal:**

Proposed dwelling on a farm

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point Presentation:**

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

**Speaking rights:**

In support

Mr Jason Martin, Planning Consultant presented in support of the application, detailing, and expanding upon a written statement that had been circulated to Committee Members.

**Issues raised:**

- Mr Rooney said the gable end and part of the southwest elevation would be the most prominent in terms of visibility.
- Mr Rooney said the glass main elevation was not a traditional rural fenestration pattern and he considered there was enough potential in other elevations to create a glass wall.

- Mr Martin referred to a dwelling on the Ballyduggan Road that had been approved, which he said had a similar fenestration on the gable end, and he considered, to replace the glazing with a chimney and white render, as suggested by Mr Rooney would ruin the design.
- Mr Martin said the form and shape of the building were traditional and was in keeping with the farm buildings that were clad and had large doors.
- Mr Rooney acknowledged the dwelling on the Ballyduggan Road referred to by Mr Martin was modern in design and materials used, but, he said, the key issue was the building was set back and screened by trees, so he considered the two sites were not comparable.
- Mr Rooney said changes to the window pattern would make a huge difference and it did not have to be a chimney.
- Mr Martin said the Case Officer had advised him to remove the glazing on the front, remove the garage and remove the central link corridor.
- Mr Martin said vertical emphasis would be provided by the mullions in the windows.
- Mr Martin said the full frontal elevation measured 76 sq m, 22.2sq m was void and that included the front door, 50 sq m was cladding.
- Mr Rooney said it was not a mathematical exercise, but rather how the building appeared. He said the front elevation was dominated by the glazing and the issue was design, he said traditional buildings had solid gable ends and windows were frequently omitted from solid gable ends. He said he believed an alternative design could be achieved without impacting on the overall design.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/1532/F contrary to Officer recommendation on the basis that he considered it was an exciting modern design and complemented the adjacent barns, the proposed linear construction was acceptable to the site and the countryside, and the glass was a very attractive design feature. Councillor Murphy seconded the proposal.

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

|              |   |
|--------------|---|
| FOR:         | 7 |
| AGAINST:     | 0 |
| ABSTENTIONS: | 0 |

The proposal was carried.

**AGREED:** On the proposal of Councillor Larkin seconded by Councillor Murphy it was agreed to issue an approval in respect of Planning Application LA07/2022/1532/F contrary to Officer recommendation on the basis that it was an exciting modern design that complemented the adjacent barns, the proposed linear construction was acceptable to the site and the countryside, and the glass was a very attractive design feature.

**Planning Officers be delegated authority to impose any relevant conditions.**

#### **(9) LA07/2022/0800/O**

**Location:**

Lands approx. 35m south-west of 55 Maphoner Road, Mullaghbawn Newry

**Proposal:**

Proposed site for new detached dwelling & garage (infill development)

## **Conclusion and Recommendation from Planning Official:** Refusal

### **Power-point Presentation:**

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

### **Speaking rights:**

#### In support

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

### **Issues raised:**

- Mr McKay said a lane exiting on to a road did not constitute a frontage, regardless of the 2m grass border on either side of the lane and he said it was important the Committee maintained an accepted and established planning line and it appeared the Committee disagreed with this principle on each and every occasion.
- Mr O'Reilly said it was evidently a driveway at No. 53, with curtilage from the dwelling to the road where there was a wall and gates erected.
- Mr O'Reilly said it was a unique case but said he considered it to be a genuine in-fill opportunity.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/0800/O on the basis that he considered the walled gated entrance, together with the driveway and maintained 2m grass border on either side constituted an infill opportunity and it complied with CTY 8. Councillor Murphy seconded the proposal.

### **AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor Murphy it was agreed to issue an approval contrary to Officer recommendation on the basis that the walled gated entrance, together with the driveway and maintained 2m grass border on either side constituted an infill opportunity and it complied with CTY 8.**

**Planning Officers be delegated authority to impose any relevant conditions.**

### **P/035/2023: HISTORIC ACTION SHEET**

Read: Historic Action Sheet. **(Copy circulated)**

**AGREED: On the proposal of Councillor Murphy, seconded by Councillor Harte, it was agreed to note the Historic Action Sheet**

### **P/036/2023: PLANNING COMMITTEE PERFORMANCE REPORT**

**Noted: Noted the Planning Committee Performance Report was not available.**

### **P/037/2023: CURRENT APPEALS AND DECISIONS**

**Noted: Noted the current Current Appeals and Decisions Report was not available.**

The meeting concluded at 2.50 pm.

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

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



## Item 5 – Addendum List

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### **Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 28 January 2023**

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

- **P/2010/0648/F** - Proposed Retention of existing Offices, maintenance repair sheds, 3 No storage buildings, weighbridge and parking area in conjunction with operations carried out by Dumfries Freight Limited at premises located at No 179 Gosford Road, Newry. (Amended Description) - 179 Gosford Road Newry. **APPROVAL**
- **P/2015/0164/F** - Proposed housing development with associated siteworks and parking - Lands at Chequer Hill and south of College Gardens Newry. **APPROVAL**
- **LA07/2022/1411/F** - Redevelopment of St. Marys Primary School, Lurganure. Works to include phased construction of new single storey primary school building, outdoor canopy covered play area, hard and soft play areas, landscaping, cycle stands, security fencing, new underground storm sewer drainage system, solar panelling on roof of new building, relocation of oil tank and provision of bin store and service yard area. Works to include demolition of principal's office building, external modular classroom and shelter/oil storage blocks. New internal road configuration to include separate car and bus pick up/drop off areas, pedestrian crossing points, additional car parking, separate temporary construction access off School Road and all associated works. Existing access of School Road to be maintained and upgraded – St Mary's Primary School Lurganure. **APPROVAL**
- **LA07/2023/2337/F** - Current site is a public community space with 2 benches and a table. Proposal is to install a sculpture of Tom Dunn (hedge schoolteacher) as per drawings in between these two granite benches. Sculpture will be cast in bronze and welded to a box frame foundation set in to the ground. Project is SEUPB funded and artist has been commissioned - The Square, Mary Street, Rostrevor **APPROVAL**
- **LA07/2022/0909/F** - Approx 0.6km into the land there is significant erosion of the width of the lane with weak verge which would restrict vehicular access at this point. Proposal to carry out cleaning of the river bed of all vegetation, loose stone and debris before a form of bank stabilisation to the affected area using temporary shuttering and poured concrete - Wild Forest Lane Newcastle. **APPROVAL**
- **LA07/2022/1613/LBC** - Refurbishment of old and new amenity blocks plus Dovecote tower to include external decorations to walls replacement of timber fascias and soffits with new hardwood sections, painting of steel rainwater goods, replacement of windows within the Old Amenity Block, decoration to all external doors. Replacement of existing door in Dovecote Tower, forming of new fan light, replacement of non hydraulic lime

plaster to tower base and sanitary refit out to male & female WC's - Castlewellan Forest  
Park Castlewellan. **CONSENT**

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



## Final Case Officer's Report

**Application Reference:** P/2010/0648/F  
**Date Received:** 01 June 2010.  
**Proposal:** Proposed Retention of existing Offices, maintenance repair sheds, 3 No storage buildings, weighbridge and parking area in conjunction with operations carried out by Dumfries Freight Limited at premises located at No 179 Gosford Road, Newry (Amended Description).  
**Location:** 179 Gosford Road, Newry.

### 1.0. Site Characteristics & Area Characteristics:

- 1.1. The site is located at 179 Gosford Road Newry. The site, outlined in red, extends along the Gosford Road and sits partially below the level of this road. The site is accessed via an existing access onto the Gosford Road which is formed by boundary walls and pillars to the rear of a grassed verge.
- 1.2. There are a number of buildings on the site. These include an existing dwelling house and garage, 4 large buildings, a portacabin used for offices, and a weigh bridge. The application site is covered, for the most part, by an area of hard standing.
- 1.3. The application site also contains an area laid out for vehicular parking. The site contained a number of cars, lorries and trailers.
- 1.4. The site is located in the open countryside with direct access onto Gosford Road, a Protected Route.



## **2.0. Site History:**

- 2.1.** No previous planning history. Enforcement Case: P/2009/0229/CA: File Closed.

## **3.0. Statutory Consultations:**

- 3.1. DfI Roads:** In its response dated 23 April 2013 Transport NI (now DfI Roads), while raising no objections to the proposed access arrangements, stated that the A28 is a Protected Traffic Route and Planning must be satisfied that this application falls within the exceptions listed in the policy relating to accesses onto protected routes. If this application does not fall within the exceptions listed, then it should be refused.
- 3.2. NIEA WMU:** No objection in principle to this proposal providing all the relevant statutory permissions for this development are obtained.
- 3.3. Newry, Mourne and Down District Council:** The Chief Executive's office has been consulted on this application in error. No comment is necessary. The Council's Environmental Health Department should be consulted.

## **4.0. Objections and Representations:**

- 4.1.** Details of the proposal were advertised on 18 June 2010 and 15 March 2013 and neighbours notified on 01 June 2010. No objections or representations were received.

## **5.0. Planning Policy/Material Considerations:**

- 5.1.** The planning policy context for this application is provided by:
- The Planning Act (Northern Ireland) 2011
  - The Strategic Planning Policy Statement for Northern Ireland (SPPS)
  - The Banbridge, Newry & Mourne Area Plan 2015
  - PPS2 – Natural Heritage
  - PPS3 – Access, Movement and Parking
  - PPS 4- Planning & Economic Development

- PPS 21- Sustainable Development in the Countryside

## **6.0. PLANNING ASSESSMENT & CONSIDERATION**

- 6.1.** This is a long-standing application that was received by the previous planning authority following the initiation of an enforcement investigation into the alleged erection of an unauthorised shed on the site. The application, originally described as the 'Retention of existing storage and distribution depot, ancillary offices, maintenance repair sheds, 3 No storage sheds, weigh bridge and ancillary parking area, was subsequently received on 1 June 2010.
- 6.2.** The application was recommended for refusal, by the case officer, on 16 June 2011, on the grounds that the proposed storage and distribution business in the countryside was unacceptable and contrary to PPS 21, CTY 1, CTY 13, CTY 14 and PPS 4, PED 2 and PED 9. (see original case officer report). The site is accessed onto a Protected Route and was judged not to be an exception on the basis that it is not an acceptable use, in planning policy terms, at this location.
- 6.3.** The proposal was assessed internally on 19 November 2012 and the case officer's recommendation was accepted. The application was taken to Newry & Mourne Council in December 2012 and deferred, at the request of the Council, for a meeting with an MLA and councillors in January 2013. It was stated, in support of the application, at the subsequent meeting in Newry Town Hall that: there was an established haulage business for the agri-food business on the site with 29 tractors and 96 trailers; the applicant was distributing to Tayto and Speedicook, employing 20 people; the agricultural buildings were being used for haulage and storage and distribution; and the sheds are large and designed for the tipping of goods.
- 6.4.** The agent then submitted additional information, on 20 February 2013, in support of the application. This included:
- an annotated overhead photo, dated Jan 2000, showing a workshop/servicing building, a building for storage of goods, an office building, yard for storage of goods and a cattle house;

- OSNI Picture, dated 13 July 2004, showing the various buildings referred to above, on the site;
  - details of the site history;
  - list of customers throughout Ireland, Scotland and England;
  - 9 approved /signed balance sheets for Dunfries Freight Ltd 2002-2011; and
  - 47 Sales Invoices for storage/sales to various companies throughout Ireland and England.
- 6.5.** The Case Officer Report, dated 16 June 2011, noted the building, the subject of the enforcement notice, 'may have been started in 2009'.
- 6.6.** In a reconsideration note, on file, dated 13 August 2013, the senior planning officer noted, after referring to the submitted evidence, that 'it is clear that the haulage business has been operating here for some time.
- 6.7.** The application was re-considered at a Group meeting, on 14 August 2013, and again recommended for refusal for the planning policy reasons outlined above.
- 6.8.** No further action was taken on the application by the previous planning authority, and it fell to the Council to determine the application following the transfer of planning powers in April 2015.
- 6.9.** The original application was based on the retention of all the elements on the site, i.e., ancillary offices, maintenance repair sheds, 3 no storage sheds, weighbridge & ancillary parking area as ancillary use to what was described as a 'storage and distribution business' This is also apparent from the drawings on the file. There is no distinction made between any of the buildings on the drawings.
- 6.10.** The Planning Department has considered, in detail, all of the material on the file, including photographic evidence. It also carried out a detailed site visit. It has concluded that the buildings on the site, forming part of this application, are established and immune from enforcement action. In this context the Chief Planning Officer held a meeting with the agent in mid-2018. The agent was invited to amend the application to more accurately reflect the use of the

site and to read retention of existing buildings for use in association with Dunfries Freight Haulage at 179 Gosford Road, Newry. Following that meeting the agent submitted an amended P1 form on 3 September 2018. The proposal description was amended to read, 'Retention of existing offices, maintenance repair sheds, 3 no storage sheds, weighbridge & ancillary parking area as ancillary use to the existing 'Dunfries Freight Limited' storage and distribution business'

- 6.11. It is apparent from reading the file that the previous Planning Authority considered that the nature of the use, irrespective of its duration, relates to Freight Haulage only and not to general storage and distribution. The Planning Department is also of that view. The Planning Department subsequently advised the Agent that it remained of the opinion that the proposed amended description which included a reference to a storage and distribution use on the site, would be unacceptable and contrary to planning policy, for the reasons referred to above (plus the provisions of the SPPS). In these circumstances the application, as it stands, would be recommended for refusal.
- 6.12. The Agent responded to say he had considered the description and suggested the following wording, 'Proposed Retention of existing Offices, maintenance repair sheds, 3 No storage buildings, weighbridge and parking area in conjunction with operations carried out by Dumfries Freight Limited at premises located at No 179 Gosford Road, Newry.' The Agent also, in response to a request from the Planning Department, re-submitted detailed plans, on 9 May 2023, incorporating a revised proposal description to accurately reflect the nature of the application now under consideration, as above.
- 6.13. The Planning Department considers that the revised proposal description more accurately reflects what exists on the site and can be considered on this basis.
- 6.14. It must be said that the existing use on the site, the subject of this retrospective application, would, if made the subject of a 'proposed' application, be judged contrary to planning policy, for the reasons referred to

above (plus the provisions of the SPPS). Other factors must also be considered in the assessment of this application.

- 6.15.** As referred to above, the application was submitted on the foot of an on-going enforcement investigation on the site and in response to a letter from the Enforcement Section, issued in April 2010 in respect of an 'unauthorised shed'. The letter advised that 'An Enforcement Notice is currently being prepared for issue requiring demolition of the unauthorised building'. It went on to state, 'you may wish to lodge an application to retain the building to allow the merits of the use to be formally considered by the Department'.
- 6.16.** The established practice, where the lawful use of a site is in dispute, is to submit a Certificate of lawful use or development application (CLEUD) under Article 169 of the Planning Act (NI) 2011 and for the applicant to demonstrate that an existing use is established and lawful, by virtue of being immune from enforcement action. In this particular case however, it is clear that the applicant was invited to submit a planning application by the previous planning authority and in the circumstances the Council must now determine it. The Agent has highlighted this fact. There is no administrative process to allow the status of a planning application to be changed to a CLUED application.
- 6.17.** It is also clear, based on the site history and background outlined above, that the buildings, the subject of this application, have been on the site for more than 5 years and some have been used for storage of a variety of materials, including agricultural produce, for more than 5 years. No formal enforcement action has been initiated. On the balance of probabilities and considering all the photographic evidence and supporting information, it is considered that the use, in conjunction with Dumfries Freight, has been continuous for the requisite period and is therefore lawful.
- 6.18.** The fact that the buildings, their use and the use of the application site in conjunction with Dumfries Freight Haulage are now lawful must be a material consideration for this application. It is also considered that determining weight can be attached to this fact. In this context and in view of the background to the application it is considered that it would be difficult to sustain a



recommendation to refuse planning permission, as advanced by the previous planning authority.

**6.19.** It is also considered that since the use has been continuous on the site for a considerable period no- one will be prejudiced by the issuing of an approval, on this basis, given the specific circumstances. No objections were received in response to the initial application.

**6.20.** It is considered that the application must be recommended for approval, based on the above.

## **7.0. RECOMMENDATION**

**7.1.** The application is recommended for approval subject to the following planning conditions.

1. This approval relates to the following approved plans Drg Ref Nos: PL-01, Site Location Map, Historic Monuments Map, Area Zoning Map & Site Aerial View; PL-02 Existing Storage Building 01 & 02; PL-03, Existing Storage Building 01 & 02 Floor Plan; PL-04, Existing Maintenance Building Floor Plan and Elevations; PL-05, Existing Storage Building 03 Floor Plan, Elevations & Specification and Office Plan & Elevations; and PL-06, Site Layout Plan, all date stamped received 9 May 2013.

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

2. Retrospective Time Conditions
3. The offices, maintenance repair sheds, 3 No storage buildings, weighbridge and parking area, hereby approved, shall only be used in conjunction with the operations carried out by Dumfries Freight Limited.

**Reason:** To ensure use is carried out in accordance with the development hereby approved and to prevent inappropriate development in the countryside.

**Informatives:**

Discharge consent under the terms of the Water (Northern Ireland) Order 1999 will be required for the discharge of sewage effluent and may be required for the site drainage from the proposed development. However the applicant should be aware that there is no guarantee that discharge consent will be granted, as a number of site specific factors need to be taken into account in assessing the suitability of the proposed means of effluent disposal.

WMU note that there are currently no consents to discharge from this site.

No development should take place on-site until the method of sewage effluent/site drainage disposal has been agreed in writing with NIEA Water Management Unit.

An application form for consent to discharge under the Water (NI) Order 1999 can be obtained by contacting NIEA WMU at the above address, or by visiting our web site at:-

[http://www.ni-environment.gov.uk/water-home/regulation\\_of\\_discharges\\_industrial/industrial\\_and\\_private\\_sewage\\_2.htm](http://www.ni-environment.gov.uk/water-home/regulation_of_discharges_industrial/industrial_and_private_sewage_2.htm)

Discharge consent can also be applied for online at the following address:

[http://www.doeni.gov.uk/niea/apply\\_online.htm](http://www.doeni.gov.uk/niea/apply_online.htm)

WMU recommends that this site has an oil interceptor installed to catch any dripped or spilt oil as the storm water runoff is most likely routed to the stream running along the southern end of the site. The oil interceptor should have all storm water (apart from roof water if this is possible) from the site routed through it before discharge.

However care must be taken to ensure no detergents are allowed to enter the oil interceptor. Any detergents allowed to enter the interceptor will allow any oil held back by the interceptor to pass through and be discharged – this will constitute a polluting discharge.

The applicant should comply with all the relevant Pollution Prevention Guidelines in order to minimise the impact of the project on the environment, paying particular attention to:

PPG 01 – General Guide to Prevention of Pollution

PPG 02 - Above Ground Oil Storage Tanks

PPG 03 - Use and design of oil separators in surface water drainage systems

PPG 04 - Treatment and disposal of sewage where no foul sewer is available

PPG 05 - Works in, near or liable to affect watercourses

PPG 06 - Working at demolition and construction sites

PPG 08 - Safe Storage and disposal of used oils

PPG 26 - Safe Storage- drums and intermediate bulk containers

These PPG's can be accessed by visiting the NetRegs website at:

<http://search.netregs.org.uk/search?w=pollution%20prevention%20guidelines>

Hard copies are available from NIEA WMU upon request.

The applicant should be made aware of the Control Of Pollution (Oil Storage) Regulations (NI) 2010. A key requirement of the Regulations is that oil storage containers must have a secondary containment system (a bund, which is an outer wall or enclosure designed to contain the contents of an inner tank, or a drip tray) to ensure that any leaking oil is contained and does not enter the aquatic environment. Guidance on how the Regulations apply to your development can be found at: [www.netregs.org.uk](http://www.netregs.org.uk)

It is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata.

The applicant should ensure that measures are put in place to prevent pollution of surface or ground water as a result of the activities on site.

**Case Officer:** P Rooney  
**Date:** 12/05/2023

**Authorised Officer:** A McKay  
**Date:** 12/05/2023





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** P/2015/0164/F

**Date Received:** 27.02.15

**Proposal:** Proposed housing development with associated siteworks and parking

**Location:** Lands at Chequer Hill and south of College Gardens, Newry

**Site Characteristics & Area Characteristics:**

Land is currently in use for agricultural use which is located west of Chequer Hill, Armagh Rd due S of College Gardens and N of St John Bosco youth club. Land at the site comprises of 3.45 hectares of land located within the urban settlement of Newry City.

Land at the site rises steeply from the existing Whitegates and soccer field complex located to the E with an embankment and existing vegetation found along the E boundary, existing vegetation is found along the SE triangular portion of land with land in this area rising from SE towards the NW whilst land to the northern portion rises much steeper from E to W. Existing vegetative boundaries are found around existing field boundaries.

The surrounding area is generally defined by a mix of residential housing to the W and S portions of the site comprising of detached and semi-detached properties on the Armagh Rd with terracing housing to the S at College Gardens. Commercial and recreational uses are located to the E which include the Whitegates community complex, Bosco and Newry Leisure Centre sports grounds. External finishes are generally, brick, render or dash with black/ dark concrete concrete tiles.



Site Location



Aerial view

### **Relevant Site History:**

#### **Application Site:**

P/1979/1163 – Site for junior play area and grass playing field. Granted (Application site – N portion)

#### **Land to the W:**

P/2014/0310/RM - Phase 2 of New Leisure Centre (follow on application to P/2011/0293/RM) comprising new sports halls, fitness suites, cafe, multi-purpose rooms, associated changing facilities and car park. Granted (Adj and W)

P/2011/0293/RM - Erection of Replacement swimming pool building and associated car parking. (Phase 1). Granted. (Adj and W)

P/2008/1579/O - New leisure centre, car park and new playing fields. Granted (Adj and W)

P/1990/0153 - Gaelic Football Pitch. Granted (Adj and W)

P/1982/0250 - Proposed Playing Fields. Approved

#### **Land to the S:**

P/2014/0010/F - Erection of a portacabin to be used as a training facility for St John Bosco Boxing Club. Granted (Adj and S)

P/2008/1507/F – Proposed siting of temporary mobile unit for use by Bosco Boxing Club. Granted. (Adj and S)

#### **Land to the NW:**

P/2004/3135/F - Erection of fencing to boundary of play area. Granted (Adj and NW)

P/1997/1269 - Change of use from office to child play care club. Granted (Adj and NW)

P/1993/0707 - Community Centre retail and workshop units with associated landscaping car parking and play area. Granted. (adj and NW)

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

- The Planning Act (Northern Ireland) 2011
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Newry, Mourne and Down Area Plan 2015
- Planning Strategy for Rural Northern Ireland (DES2)
- PPS2 - Natural Heritage
- PPS 3 - Access, Movement and Parking
- PPS6 - Archaeology and the Built Heritage
- PPS 7 - Quality Residential Environments
- PPS 7 (Addendum) - Safeguarding the Character of Established Residential Areas
- PPS 8 - Open Space, Sport and Outdoor Recreation
- PPS 12 - Housing in Settlements
- PPS 15 - Planning and Flood Risk
- Creating Places
- DCAN 8 - Housing in Existing Urban Areas
- DCAN 15 - Vehicular Access Standards
- Parking Standards

### **Consultations:**

- **NED – Natural Heritage (23.01.23)** - No concerns subject to recommended conditions
- **DFI Roads (15.12.22)** – No objection subject to conditions
- **EH (23.12.20)** - The Environmental Health Service has considered the risk assessments and outline remediation strategy. Environmental Health though not objecting to the proposed application subject to condition.
- **NIEA (Land, Soil and Air) (12.12.19)** - No objections.

• **Housing Executive (06.12.18)** - I can confirm support for this scheme based on the extremely high housing need exhibited in Newry City.

• **NIW**  
(09.05.23):

Refusal subject to the applicant engaging with NIW

- Available capacity at WWTW
- Public foul sewer within 20m
- Surface water sewer available
- Public water availability within 20m (capacity issues)

*As the applicant intends to connect the mains supply and engage with NIW this will be made a pre commencement conditions to ensure the adequate consents are obtained prior to development.*

(08.02.19):

- Public water supply within 20m of your proposal, the Developer is required to consult with NIW by means of a Pre-Development Enquiry (PDE) to determine if there is capacity to serve this proposal. Application to NIW is required to obtain approval to connect.
- Foul sewer within 20m of your proposal, the Developer is required to consult with NIW by means of a Pre-Development Enquiry (PDE) to determine if there is capacity to serve this proposal. Application to NIW is required to obtain approval to connect.
- No surface water sewer within 20m of your proposal, developer is required to consult with NIW and may wish to requisition a surface water sewer to serve the proposed development and / or obtain approval from Rivers Agency for discharge to a watercourse.
- Capacity at WWTW

• **NIEA (28.11.18) (Drainage and Water)** - Content with the proposal subject to conditions.

• **SES (07.04.21/ 29.03.21)** – No impact to the European site.

• **HED (22.11.18)** – Content subject to condition

• **Rivers Agency (25.05.23)**

A Drainage Assessment is required (see FLD 3 below).

FLD1 - Development in Fluvial and Coastal Flood Plains – Not applicable to this site.



FLD2 - Protection of Flood Defence and Drainage Infrastructure – The site is briefly bounded at the west by a culverted watercourse which is designated under the terms of the Drainage (Northern Ireland) Order 1973, and is known to DfI Rivers as: 'Armagh Road Drain'. The site may be affected by undesignated watercourses of which we have no record. Under 6.32 of the Revised Policy PPS 15 FLD 2, it is essential that an adjacent working strip is retained to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times.

FLD3 - Development and Surface Water – For this application DfI Rivers advises that in accordance with the Revised PPS 15, Planning and Flood Risk, FLD 3, Development and Surface Water (Pluvial) Flood Risk outside Flood Plains, a drainage assessment is required as the following thresholds have been exceeded:

- It is a development site in excess of 1 hectare
- It is a residential development comprising of 10 or more dwelling units
- It is a change of use involving new buildings and or hard surfacing exceeding 1000 square metres

The Revised Policy PPS 15 FLD 3 states that the Drainage Assessment demonstrates that adequate measures will effectively mitigate flood risk. In carrying out the drainage assessment (refer to Annex D of the Revised PPS 15: Assessing Flood Risk and Drainage Impact) the applicant should acquire from the relevant authority evidence that the proposed storm water run-off from the site can be safely discharged. The Drainage Assessment will have to demonstrate how the development will limit/restrict the surface water discharge from the site to Pre-development run-off rates.

In order to comply with NI Water Sewers for adoption, please supply within the Drainage Assessment:

- a) evidence of any attenuation calculations to show that the system will not flood any part of the site in a 1 in 30 year designed event whilst retaining a 300mm free-board within the manholes network and
- b) carry out checks and show that during exceedance of the 1 in 30 year pipe design for up to a 1 in 100 year return period, that the properties will not flood and the flow path and location of surplus storage on site.

If the proposal is to discharge into a watercourse then an application should be made to the local DfI Rivers office for consent to discharge storm water under Schedule 6 of the Drainage (NI) Order 1973. Any Schedule 6 agreement should be included within the Drainage Assessment to confirm DfI Rivers local area office is in agreement to this proposed arrangement.

If it is proposed to discharge storm water into an NI Water system then a Pre-Development Enquiry should be made and if a simple solution cannot be identified then a Network Capacity Check should be carried out. Correspondence with both authorities should be included in the drainage assessment regardless of outcome.

FLD4 - Artificial Modification of Watercourses – Not applicable to this site.

FLD5 - Development in Proximity to Reservoirs – Not applicable to this site.

## Objections & Representations:

- 187 Neighbours notified.
- The application was advertised May 2015, June and July 2016 due to amendments.
- 12 representations received between June 15 and May 21

## Issues:

### - Increased traffic

*Transport NI in their consultation response dated 15.12.22 have raised no issues of concern.*

### - Site was used as a former dump - Contamination

*NIEA (Land, Soil and Air) in their consultation response dated 12.12.19 advise that they have no objections to the development following consideration of the Generic Quantitative Risk assessment (GQRA) and Outline Remediation Strategy presented by the agent to mitigate any ground contamination and advise that conditions should be applied if permission is forthcoming.*

### - Impact to privacy (no. 17 Armagh Rd)

*No. 17 Armagh Road is some 64m away from the boundary of the development with the proposed development set at a lower ground level there is no direct impact to privacy.*

### - Affects a right of way of an adjacent land owner

*The applicant has confirmed that they fully own and control said lands for development. Confirmed by email 10.12.22.*

### - Habitat

*NIEA have raised no issues of concern.*

### - Anti-social Behaviour

*Areas of public open space are informally supervised by proposed houses that this should assist in the prevention of crime and antisocial behaviour.*

### - Noise

*EH in their consultation response dated 23.12.20 have raised no issues of concern. Whilst acknowledge there may be some noise during construction this shall be relatively short, lived and can be properly managed by the developer.*

## **Consideration and Assessment:**

### **Proposal:**

The proposals involve the erection of 67 units, 3 detached dwellings, 58 Semi-detached and 6 Apartments. Incurtilage parking to the side of every dwelling with formalised gardens to front and rear, the apartment has communal parking to front and a mix of communal and private open space.

The development will involve earthworks with cut and fill works across the site to facilitate suitable levels on which to develop and to allow units to have access to flat rear gardens. The developer has taken account of changes in ground levels and although there is use of retaining walls these will not exceed 2m in height and are located within the rear gardens of dwellings forming the base of a planted embankment, any views of the retaining walls will be screened by the proposed development.

The development comprises of 10 dwelling types and 1 apartment development which will be constructed with a brick and render finishes with some of the dwellings having a mix of brick/ render. The roof finishes are that of blue/black roof tiling/ slate with a mix of pitched and hipped roofs, timber hardwood/ upvc windows/ fascia coloured brown or white, with black or white upvc gutters/ downpipes timber windows and timber hard wood doors. Overall the development offers variation and visual interests throughout the scheme. The dwelling type proposed draws in external materials of type and finishes found within the locality and therefore will not appear misplaced at this specific location.

### **EIA Screening:**

The proposal falls within the threshold of Category 10 (b) – Infrastructure Projects of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (NI) 2017. The Local Planning Authority has determined through an EIA screening that there will be no likely significant environmental effects and an Environment Statement is not required.

### **Planning Act:**

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the local development plans so far as it material to the application, and to any other material considerations. Section 6 of the Planning Act (NI) 2011, which deals with local development plans, states where, in making any determination under this Act, regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### **Development Plan:**

Site





**Area Plan**

The Banbridge/ Newry and Mourne Area Plan 2015 (BNMAP) is the operational local plan for this site, which identified the site as being within the settlement limits of Newry City (NY01)

Under Policy SMT2 (Volume 1 of the Plan) development on zoned land, planning permission will only be forthcoming provided development is in accordance with prevailing regional planning policy, plan proposals as well as key site requirements.

The site is located within the housing development land zoning NY51 – Housing West of Chequer Hill which includes several key site requirements:

- A minimum of 36 dwellings shall be provided for social housing
- Housing development shall be at a minimum of 25 dwellings per hectare
- Access shall be onto college gardens
- A footway shall be provided to connect to the existing footway network at College gardens
- The design and layout shall include dedicated provision for pedestrians and cyclists with links to the Armagh Rd via Chequer Hill

From the detail plans provided (site layout) the proposed development will only be accessed and will connect to the existing footway link at College Gardens. The proposed development also makes provision for a pedestrian and cycle to the Armagh Rd via Chequer Hill which is located centrally within the scheme.

The scheme also identifies a minimum of 36 social houses within the scheme. Given density levels of the development on a 3.47 hectare site which allows for 25 dwellings per hectare the site could potentially facilitate 86 units in total. However due to the change in ground levels, to ensure adequate spacing and to ensure delivery of an enhanced quality scheme the Planning Department had sought a reduced density level on the site. As a result, this has impacted upon delivery of units across the site, had the development adhered to density levels this would have delivered approximately 41% of the development for social housing. Despite the reduction of units within the scheme the development will still achieve the 41% allocation with 28 units identified within the scheme for the purposes of social housing (See drawing 40068-203).

In summary, the proposal in principle, is acceptable to the BNMAP 2015 in that proposals are in compliance with the key site requirements and the land zoning



attached to this site, as set out within the development plan and is in keeping with surrounding land uses and is not at conflict with the area plan. However, the detailed scheme must also meet the prevailing policy requirement as considered below:

### **Planning Policy Consideration:**

The main issue to be considered is the principle of residential development on the site, the proposed design, layout and detailing as well as its impact upon the setting and adjacent residential dwellings.

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

The SPPS sets out core planning principles and the need to achieve sustainable development. Of relevance to this application are the aims of supporting good design and positive place making while preserving and improving the built and natural environment, (Para 3.3)

It is considered that the proposal is accordance with the principles set out in the SPPS and other policy considerations for the reasons set out below.

### **SPPS and PPS2 – Natural Heritage**

DAERA NED in comments dated 23.01.23 are content with the proposal against PPS 2 requirements, subject to conditions and NIEA Water Management Unit and Regulation Units in comments dated 28.11.18 have also no objection.

Proposals meet the requirements of the SPPS and PPS2.

### **PPS3, DCAN 15 and Parking Standards:**

Transport NI in their consultation response dated 15.12.22 have no objection with proposals. Each site has adequate in curtilage turning and parking within the scheme and with additional visitor parking throughout the scheme.

Proposals meet the requirements of PPS3.

### **SPPS and PPS6:**

HED in comments dated 22.11.18 advise that they are content that proposals satisfy PPS6 requirements, subject to planning conditions. Proposals meet the requirements of PPS6.

### **SPPS and PPS15:**

Rivers Agency in comments dated 25<sup>th</sup> May 2023 require additional information, which will be made conditional should planning approval be granted.

Notwithstanding this a full assessment under the relevant policies of PPS15 and potential impact by flooding will be assessed accordingly.

The site is located to the East and above an existing drain/ unknown watercourse with land rising beyond this. From a check of Rivers Agency Flood Maps (See below) the site is not within any fluvial flood plain nor is directly impacted by any flooding from surface water or any predicted climate change flooding event.

Although mindful that there is a drain/ unknown watercourse to the west there is sufficient space left to the rear of properties 1 - 22 to allow access/ maintenance strip for Rivers Agency staff should they require access. This can also be made a condition of planning to provide this.

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

Having reviewed Rivers Agency Flood Map the site is not identified as being within a Fluvial Flood Plain. Therefore, this policy does not appear relevant to the application.

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

The site is bounded at the west by a culvert and as such the developer is required to implement a working strip to allow access for Rivers Agency personnel. A condition for a maintenance strip will be made conditional.

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

Due to the size of the site and number of units proposed which exceed the thresholds set out within FLD3 a drainage assessment is required. However as the site is not at risk from flooding this can be made conditional in the event that planning permission is granted.

To avoid any potential risk to increased surface flooding elsewhere, a planning condition will be applied to ensure the developer has Schedule 6 consent to discharge any surface waters from the site.

#### **FLD 4 - Artificial Modification of watercourses**

This policy is not applicable.

#### **FLD 5 – Development in Proximity to Reservoirs**

This policy is not applicable to the application site.

In relation to the above conditions will be applied in relation to the submission of a drainage assessment, provision of a maintenance strip and Schedule 6 consent being obtained prior to commencement of development. Proposals will also have informatives attached in relation to flood risk will be attached to this decision as appropriate, for the applicant's awareness.

#### **Rivers Agency Flood Map:**



#### **Climate Change Flood Map**



#### **Climate Change Flood Plain Rivers**





### Present Day Surface Water



### Present Day Flood Plain

### **SPPS, DES2, PPS6, PPS7 (QD1), PPS12 (PCP1, 2, 3 and HS4), PPS7 (Addendum) (LC1), PPS8, PSRNI, Creating Places and DCAN8**

The site is located within the urban of the settlement of Newry surrounded by a mix of residential development to the N and E, community facilities at Whitegates to the NW, leisure/ recreational uses to the W and S of the site.

Housing developments immediately within the vicinity include that of College Gardens (Adjacent and N), detached and semi-detached dwellings at Armagh Rd, terraced housing at Chequer Hill.

Properties have a mix of house types with two and three storey, detached and semi-detached form with formal gardens to front and rear, with in curtilage parking and external finishes of painted render and brick which are the predominant external finishes found within the locality.

The proposed development comprises of 67 residential units comprising of 3 detached properties, 58 semi-detached dwellings and 6 apartments. The design of which has taken account of surrounding dwelling types and has incorporated elements throughout the scheme. Ground at the site rises from W towards the E and SE steeply towards Chequer Hill. The applicant has taken the changes in ground levels into account and has worked with the natural contours to regrade and plant between plots where possible with the use of retaining walls to separate boundaries

ranging between 1.5m to 2m which form the rear boundary of gardens. The applicant proposes to use vegetative planting within the scheme along plot boundaries, within earth embankments and open space areas.

All plots have adequate and appropriate provision for parking within each plot, including bin storage.

The proposed dwellings incorporate materials which are evident within this locality, with the scale, mass and form reflective of existing built form found at this location and will not appear misplaced in its surroundings. The development offers several different house types within the scheme to offer a good range and mix of house types.

The site is identified as being with an area of archaeological potential as defined within the Banbridge/ Newry and Mourne Area Plan 2015. HED in comments dated 22.11.18 have considered the impacts of the proposal and have no objections in principle.

Overall the design and layout does not create conflict with adjacent land uses.

Dwellings 41 – 48 are within 15m of adjacent dwellings however these proposed dwellings are set to the rear of or on the footprint of existing outbuildings, although located at a lower ground level than existing properties at Chequer Hill. The green area to the front of each of the dwellings is to enhance the visual appearance which is enclosed by fence with footway on the outer part along the road to assist with perseveration of privacy and amenity. The location of the existing and proposed dwellings with changes in ground levels do not allow for face-to-face windows and avoids direct overlooking. As dwellings 41-48 are located to the W and at a lower level than existing properties there should be no direct loss of daylight or overshadowing as a result of the development.

Remaining dwellings have been adequately located to avoid any overlooking or impact to amenity of adjacent properties.

The development has been designed to deter crime and promote personal safety with all areas of public access sufficiently surveilled within the scheme.

There is no provision for local neighbourhood facilities provided, however given the location of the development within the settlement limits of Newry the development is well placed for access to the urban centre and access to a wide range of local facilities and service and given its linkage to the existing footpath network will encourage sustainable movement patterns.

### **Water and Sewerage**

The applicant proposes to connect to the mains water supply, mains foul sewer and storm sewer.

Having reviewed NIW comments dated 08.02.19 and 25.05.23 whilst they advise there is a public water supply and foul water sewer within 20m of the site.

There is no surface water sewer to serve the site. However, it will be made conditional of planning that no development occurs until a schedule 6 consent is obtained from Rivers/ NIW and that sewerage infrastructure is put in place.

The onus is on the applicant to obtain relevant consents from NIW for connect to supply and ensure sewerage provision is provided on site prior to commencement.

### **Impact to European Sites.**

This planning application was considered in light of the assessment requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended).

Having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site.

The site is located approximately 420m west of the Newry Canal and Newry River, which are hydrologically linked to Carlingford Shore SAC approximately 10km downstream. WYG present a revised Conceptual Site Model (CSM) that identifies pollutant linkages to human health with respect to contaminants in soils and groundwater. No pollutant linkages to the water environment are identified. NIEA Regulation Unit and Groundwater Team in their response (dated 12/12/2019) support WYG conclusions and recommendations.

NIEA Natural Environment Division in their response (dated 28/09/2015) indicate that the proposal has no links with any designated sites and is not likely to have a significant effect on any designated sites.

Considering that there is no viable pathway it is concluded that there can be no conceivable effects to any designated sites as a result of the proposal.

## **9.0. RECOMMENDATION:**

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

Having had regard to the development plan, consideration of the objection letters and all other material considerations (including SPPS, DES 2 of PSRNI, PPS2, PPS3, PPS6, PPS7, PPS7 (Addendum), PPS12, PPS15, DCAN15, DOE Parking Standards). The proposed scheme merits as a suitable residential development proposal which complies with the zoning of the area plan, key site requirements and planning policy for the reasons set out above. Therefore, the application is recommended for approval subject to the necessary planning conditions outlined below.

**Recommendation:** Approval

**Draft Conditions:**



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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans:

- 40068 – 201 REV A Site Location Map (03.04.19)
- 60480761-SHT-10-CT-100 REV P2 Private Streets Determination (31.10.22)
- 60480761-SHT-10-CT-101 REV P2 Proposed Long Section (31.10.22)
- 60480761-SHT-10-CT-102 REV P2 Proposed Drainage Layout (24.11.22)
- 40068-203 REV I Proposed Site Plan (19.12.22)
- 40068-204.1 REV A House Type A1: detached with Bay, Social/ Private Housing (19.12.22)
- 40068-205 REV B House Type B : Semi-Detached Social Housing Style 1 (19.12.22)
- 40068-206 REV B House Type B: Semi-Detached Social Housing – Style 2 (19.12.22)
- 40068-207 REV B House Type B: Semi-Detached Social Housing – Style 3 (19.12.22)
- 40068-208 REV B House Type C: Semi-Detached Social Housing (19.12.22)
- 40068-209 Rev B House Type D : Semi-Detached Private Housing – Style 1 (19.12.22)
- 40068-210 Rev B House Type D: Semi-Detached Private Housing – Style 2 (19.12.22)
- 40068-211 REV B House Type D: Semi-Detached Private Housing – Style 3 (19.12.22)
- 40068-212 REV B House Type E: Corner Semi Private Housing (19.12.22)
- 40068-213 REV B House Type F – Split Level Semi Private Housing (19.12.22)
- 40068-214 REV B House Type G: Duplex Apartments Social Housing (19.12.22)
- 40068-216 REV D Proposed Site Sections: Sections BB, EE and GG (19.12.22)

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

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

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 60480761-SHT-10-CT-100 Rev P2 dated 31<sup>st</sup> October 2022.

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

4. The visibility splays of 4.5 metres by 60 metres at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No. 60480761-SHT-10-CT-100 Rev P2 dated 31<sup>st</sup> October 2022, prior to the commencement of any other works or other development.

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

5. No dwellings shall be occupied until that part of the service road which provides access to it has been constructed to base course; the final wearing course shall be applied on the completion of the development.

Reason: To ensure the orderly development of the site and the road works necessary to provide satisfactory access to each dwelling

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

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

7. No dwelling shall be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars as shown on the approved plan.

Reason: To ensure adequate in-curtilage parking in the interests of road safety and the convenience of road users.

8. The development hereby permitted shall not be commenced until any highway structure/retaining wall/culvert requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance with CG300 of Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with CG300 of Design Manual for Roads and Bridges.

9. If the finished ground level of the property, within 1.0m of the footway or verge, is greater than 150mm below the finished level of the adjoining footway

or verge, a boundary fence or wall shall be provided to a minimum height of 1.1 m above the footway or verge level.

Reason: To ensure the safety of pedestrians on the public road.

10. Prior to the commencement of works on site, a check for badgers and their setts shall be completed, to establish any changes to the presence of setts associated with the application site. Should any newly established setts be present, a 25m buffered exclusion zone shall be established with updated plans submitted to show such, or further survey work shall be completed to establish the presence of the associated main sett, in order for a licence for closure application to be considered.

Reason: To protect badgers and their setts.

11. No development activity, including ground preparation or vegetation clearance, shall take place until a protection zone(s), clearly marked with posts joined with hazard warning tape, has been provided around each badger sett entrance at a radius of 25 metres, as shown on Drawing No.40068-203 REV I - Proposed Site Plan dated 19.12.22.

No works, vegetation clearance, disturbance by machinery, dumping or storage of materials shall take place within the protection zones without the consent of the Planning Authority, unless an appropriate Wildlife Licence has been obtained from NIEA the details of which shall be submitted to and agreed in writing by the Local Planning Authority. The protection zones shall be retained and maintained until all construction activity has been completed on site.

Reason: To protect badgers and their setts.

12. Within twenty-four hours prior to demolition, Building 1, as identified in Chequer Hill, Newry: Bat Emergence, WYG, date stamped 25/10/2019, shall be checked for bat presence by a competent ecologist and all demolition works shall be monitored by a Natural Heritage competent ecologist. A report of the demolition shall be submitted to the Planning Authority within 2 weeks and agreed in writing to the satisfaction of DAERA.

Reason: To ensure protection to bats and their roosts.

13. Prior to commencement of development at the site, a detailed remediation strategy to address all unacceptable risks to receptors shall be submitted in writing and agreed with the Planning Authority to the satisfaction of DAERA/ Environmental Health of Newry Mourne and down District Council.

This shall identify all unacceptable risks, the remedial objectives / criteria and the measures which are proposed to mitigate them (including maps / plans showing the remediation design, implementation plan detailing timetable of works, material management plan, remedial criteria, monitoring program etc.).

Reason: Protection of environmental receptors to ensure that the site is suitable for use

14. There shall be no deviation or amendment to the design of the remediation scheme without the prior written approval of Local Planning Authority to the satisfaction of Environmental Health. Written details of any proposed amendment shall be forwarded to Local Planning Authority prior to works being commenced on the Site.
15. In the event that previously unknown contamination is discovered, falling outside the scope of the remediation scheme, development on the site shall cease, pending submission of a written report which appropriately investigates the nature and extent of that contamination and reports the findings and conclusions of the same and provides details of what measures will be taken as a result of the contamination for the prior written approval of Local Planning Authority to the satisfaction of Environmental Health.
16. Any remediation scheme shall be validated to ensure and verify that the remediation scheme has been implemented in accordance with the scheme and the objectives have been met; substantiating information shall be submitted in the form of a written validation report and agreed in writing with the Local Planning Authority to the satisfaction of Environmental Health.
17. Prior to commencement of development at the site a written detailed noise and dust control scheme for the site shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of Environmental Health of Newry Mourne and Down District Council.
18. No piling work shall commence until a piling risk assessment has been submitted in writing and agreed with the Planning Authority. Piling risk assessments shall be undertaken in accordance with the methodology contained within the Environment Agency document on "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention", available at: <http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environmentagency.gov.uk/scho0202bisw-e-e.pdf>

In the event of unacceptable risks being identified, a remediation strategy shall be submitted to and agreed in writing to the Local Planning Authority to the satisfaction of DAERA. This shall be implemented as agreed.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

19. If during the development works, new contamination and risks are encountered which has not previously been identified, works shall cease and the Local Planning Authority shall be notified immediately.

This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or as described in the Land Contamination: Risk Management (LCRM)



guidance. In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Local Planning Authority and subsequently implemented in accordance with the approved details and timeframe.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

20. After completing all remediation works required under Conditions 18-19, and prior to occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or as described in the Land Contamination: Risk Management (LCRM) guidance. The verification report shall present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

21. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted to and agreed in writing by the Local Planning authority to the satisfaction of the Historic Environment Division.

The programme shall provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

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

22. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department for Communities – Historic Environment Division to observe the operations and to monitor the implementation of archaeological requirements.

Reason: To monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

23. Prior to the commencement of the development hereby approved, a Schedule 6 Consent to Discharge shall be submitted to and agreed in writing by the Local Planning Authority in consultation with DfI Rivers Agency.

Reason: As required by the terms of Schedule 6 of the Drainage (NI) Order 1973 and to ensure surface water can be safely discharged from the proposed development.

24. No development shall be commenced until a Sewer Adoption Agreement has been authorised by NI Water to permit a connection to the public sewer in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 and Sewerage Services Act (Northern Ireland) 2016 the details of which shall be submitted to and agreed in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.

REASON: To prevent pollution and to ensure public safety. To ensure compliance with the Water and Sewerage Services (Northern Ireland) Order 2006 and the Sewerage Services Act (Northern Ireland) 2016.

25. Prior to commencement of the development hereby approved, details of consent to connect to a water supply connection and consent from NIW shall be submitted

26. A formal water / sewer connection application must be made for all developments [prior to occupation], including those where it is proposed to re-use existing connections.

REASON: To prevent pollution and to ensure public safety. To ensure compliance with the Water and Sewerage Services (Northern Ireland) Order 2006 and the Sewerage Services Act (Northern Ireland) 2016.

27. Development shall not be occupied until the foul water drainage works on-site and off-site have been submitted to and approved by the relevant authority and constructed by the developer in line with approved design.

REASON: In the interest of public health.

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

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

29. Units 12 -21 and 23-40 of the residential development hereby approved, shall only be for social housing. This requirement shall be delivered by agreement with a Registered Social Landlord (RSL) i.e. Northern Ireland Housing Executive (NIHE) or a registered Housing Association. The details of which shall be submitted to and agreed by the Local Planning Authority prior to the commencement of any of the dwellings hereby approved and shall be retained thereafter.

Reason: To meet the Key Site Requirement for Social Housing provision as listed in Zoning NY51 of the Banbridge / Newry and Mourne Area Plan 2015 and ensure its long-term delivery.



30. Prior to the commencement of any of the development hereby approved, a drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 shall be submitted to and agreed in writing by the Local Planning Authority. Development shall take place accordance with the approved details.

Reason: To safeguard against flood risk to the development and elsewhere.

31. The open space and amenity areas as indicated on the drawing 40068-203 REV I dated 19.12.22 (Proposed Site Plan) shall be managed and maintained in accordance with a detailed Landscape Management and Maintenance Plan which shall be submitted to and agreed in writing by the Local Planning Authority prior to the first occupation of any dwelling hereby approved.

Reason: To ensure successful establishment and ongoing management and maintenance (in perpetuity) of the open space and amenity areas in the interests of visual and residential amenity.

32. During the first available planting season after the occupation of the first dwelling, or as otherwise agreed in writing by the Local Planning Authority, landscaping shall be carried out in accordance with the ..... (Drawing No. .... date stamped ..... ) and maintained thereafter.

Reason: In the interest of visual and residential amenity.

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

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

34. The open space and amenity areas as indicated on the drawing No. .... date stamp received ..... shall be managed and maintained in accordance with a detailed Landscape Management and Maintenance Plan which shall be submitted to and agreed in writing by the Local Planning Authority prior to the

first occupation of any dwelling hereby approved. Development shall take place in accordance with the approved details.

Reason: To ensure successful establishment and ongoing management and maintenance (in perpetuity) of the open space and amenity areas in the interests of visual and residential amenity.

35. All existing hedgerow and trees shown on drawing No. .... date stamped ..... shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be given to the Local Planning Authority in writing.

Reason: To ensure the maintenance of screening to the site and to protect priority habitat and the biodiversity value of the site, including protected species.

36. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and shall be of such size and species shall be planted at such time as may be specified by the Local Planning Authority.

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

37. Prior to commencement of development at the site, a detailed remediation strategy to address all unacceptable risks to receptors should be submitted in writing and agreed with the Planning Authority. This shall identify all unacceptable risks, the remedial objectives / criteria and the measures which are proposed to mitigate them (including maps / plans showing the remediation design, implementation plan detailing timetable of works, material management plan, remedial criteria, monitoring program etc.).

Reason: Protection of environmental receptors to ensure that the site is suitable for use.

38. The retaining walls shall be designed in accordance with the relevant British Standards and Codes of Practice and that the retaining wall design accommodates any lateral loading from the retained slope. Any such designs and assessments should be certified by an appropriately qualified engineer.

Reason: To ensure that the structure is designed meet relevant British Standards and Codes of Practice

39. A working strip shall be identified within the development and retained to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times. The details of which shall be submitted to and agreed in writing by the Local Planning Office to the

satisfaction of Rivers Agency and shall be implemented in perpetuity as agreed.

**Case Officer Signature:**

**Date:**

**Appointed Officer Signature:**

**Date**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**APPLICATION REF:** LA07/2021/1323/F

**DATE RECEIVED:** 20.07.2021

**PROPOSAL:** Demolition of existing car sales and garage buildings and erection of residential development comprising 8 No. semi-detached houses, 4No. terraced houses and 33 No. apartments (45No. units in total) with associated site works, road works, landscaping and car parking. (Amended plans and revised description)

**LOCATION:** 68 to 72 & 74 Shore Road, Rostrevor

#### **1.0. SITE CHARACTERISTICS AND AREA CHARACTERISTICS:**

- 1.1.** The site is within the settlement limit of Rostrevor Village, located on the southern extremity of the village fronting onto the Shore Road.
- 1.2.** The site, which covers an area of 1.3 hectares, appears as an outlier to the main village core. The site is largely open with good views to the forest to the rear. A portion of the site contains an existing car showroom and garage (Campbell's Garage), a flat roofed 2 storey structure with white rendered finish.
- 1.3.** The immediate area is characterised by low density development with detached dwellings within relatively large individual plots, in curtilage parking and set within mature vegetative grounds with formalised gardens.
- 1.4.** Dwellings within the vicinity includes an existing 2 storey detached dwelling, (Number 50 Shore Road) just beyond the northwest corner of the site. There are also 2 dwellings beyond the northeast corner of the application site, accessed by the entrance drive to Kilbroney Forest Park; No 56 is a low single storey cottage and No 52 is a 2-storey dwelling with high level windows immediately adjacent to the

application site boundary. There are a number of detached houses within individual plots beyond the southern site boundary, accessing onto Shore Road.

- 1.5. The site rises from the Shore Road towards the forest immediately adjacent to its eastern boundary. Its boundaries are landscaped. It appears very open, situated as it is, on the shores of Carlingford Lough. As a consequence, there are distant views of it from nearby Warrenpoint. The views become more pronounced in the vicinity of the Rosses Point monument, a nearby public amenity area.
- 1.6. The site is adjacent to Carlingford Lough Special Protection Area (SPA) and Area of Special Scientific Interest (ASSI) and is adjacent to Rostrevor Wood Special Area of Conservation (SAC) and Area of Scientific Interest (ASSI). It is within the Mourne and Slieve Croob Area of Outstanding Natural Beauty.

## 2.0. SITE HISTORY:

|                        |   |
|------------------------|---|
| <b>P/1993/0776 -</b>   | Retention of lorry park and erection of new front boundary wall and car wash (Granted).   |
| <b>P/2002/0296/F.</b>  | car showrooms and workshop together with refurbishment of existing building Shore Road, Rostrevor. Granted 16 July 2002.  |
| <b>P/2009/1336/F -</b> | Proposed new 70 bed nursing home together with 41 no. 2 & 3-bedroom apartments with associated site works, landscaping and car parking (including at grade and undercroft car parking). (Granted 20 December 2017). |

## 3.0. CONSULTATIONS:

**NIW Water:** No objections subject to planning conditions.

**Environmental Health:** No objections in principle subject to conditions.

**DAERA Environment, Marine and Fisheries Group & Natural Environment**

**Division:** No objections subject to recommendations.

**Water Management Unit:** No objections subject to planning conditions.

**Regulation Unit Land and Groundwater Team:** No objections subject to planning conditions.

**Shared Environmental Services:** No objections subject to conditions.

**Department for Communities (DfC) Historic Environment Division.**



**(Historic Buildings):** No objections subject to planning conditions.

**HED (Historic Monuments):** No objections subject to planning conditions.

**DfI Roads:** No Objections subject to conditions.

**DfI Rivers:** No Objections subject to conditions.

**Loughs Agency:** No objections.

#### 4.0. **OBJECTIONS & REPRESENTATIONS**

4.1. Details of the application were advertised on August 2021 and 4 nearest neighbours were notified on the 4<sup>th</sup> August 2021 with an additional 11 properties notified on 15<sup>th</sup> October 2021. 27 letters of objection were received which raised a number of issues, including:

- Increased Traffic.
- Impact on habitat/ wildlife.
- Intensive development.
- Inappropriate scale and mass.
- Impact on trees/ inaccuracies of tree surveys.
- Impact on Public Right of Way (PROW).
- Setting precedent for further apartments/ high rise blocks.

4.2. 17 letters were also received in support of the proposal. In summary these were based on the need for the scheme, the enhancement of the area, appropriate design and materials, the amount of open space provided, less dense proposal to previous approval, and creation of employment during construction.

#### 5.0. **PLANNING POLICY & MATERIAL CONSIDERATIONS**

5.1. The relevant prevailing policy context is provided by: Banbridge, Newry and Mourne Area Plan 2015; Strategic Planning Policy Statement, (SPPS); Planning Strategy for Rural Northern Ireland (PSRNI); PPS 2: Natural Heritage; PPS 3: Access, Movement and Parking; PPS 3 (Clarification): Access, Movement and Parking; PPS 6: Planning, Archaeology and The Built Heritage; PPS 7: Quality Residential Environments; PPS 7 (Addendum): Safeguarding the Character of Established Residential Areas; PPS 8: Open Space, Sport and Outdoor Recreation; PPS 12: Housing in Settlements; PPS15: Planning and Flood Risk.

5.2. The Strategic Planning Policy Statement (SPPS) published in September 2015 states that the policy provisions of the documents listed above, amongst others will be retained until each council adopts its own Plan Strategy.



- 5.3.** Relevant supplementary planning guidance and advice also includes: DCAN 8: Housing in Established Areas; DCAN 10: Environmental Impact Assessment; DCAN 15 Vehicular Access Standards; Creating Places; Parking Standards.

**6.0. PLANNING ASSESSMENT & CONSIDERATION**

- 6.1.** In summary, the application proposes a high-density development of 45 residential units, comprising 29 apartments and 16 houses, (a mixture of 4 terrace and 12 semi-detached units), on a site comprising 1.3 hectares. (a proposed density of 35 units per hectare).
- 6.2.** The application site is within the settlement limit of the village of Rostrevor as designated in the statutory area plan, Banbridge, Newry and Mourne Area Plan 2015. It is on a white land site and not zoned for any specific purpose. Applications within designated settlement limits must also comply with relevant regional planning policy and with any relevant plan policies and proposals.
- 6.3.** The Planning Department has carefully assessed the proposal in the context of the planning policy context above and considers that it is contrary to a number of relevant planning policies, for the reasons set out below.
- 6.4.** By way of background, the proposed development was also the subject of a Pre-Application Discussion (PAD) application (LA07/2021/0039/PAD) prior to the submission of the current application. The proposal, as then presented, was deemed unacceptable by the Planning Department for the reasons set out in correspondence with the Agent dated 2<sup>nd</sup> April 2021. This raised concerns in relation to the proposed scale, design, layout, massing, detail and density which, it was stated, were out of keeping with the immediate locality. An alternative approach was suggested based on individual properties, smaller residential units of a sensitive scale and design with greater separation space and appropriate landscaping.
- 6.5.** Despite the pre-application advice provided, the applicant submitted a planning application for a broadly similar layout and scheme albeit with a slight reduction in heights. The Planning Department again contacted the agent, in a letter dated 4<sup>th</sup> November 2021, following the submission of this planning application, to highlight its concerns on the proposed scale, massing, design of the proposal. Further consideration of these issues will be explored within the following assessment.

**SPPS and PPS 7: Quality Residential Environments (QD1 and QD2), PPS 7 (Addendum): Safeguarding the Character of Established Residential Areas, PPS 12: Housing in Settlements (PCP 1, 2, 3 and HS4), PPS2: Natural Heritage, PPS8: Open Space, Sport and Recreation and PSRNI (DES2)**

6.6. Policy QD 1 of PPS 7 states, amongst other things, that 'Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. It is considered that the proposal is contrary to Policy QD 1 of PPS 7 in that it will not create a quality and sustainable residential environment. The proposal will result in unacceptable damage to the local character, environmental quality and residential amenity in the area, for the reasons discussed below.

6.7. Policy QD 1 of PPS 7 also requires that all proposals for residential development will be expected to conform to a number of specified criteria, including the following, outlined in bold:

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

6.8. The application site is located on the outer edge of Rostrevor village. The site is separated from the more compact central part of the village by Kilbroney Park which appears as a green wedge of undeveloped land between the main part of the village and the application site.

6.9. The site, whilst at the edge of the settlement limit, is located within an AONB which has a rural appearance dominated by green areas and woodland. The immediate context is characterised by low-density development of predominantly single and two storey, detached houses within relatively large plots with formalised gardens, in

curtilage parking and mature boundaries. Notwithstanding the existing car showroom which occupies a portion of the application site, the predominant character of the immediate area is one of low-density development, predominantly residential in type and scale. It derives largely from individual houses in individual curtilages.

- 6.10.** It is considered that the proposed development does not respect the surrounding context and is not appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced area. The scale, massing and overall form of the development, based as it is on 2 rows of development accessed via a central access road and dominated by predominantly large-scale apartment blocks, is not in keeping with this low-density edge of village location within an AONB, adjacent to a designated Demesne.
- 6.11.** The proposal involves major buildings which, when read together, will fill almost the entire frontage of the site. The resulting visual impact is one of a continuous mass with no visual break in the overall facade along the site frontage when viewed from the Shore Road frontage and indeed from wider views around Carlingford Lough. The cumulative mass and scale of the individual blocks visually reads as one continuous high density, suburban block more akin to an inner-city location.
- 6.12.** The overall massing is also accentuated due to: the proximity of the development to the Shore Road; the inadequate separation distances between individual buildings which is completely at odds with this edge of village location and immediate context; the absence of appropriate landscaping; the overall height of the proposed units; and the fact that the blocks to the rear project above the ridge height of the blocks fronting the Shore Road and will be viewed between the visual gaps in the buildings fronting onto Shore Road; plus the fact that the proposed development also takes up almost the entirety of the application site with limited distances to all site boundaries.
- 6.13.** The limited set back of the development from the road, 5 – 8 metres, allied to the height and mass of the frontage buildings, 3-storey over 12.5 metres to the ridge, and retaining structures, will create a tunnelling effect on the main approach to the village, which again would be out of keeping and excessive in comparison to the surrounding low density individual dwellings which are screened from view by mature settings.

- 6.14.** There are significant changes in ground levels within the entire site which is steep particularly within the mid and SE portion of the site with ground levels at this portion approx. 5 to 11m above the road levels. In order to accommodate development substantive engineering works are required to facilitate a level platform for all of the development and the need for retaining structures internally within the site, as well as extensively along all external boundaries ranging between 2.5m to over 5m in height.
- 6.15.** It is considered that, if implemented, this proposal would be totally out of keeping with its edge of village context. It will appear as an inappropriate mass of development in an area of low-density development, an unnatural appendage in this small village setting. The development imposes a high-density development at the edge of the village limits when there is an expectation for lower density as you transition from the village centre towards the outer limits and into the countryside. The high-density apartment development is at odds with its surroundings in terms of appearance, impact to the landscape and setting and is excessive in size when seen in contrast with long established residential development observed within the immediate area of the site. It is over development of the site. While the form and layout may be appropriate in other settings, this is not an appropriate design or form at the edge of the village limits which has a low density and a rural feel. It will adversely affect the setting and appearance of the AONB when viewed from the Shore Road and wider views around Carlingford Lough.
- 6.16.** In curtilage parking has been provided for semi-detached properties, which is welcomed. All other parking is on larger communal areas which when read with the internal road arrangement gives an excessively hard visual urban appearance. This type of layout is inappropriate at this village location.
- 6.17.** It is considered that the overall form of development could be made acceptable, within this high-profile location by substituting the larger apartment blocks with smaller scaled units to more closely resemble individual domestic properties. The provision of more separation space and appropriate landscaping between individual units would also reduce the overall massing of the development.

**(c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries**



**in order to soften the visual impact of the development and assist in its integration with the surrounding area;**

- 6.18.** It is considered that adequate provision has not been made for public or private open space and landscaped areas as an integral part of the development. The applicant states that the proposed landscaped open space is calculated at 1353sqm or 12.7% of total area (see Landscape Plan/Proposed Site Layout Plan). An inventory of open space is provided; 8 spaces in total at various locations through the proposed development. It is stated that this meets the requirement for this type of apartment.
- 6.19.** In assessing the adequacy of open space provision, consideration must include the nature of the open space provision in addition to the overall amount. The assessment should also include its location, accessibility, level of supervision and type of usage. While provision has been made for open space as part of the development, and is welcomed, it is considered that a significant number of the areas labelled as amenity space on the plan have not been positively planned; they are either peripheral or left over areas adjacent to the internal access road or areas that would be difficult or impossible to develop.

Areas of open space should be properly planned. They should be usable supervised spaces, centrally or conveniently located to benefit all residents within a housing scheme. They should be properly landscaped with appropriate facilities that are equally accessible to all, e.g., parents with children. That is not the case here. It is considered that the open space provision is inadequate in that a number of the identified spaces are inappropriate, unusable space.

- 6.20.** Examples of these include: Open space 02, (an area immediately adjacent to the internal access road); 04 and 05. (Both areas on sloping ground at the extremity of the site layout, accessed by steps). Planning is concerned about the visual appearance of an area of proposed open space adjacent to Block 6 and the impact it will have on the Shore Road. It is a terraced area, constituting 3, 3 m wide steps, accessed by steps, rising some 7 metres above the Shore Road bounded by high walls and fences. It is considered that this is not usable open space and does represent an appropriate quality design solution at the entrance to Rostrevor.
- 6.21.** Central areas are also dominated by hard surfaces void of appropriate landscaping that would create an attractive environment for residents and visitors. It is considered



that insufficient open space and landscaping has been provided to create an attractive, sustainable and varied residential environment. It is also considered that while a number of individual trees are proposed along the site boundary, this level of landscaping is insufficient. The overall massing of the proposed development could be broken up or reduced by individual groups of trees between blocks within the overall development.

- 6.22.** It is considered that the private open space areas assigned to the rear properties to the northeast are located tight to the site boundary and are surrounded by a high retaining wall boundary and existing mature vegetation which will limit day light and overshadow. It is also considered that the plot sizes particularly for the semi-detached houses, on average, 3-4 metres in length, do not allow for plot expansion for future proofing and limits day light particularly in the evening, questioning the usability of these spaces.

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

- 6.23.** There are a number of units within the scheme which can accommodate those whose mobility is impaired. The layout also includes assigned mobility parking within the scheme and footway links to the wider footpath network and access to public transport facilities to encourage accessible and sustainable methods of movement. This is welcomed. Despite this, the layout is not fully accessible to all and will pose difficulties for those whose mobility is impaired as some the public amenity space areas such as that in areas 4 and 5 include steps and are situated some distance away from properties on the outer edges of the development.

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

- 6.24.** A total of 59 communal spaces are provided to serve the apartments and other residential units. In addition, provision has been made for 2 car parking spaces, in curtilage, to serve the 8 semi-detached units with an additional space for visitor car parking. This is considered to meet published car parking standards.

- 6.25.** Car parking spaces should also be conveniently located and usable. The proposed layout includes 59 non designated spaces for the apartments distributed about a central area. The location of the spaces is not directly linked to each block. This is not considered to be an appropriate level of car parking provision.
- 6.26.** It is also considered that there are poor linkages between to proposed car parking spaces and individual buildings. The majority of the spaces are within a central undesignated area which also gives the overall development a hard appearance. As a result of all of these factors, it is considered that the overall form of the car parking provision is inappropriate.

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

- 6.27.** It is considered that the three-storey form, size and scale of the development is not reflective of the existing predominant single and two storey form found at this particular location. In particular, the density and scale of the apartment blocks, particularly at the entrance to Shore Rd will appear excessive, dominant and out of keeping.
- 6.28.** The proposed combination of materials based on a combination of brick, rendered bands, render and granite wall details does not draw upon the character and appearance of the surrounding area nor conforms with the predominant external finishes which are predominantly uniform and solely rendered. Whilst it is acknowledged the developer has tried to mimic existing development in Rostrevor, e.g., Victoria Square, the examples relied upon are located within the village setting, where you could expect to find this type of detailing. The layout of the Victoria Square development is also more appropriate, in planning terms, given its planned layout around a centrally located green space and the greater separation distances between terraced blocks. The application site is set apart due to its edge of settlement setting more defined by the simplified use of building form, materials and finishes specific to this locality.
- 6.29.** It is also considered that the scale, form and layout of the development, as already highlighted, does not conserve or enhance the area's environmental qualities, local distinctiveness or environmental importance. This local distinctiveness derives from its coastal location on the edge of Carlingford Lough and the Mourne Mountains. The

proposed layout and design detailing, based as it is on predominantly large 3-storey apartment buildings, is more akin to an inner city or edge of city region location rather than this low-density edge of village location within the Mourne Area of Outstanding Natural Beauty. It does not reflect the specific characteristics of the immediate context. This is contrary to the objectives of the statutory plan which aims to conserve, sustain and enhance the areas environmental qualities, qualities and local distinctiveness.

- 6.30.** It should also be noted that development along the road frontage sits approx. 2m above the road level with a retaining structure along the frontage giving a hardened visual appearance. Units to the rear are also set on higher land than that to the front and require the need for a higher retaining structure given levels differences at the back. This is completely at odds with established development at this location which are appropriately spaced and integrated within landscaped curtilages.

**(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;**

- 6.32.** It is considered that aspects of the design and layout will create conflict with adjacent land uses. It will result in an unacceptable adverse effect on an existing and proposed properties in terms of dominance, overlooking, loss of light and overshadowing.
- 6.33.** The design and layout will impact upon the amenity of future residents resulting in an unacceptable adverse effect on proposed properties in terms of dominance, loss of light and overshadowing. The proposed scheme incorporates a row of buildings to the rear that back onto Rostrevor Wood to the east. These vary in design, either semi-detached units (No 1-6) or apartment buildings (2a and 3). The eastern boundary is formed by a retaining structure along its entirety and is flanked by steep rising land and tree vegetation. It is considered that there is insufficient separation distance between these rear properties and the rear boundary features. Units 1 – 6 back onto elevated rear amenity areas, on average 3-6 metres in depth and accessed via steps which are bounded by a wall. This will have an overbearing and dominant impact on future occupants as well as loss of light and overshadowing to the rear of these properties.

- 6.34.** Block 2a, on the latest drawings presented to the Planning Department, is located 3 metres from the site boundary and 6 metres from the boundary wall of No 52. This degree of separation is inadequate and will result in dominance and overlooking from high level windows, detrimental to the residential amenity of the adjacent dwelling. These are marked as obscure, acknowledging that there is an issue of overlooking, but this is not an acceptable solution as it does not remove the impression of being overlooked. All of this falls far short of the required separation distances as contained in planning policy guidelines, as contained, for example in 'Creating Places' and is unacceptable in planning terms.
- 6.35.** Overall the proposal fails against QD1 of PPS 7, criteria a, c, e, f, g and h, for the reasons set out above and listed below.

**PPS 7 (Addendum): Safeguarding the Character of Established Residential Areas. Planning Control Principle 1 of PPS 12 Housing in Settlements**

- 6.36.** Policy LC 1 of the Addendum to PPS 7, 'Safeguarding the Character of Established Residential Area' states that in established residential area, planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites.....to accommodate new housing, where all criteria set out in QD 1 of PPS 7 and all additional specified criteria are met. These include:
- The proposed density is not significantly higher than that found in the established residential area; and
  - The pattern of development is in keeping with the overall character and environmental quality of the established residential area....

It states that the Department will not permit proposals for new housing development in established residential areas where there this would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. New residential developments should therefore be sensitive in design terms to people living in the existing neighbourhood and be in harmony with local character.

- 6.37.** Planning Control Principle 1 of PPS 12 Housing in Settlements states that when considering an increase in housing density in established residential areas, great care should be taken to ensure that local character, environmental quality and amenity are not significantly eroded and that the proposed density, together with the form, scale, massing and layout of the new development will respect that of adjacent housing and safeguard the privacy of existing residents.

- 6.38. The proposed scheme proposes 12 semi-detached houses, 4 terraced houses and 29 apartments, a total of 45 units on a site of 1.3 hectares. This represents a proposed housing density of 35 units per hectare. The character of the established residential area is one of individual houses in sizeable single cartilages. The density of the established residential area, in the vicinity of the application site, reflects the edge of village location. It is predominantly low density and varies between 5 to 10 dwellings per hectare.
  
- 6.39. The Planning Department considers that this level of development is wholly inappropriate within this edge of village, sensitive location on the shores of Strangford Lough. It does not reflect what is currently on the site, or, as has been suggested in support of the application, what has occupied the site in the past. It has no regard to the established character, scale, form, massing, layout of development found at this location. It is in stark contrast to character of the established residential area within which the application site is located.
  
- 6.40. The level of proposed development is significantly higher than that found in the established residential area and the proposed pattern of development is not in keeping with the overall character and environmental quality of the established residential area. It is considered that this proposal, which is based on the redevelopment of an existing building and the development of the remainder of the vacant site, would be detrimental to the local character, environmental quality and residential amenity of the established residential area, due to the reasons outlined above.
  
- 6.41. Overall the proposed development is therefore contrary to Policy QD 1 of PPS 7, Policy LC 1 of the Addendum to PPS 7 and Planning Control Principle 1 of PPS 12, for reasons that have been set out above.
  
- 6.42. It is also considered to be contrary to Para 6.137 of the SPPS, 'increased housing density without town cramming', which states that in 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. This proposal fails to do so for the reasons already stated.



## PPS 2: Natural Heritage

- 6.43.** The application site is located within the Mourne and Slieve Croob Area of Outstanding Natural Beauty. Policy NH 6 of PPS 2 relates to development within Areas of Outstanding Natural Beauty. It states that planning permission will be granted for new development within an AONB where it is of an appropriate design, size and scale for the locality and all of the specified criteria are met. It is considered that the proposal is contrary to Policy NH 6 of PPS 2, in that its scale size and design are not sympathetic to the AONB, for the reasons outlined above, and does not respect local architectural styles and patterns.

### Other Material Considerations

- 7.0.** As referenced at Paras 2.00 above, this Council voted to grant planning permission on this site, for a 70-bed nursing home together with 41 no. 2 & 3-bedroom apartments with associated site works, landscaping and car parking (including at grade and undercroft car parking). The formal permission issued on 20 December 2017. The Planning Department has recently received a formal certificate of lawfulness of proposed use or development application, (CLOPUD) under Article 170 of the Planning Act (Northern Ireland) 2011. This confirms, based on the evidence submitted with the associated application that this development, as approved, has lawfully commenced on site within the prescribed time period and is lawful.
- 7.1.** In correspondence with the Planning Department, in support of the application, the applicant, in summary, has stated that if the application now under consideration is not successful, it is intended to continue works on aspects of the previous approved development above, namely the 41 apartments and underground car park. It has not been possible to find an operator for the approved nursing home, due to its location, size, and expense. Should the current application not be approved, it would also be intended to apply for a change of use to the nursing home to provide 30 – 40 apartments, potentially a total of 75 apartments plus an underground car park'. It is also stated that this current application would be more in keeping with the 'look & feel' of Rostrevor & the surrounding area'.

- 7.2. The weight to be attached to this previous approval is a matter for the Council to consider in its assessment of this application. In addition to apartment development, the previous application also provided for a 70-bed nursing home. Members of the Planning Committee highlighted this as a significant factor, in deciding to overturn the case officer recommendation to refuse the overall proposal, because of the associated benefits to the community. The nature of the proposal now before the Council, based as it is, largely on apartment development, is significantly different in content to that previously approved.
- 7.3. In this context it is considered that while the previous approval on the site is material consideration it should not be given determining weight as the proposal was perceived, by the Planning Committee, to provide a unique and much-needed community facility which would benefit the health sector. By contrast this is a large private housing proposal, based largely on apartment type development.
- 7.4. The Planning Department continues to have significant concerns about the scale of the apartment blocks, which are considered unacceptable for reasons already outlined. The previous block was designed to reflect its intended use as a nursing home. Any subsequent application for a change of use of the nursing home, would have to be properly considered against prevailing planning policy. This is not considered to be an appropriate approach in sustainable planning terms or upon which to issue a planning approval in this case. Rather an alternative design solution should be pursued to achieve a more appropriate planning outcome that is in keeping with this extremely sensitive site. This option, based on smaller individual residential blocks, more in keeping with the setting, was provided to the applicant early on in the application process.
- 7.5. The applicant also contends that the scale of development proposed is suitable and sympathetic to the special character of this particular locality and respects the historic development that previously occupied the site, (which included a hotel, skating rink and various other buildings of 3-4 storeys in

height) which complies with all relevant planning policy and guidance. The Planning Department has highlighted its concerns about the scale of the proposed development. It is also considered that while the historic development is a material consideration, limited weight should be attached to it. This follows from the fact that this historic development which was removed from the site a considerable period ago, pre-dated current planning policy and also provided a range of public facilities and amenities, including an hotel and skating rink, linked to a tram connection. The current proposal is considerably different in nature, scale, design and type of use. Determining weight should be attached to the current setting of the site. Determining weight should also be attached to the requirements of the prevailing planning policy framework, which has been developed in the public interest and should not be set easily aside.

#### **RECOMMENDATION:**

- 8.0.** It is considered that the application should be refused due to the issues raised above and for the reasons stated below.
- 1.** The proposed development is contrary to Policy QD 1 of Planning Policy Statement 7 (PPS 7) criteria (a), (c), (e), (f), (g) and (H), in that
    - the applicant has failed to demonstrate that the proposal would create a quality residential development;
    - adequate provision has not been made for private open space and landscaped areas as an integral part of the development;
    - it does not meet the needs of people whose mobility is impaired.
    - appropriate provision has not been made for parking.
    - the design of the development does not draw upon the best local traditions of form, material and detailing; and
    - the design and layout would create conflict with adjacent land uses in terms of overlooking, loss of light and overshadowing.
  - 2.** The proposed development is contrary to Policy LC1 of the Addendum to Planning Policy Statement 7 on Safeguarding the Character of Residential Areas, criteria (a) and (b) in that:

- The proposed density is significantly higher than that found in the established residential area; and
  - The proposed pattern of development is not in keeping with the overall character and environmental quality of the established residential area.
3. The proposed development is contrary to the Strategic Planning Policy Statement and Planning Control Principle 2 of PPS 12, in that the proposed density of the development, together with its form, scale, massing and layout does not respect local character and environmental quality.
  4. The proposed development is contrary to Policy NH 6 of Planning Policy Statement 2 (PPS 2) in that the design, size and scale is not appropriate to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality and does not respect local architectural styles and patterns, local materials or design.

Case Officer Signature: P Manley

Date: 13/06/2023

Appointed Officer Signature: P Rooney

Date: 13/06/2023

Speaking Rights June 28th 2023

LA07/2021/1323/F. (Colum Sands on behalf of objectors)

In following Council protocol to outline the contents of speaking rights to NMDDC Planning Committee at the planning meeting for the hearing referenced above :

On behalf of RARE (Rostrevor Action Respecting the Environment) other local environmental groups and members of the community who object to this proposal in its present form,

I shall offer support to the decision of NMDDC's professional planners to refuse the application in its present form,

I shall offer a brief historical context to the various attempts and the consistent professional planning advice to refuse the imposition of high density development in an edge of village context,

I shall point out to the Planning Committee the negative environmental impact aspects of this application which they may not have understood from the Case Officer's Report,

I shall reinforce the concerns of local people on the lack of affordable housing, reminding them that although this is not the obligation of the developer it is the obligation of councillors to respect the well articulated needs of the community which they serve.

I shall draw the attention of the Planning Committee and Council Officials to a recent publication by the Northern Ireland Audit Office which is of relevance to this application, particularly because of indications from the Developer that an attempt may be made to give



weight to a Judicial Review on an earlier application approval for a very different proposal on this site.

These are the main points.

Kind regards,

Colum Sands

# COMMITTEE BRIEFING NOTE

69

**App Ref:** LA07/2021/1323/F  
**Proposal:** Demolition of existing car sales and garage buildings and erection of residential development  
**Location:** 68 to 72 & 74 Shore Road, Rostrevor

We fundamentally disagree with the Planning Officer's interpretation of policy insofar as it has been applied to this application. This is explained further below, with each of the refusal reasons being addressed in turn:

**REFUSAL 1:** The proposed development is contrary to Policy QD 1 of PPS 7 criteria (a), (c), (e), (f), (g) and (h) in that:

- the applicant has failed to demonstrate that the proposal would create a quality residential development. The proposed development will deliver a quality residential development given all dwellings meet internal space standards, and adequate parking & amenity space has been provided in accordance with all relevant policy and guidance – this is extensively detailed in the submitted DAS.

- adequate provision has not been made for private open space and landscaped areas as an integral part of the development.

Creating Places paragraphs 5.19 and 5.20 recommend a minimum of 40sqm private open space per house and a minimum of 10sqm per apartment. It also confirms that private communal open space will be acceptable in the form of landscaped areas, courtyards or roof gardens for apartments.

The Council's open space calculations have missed all the private gardens, balconies and terraces provided for the proposed units. Every apartment has been provided a minimum of 10sqm private or private communal open space and every house has a garden of at least 40sqm in size. Many of the private garden areas exceed the minimum standards. This is in addition to the 1353sqm of public open space included in the development.

It should be noted that PPS8 Policy OS2 states that a reduced area of open space is acceptable where a site is close to and would benefit from ease of access to areas of existing public open space - the site is beside Kilbroney Park and Rostrevor Forest. Despite this, the proposal exceeds 10% public open space provision, as well as exceeding the private open space recommendations of Creating Places.

Landscaping is provided throughout the site layout, with the planting of over 100 new trees – this is on a site that is presently occupied by a large car showroom and car parking.

- it does not meet the needs of people whose mobility is impaired.

The planning officer acknowledges that there are a number of units within the scheme that can accommodate those whose mobility is impaired. The layout also includes assigned mobility parking within the scheme and footway links to the wider footpath network and access to public transport facilities to encourage accessible and sustainable methods of movement.

Only two of the open space areas are not fully wheelchair accessible, due to the sloping nature of the site. The majority of open space is fully accessible. As stated above, a reduced area of open space would be acceptable, given the site is beside Kilbroney Park and Rostrevor Forest – even if the sloping areas were removed from the layout, the proposal would still meet the policy requirements for open space. It is considered more beneficial to allow a limited form of access to these steeply sloping areas, rather than exclude access altogether.

- appropriate provision has not been made for parking.

The Council accept that the proposed parking meets published car parking standards. DFI Roads have no objection to the parking provision and layout. The proposed parking is distributed within the site and is near to and accessible from all apartments and houses. The existing site is mostly covered in hardstanding, and the extant approval contains a large underground car park, whereas the proposed parking areas are broken up with substantial areas of landscaping, which will deliver a significant improvement to the appearance of the site compared to the existing and approved development.

- the design of the development does not draw upon the best local traditions of form, material and detailing.

The design and detailing of the proposed development has been informed by a comprehensive assessment and consideration of the historic and established character and features of the site and area, as set out in the submitted DAS and is therefore considered appropriate for this area.



- the design and layout would create conflict with adjacent land uses in terms of overlooking, loss of light and overshadowing.

The planning officer has not properly understood the open space provision for houses 1-6. These are actually split-level with the open space provided at first floor level (not at ground floor and enclosed by a wall). These generous garden areas extend from the rear around the side of the dwellings to provide impressive views out over the lough. Each garden terrace is more than the minimum 40sqm in area and is not only accessed by a stair, but level access is also provided from the first floor living/kitchen and dining area. These garden terraces will therefore have ample access to natural light, will not be unduly overshadowed and will provide attractive views over the lough.

The planning officer refers to the frosted gable windows of Block 2a, near to the side boundary with No 52. Creating Places does not require any minimum separation between the side/gable ends of buildings. It is common for neighbouring dwellings to have gable elevations within close proximity to each other and for gable windows to be frosted to prevent overlooking. Note also that the resident of No 52 is the former owner of the application site and current occupier of the showroom and has endorsed the proposal and provided a letter of support to the Council. Clearly they have no concern that the proposal will adversely impact their amenity.

**REFUSAL 2:** The proposed development is contrary to Policy LC1 of the Addendum to PPS7 on Safeguarding the Character of Residential Areas, criteria (a) and (b) in that:

- The proposed density is significantly higher than that found in the established residential area; and
- The proposed pattern of development is not in keeping with the overall character and environmental quality of the established residential area.

Policy LC1 only applies to "established residential areas", which are defined as areas "dominated by medium to low density single family housing" – This area is dominated by the car showroom on this site and its parking area, therefore it is not in an "established residential area". Policy LC1 therefore does not apply. This was confirmed by the Council's Planning Committee in their decision to approve application P/2009/1336/F for a 70 bed nursing home and 41 apartments on this site.

The High Court endorsed this fact in the judicial review of that approval (see 102 – 108 of judicial review decision [2018] NIQB 80), stating that the planning officer's assertion that this is an established residential area was "unexpressed, unparticularised and unreasoned".

Without prejudice to the above, the proposal nevertheless has a lower density than the extant approval on this site, and reflects the historic settlement pattern and the pattern of development established by the extant approval.

**REFUSAL 3:** The proposed development is contrary to the SPPS and PCP 2 of PPS 12, in that the proposed density of the development, together with its form, scale, massing and layout does not respect local character and environmental quality.

As stated above, the proposal has a lower density than the extant approval on this site.

The proposal is only 2-3 storeys in height, which is similar in scale to the existing car showroom building that currently occupies the site and the various 2 storey buildings in the surrounding area. The proposal also constitutes a reduction in scale and massing compared to the extant approval for a 70 bed nursing home and 41 apartments on this site.

The form, scale, massing and layout has also been informed by the historic development that previously occupied the application site. This included a hotel, skating rink and various other buildings of 3-4 storeys in height.

The design and detailing of the proposed development has been informed by a comprehensive assessment and consideration of the historic and established character and features of the site and area, as set out in the submitted DAS and is therefore considered appropriate for this area.

**REFUSAL 4:** The proposed development is contrary to Policy NH 6 of PPS 2 in that the design, size and scale is not appropriate to the special character of the AONB in general and of the particular locality and does not respect local architectural styles and patterns, local materials or design

As discussed above, the design, size and scale of the proposed development has been informed by a comprehensive assessment and consideration of the historic and established character and features of the site and area, as set out in the submitted DAS and is therefore considered appropriate for this area.



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

**Application Reference:** LA07/2022/0704/F

**Date Received:** 08/04/2022

**Proposal:** Erection of a dormer style farm dwelling and detached garage

**Location:** Lands approx. 190m north of No 14 Old Road, Crossmaglen, Newry, BT35 9AL

**Site Characteristics & Area Characteristics:**

The application relates to a parcel of land accessed via a laneway from Old Road. The site forms part of a larger agricultural field with levels falling from the roadside towards the rear of the site. The roadside and north western boundaries are formed by hedgerow with remaining site boundaries undefined. The application site is located outside any defined settlement limits.



*Existing Agricultural Access to Application Site*



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

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

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

### **Site History:**

There is no planning history on the application site.

### **Consultations:**

- **NI Water-** No objections
- **DFI Roads-** No objections in principle, conditions provided.
- **DAERA-** Confirmed the farm business has been in existence for more than 6 years, that the business has claimed payments through the Basic Payment Scheme of Agri Environment Scheme in each of the last six years and that the application site is on land for which payments are currently being claimed by the farm business.

### **Objections & Representations:**

Five neighbours were notified of the application and it was advertised within one local newspaper. Following an amended site address, neighbours were re-notified (expiry 28/12/22) and the application was readvertised with expiry on 16/01/2023. No objections or submissions have been received.

### **Assessment:**

#### **Strategic Planning Policy Statement for Northern Ireland**

Paragraph 1.12 of the SPPS states that where the SPPS introduces a change of policy direction and/ or provides a policy clarification that would be in conflict with the retained policy the SPPS should accord greater weight in the assessment of individual planning applications. However, the SPPS does not introduce a change of policy direction nor provide a policy clarification in respect of proposals for residential development in the countryside. Consequently, the relevant policy context is provided by the retained Planning Policy Statement 21- Sustainable Development in the Countryside. Policy CTY1 of PPS 21 sets out a range of types of development which in principal are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. This application seeks permission for a dwelling and garage on a farm in accordance with Policy CTY10 of PPS21.

Policy CTY 10 states:

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



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

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

*Planning permission granted under this policy will only be forthcoming once every 10 years".*

Assessing this planning application against the criteria of CTY 10:

- a) DAERA have confirmed the business ID has been in existence for more than six years and that the Business ID submitted claims for Single Farm Payments or Agri Environment Scheme in each of the last six years. The business is active and established for the period required by criterion a.
- b) A planning history search has not identified any dwellings or development opportunities which may have been sold off from the farm holding.
- c) The application site is located c.190m north of 14 Old Road (address of the owner of the farm business) its associated outbuildings. The Planning Department advised of concerns with the scheme in terms of criterion c. The Planning Department noted the supporting documentation provided but consider that fields 7 and 8 of the farm maps (field either side of access to No 14) with access gained from the existing lane may be more suitable and would cluster with existing buildings on the farm.

The Agent was advised that the proposed site is not considered to be visually linked or sited to cluster with an established group of buildings on the farm given the separation distance and difference in levels, contrary to criterion c of Policy CTY10 and consequently contrary to Policy CTY 13 (g) of PPS21.

In response, the Agent sought to submit revised drawings with the proposed dwelling moved approx. 30m East into field 8 with access taken from the existing farm lane stating this allows the proposed dwelling to better cluster with the existing buildings on the farm. The Agent also stated that the proposed dwelling will remain at different level to the farm, this is because field 7 & 8 drop significantly towards the farm. To site the dwelling any closer would mean large excavation of the landscape with a greater visual impact. The Planning Department advised that it was not possible to change the location of the site under this application, the current application would need to be withdrawn and a separate application submitted.

Further supporting information was received with the points raised summarised below:

- While field 7 & 8 are slightly closer to the farm, the substantial level difference across the site would require a significant amount of Cut and Fill to accommodate construction. It is noted that both fields 7 & 8 are at a much higher level than the homestead and any construction on these fields would be prominent and imposing to the existing landscape as well having a negative impact while viewed from the existing farm.
- The intrusive amount of cut and fill required would be both prohibitive in cost but also have an unduly harsh impact upon the landscape.
- Both Sites 7 & 8 (nearest the existing lane) have only one defined boundary, attached to the public road. This is contrary to the selected location which allows the house and garage to nestle into the existing landscape. Sites 7 & 8 would not comply with CTY 13 (b) as they lack long established natural boundaries and would not provide an adequate enclosure into the landscape.
- Although fields 7 & 8 may be able to be accessed of an existing lane the entrance onto the existing lane would require extensive upgrade and widening, to accommodate for both construction traffic and post construction traffic. The existing lane has very steep levels with over a 14m drop from the public road to the farm entrance. This entrance is predominantly used by farm machinery on a regular basis, it has deteriorated in places making it unsuitable for domestic vehicles and would require a significant upgrade.
- The chosen site, while further away from the existing cluster, is the only viable option within this farm, which would not unduly affect the landscape or cause excessive/unwarranted cost.

The Planning Department do not consider the application site to be visually linked or sited to cluster with the farm buildings set c.190m to the south of the site at a significantly lower ground level. In Paragraph 5.41 of the Justification & Amplification text of Policy CTY10, it states that *"to help minimise impact on the character and appearance of the landscape, such dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them"*. The application site comprises an elevated site and travelling along the lengthy laneway which serves multiple landowners, the application site will not be visually linked with No 14 and its associated buildings as there will be no intervisibility and there will be a significant physical separation between the farm holding and the proposed dwelling.

There other sites closer to the farm holding (fields 7 and 8 of farm maps) which would also be able to utilise the existing lane serving No 14. The attempt to amend the location of the application site to lands 30m to the west supports the Planning Departments position that there are closer, more suitable sites available. The Planning Department remains of the opinion that the application fails to comply with criterion c of Policy CTY 10.

#### **Policies CTY13 and CTY14**

The application proposes a one and half storey dwelling with dormers projecting from the wall plate, single storey storm porch with the chimney located on the gable end. The design and scale of the dwelling is considered acceptable given the site location and surrounding character. However, as outlined above, the dwelling is not visually linked or sited to cluster with an established group of buildings on the farm, contrary to criterion g of Policy CTY13.

#### **PPS3- Access, Movement and Parking**

DFI Roads have been consulted on this application have no objections subject to conditions.

#### **Recommendation: Refusal**

#### **Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore, would not visually integrate into the surrounding landscape.

4. This refusal notice relates to the following plan: 011511-001 Rev B, 011511-002, 011511-004.

|   |
|---|
| <b>Case Officer Signature:</b> E. Eastwood    |
| <b>Date:</b> 19/01/2023                       |
| <b>Appointed Officer Signature:</b> G Murtagh |
| <b>Date:</b> 20/01/2023                       |



1. This is a non-contentious farm dwelling application: the main policy requirements are met (the farm business is active and established, and no development opportunities have been disposed of). There are no concerns with the site itself – only that it purportedly does not visually link or site to cluster with the farm grouping (primarily as it just cannot be seen at all). The proposal is deemed to offend CTY 13 only because of the siting / clustering issue, and it is accepted that the proposal is appropriately screened, enclosed and integrated. There is overlap and commonality in the refusal reasons. If the siting of the house is accepted by Members, CTY 10 is met and then CTY 1 of PPS 21 is immediately overcome. Likewise, if the issue of siting is settled, then the proposal will not fall foul of CTY 13 and the third refusal reason falls also.
2. The farmstead is located off a lane that is itself off another lane. It is approx. 560 metres off the Old Road and neither it nor the application site can be seen from the public road. It is a very rural area, set in a drumlin-type landscape. For the first 300 metres of the lane, the site nor the farm can be seen. It is only as you immediately approach the site you can see through a field gate. Beyond the site there is only one house and one farm.
3. Officers included a photograph taken over the field gate leading into the site – in reality this is the only way the house can be seen, or from where it will not appear obviously linked with the farm – but this is not how the application needs to be judged as it is not a critical viewpoint.
4. Because of this context i.e. the site and the farm are so remote and of such limited visibility, the exercise of judgement is required. It also must be remembered that Policy CTY 10 (dwellings on farms) is not a self-contained policy. To secure permission, it is necessary to meet CTY 10 AND PPS 21's other planning and environmental criteria. The reality is that complying with CTY 10's locational criteria will often push an applicant into direct conflict with PPS 21's other planning and environmental criteria (e.g. CTY 13 / 14), meaning that considerations often have to be weighted against each other before a balanced decision is arrived at.
5. Planning officials suggest there are sequentially preferable sites available but they do not offer any comment upon whether or not those purportedly better options would actually meet PPS 21's other policy requirements, and the applicant's view is that they would not, for a variety of reasons.
6. While the sequentially preferable sites might be closer to the farm the dwelling they would still not visibly read with the farm due to the lack of exposure to critical views. The fields officers feel are preferable lie at the bottom of a bowl in the local terrain. There would be no outlook and the site would be sodden in winter time. While these may not be determining for planners, in reality the lands immediately around the farm are needed for intensive farming. Putting a dwelling in there would result in animals having to bypass a new house when breaking out from the sheds for feeding and exercise. The last leg of the lane is narrow and has deteriorated badly due to running water. It would not be safe to position a new dwelling at the end of this lane and to ask occupants to share a very narrow lane with modern farm machinery.
7. We are here because we consider the applicant's choice of site has less impact on the landscape than a dwelling would if sited at the farm grouping as prescribed by Policy CTY 10.
8. Policy CTY 10 has an either / or test: either you form an integral part of a farm grouping OR, when viewed from surrounding vantage points you read as being visually interlinked with the farm grouping. However, a major factor here is the lack of surrounding vantage points. The main thing is that, when looking from the surrounding vantage points you are supposed to have little appreciation of any physical separation between them (**but you can have some appreciation of distance**). The policy is clear: **it is permissible to have an appreciation of physical separation between the two**. The main location from which the dwelling can be seen is when you would drive into the site. The hedge along the lane can be kept because sight lines only apply at the top of the lane. This will ensure the house remains hidden.
9. Given the site and the farm cannot be seen from much of the surrounding area, there will be little appreciation of any physical appreciation of any separation between the two (if they cannot be seen then you cannot have any sense of separation).



10. The issue of separation is not actually that critical because the site is cut out from a larger field, and the field runs from this corner down to the farm dwelling. In short, the site is located at the far end of the field in front of the farm house, albeit some distance away. For those inclined to put their head over the gate, when you see the house you will see the farm complex behind it. Although there will be an appreciation of some distance, there will be no impression the house is not part of that farm because both hedge lines lead down towards the farm.
11. We must be mindful that siting with farm buildings is not enough: a site still has to avoid being prominent; it has to be suitably enclosed; it has to avoid excessive excavations and unsightly ancillary works; and it cannot read as suburban when viewed with other existing and committed development. On that basis, it makes perfect sense to position the dwelling in this corner of the field, where planning officers accept it has the correct number of boundaries in situ and benefits from the appropriate degree of enclosure and integration.
12. Although not expressly laid out in Policy, if an applicant has an environmentally superior site then common sense dictates that this must be able to, on occasion, take precedence over a sequentially preferable site that will result in demonstrable harm due to problems with adversity of impact, visual or otherwise, or with health and safety issues.
13. We consider that a judgement call is needed to be made here – not a strict interpretation of Policy.
14. Officers have not probed in depth, or asked what the implications are if the farm cannot be seen from the surrounding countryside, or whether a site closer to the farm would have a greater visual impact than this proposal.
15. We do not ask Members to disapply the Policy or to disregard its thrust and intent. We do however ask members to apply their own judgment to decide whether a dwelling would have a greater impact if sited beside the farm or here, where it will be barely visible.
16. Officers have not addressed a fundamental part of the Policy, which states that **"if however, the existing building group is well landscaped, or where a site adjacent to the building group is well landscaped planning permission can be granted for a new dwelling even though the degree of visual linkage between the two is either very limited, or virtually non-existent due to the amount of screening vegetation"**. There is genuinely no perception or appreciation of a significant distance between the farm and the site – primarily because the farm just cannot be seen from the surrounding area.
17. It has to be remembered that there is no physical feature between the site and the front corner of the farm grouping. In some respects, the applicant is disadvantaged by the fact the site is part of a larger field: if the field had been smaller the site would undoubtedly not have been as far away from the farm as it appears.
18. In addition to the foregoing, the applicant wishes to introduce new evidence: There were plans to expand the farm grouping but these plans were not verifiable for the purposes of Policy CTY 10 thus an exception to policy could not have been demonstrated. In an attempt to have these expansion plans verified the farmer is minded to proceed with an application for a Certificate of Lawfulness. Submission of such an application will not unduly delay the application, given Certificates of Lawfulness can legally be determined after a period of 21 days.
19. The applicant is amenable to compromise insofar as possible. The applicant's agent has mooted a potential alternative, however it would have required an extension to the red line boundary. While not ideal, legal precedent confirms the enlargement of the red line boundary is possible, to accommodate a reasonably close alternative, as long as no other party is prejudiced. The file just has to be re-advertised and neighbour notification repeated.
20. Even if the application could be deferred, members could see for themselves the limited impact this will have on the landscape and will see how there will be no impression of a house that is not clustered with a farm.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2022/1313/O**

**Date Received: 17/08/2022**

**Proposal: 2 Storey Dwelling and Garage on an Infill site under Policy CTY8 of PPS21.**

**Location: Lands to the immediate East of 3 Bog Road, Killeen.**

**Site Characteristics & Area Characteristics:**

The application site is located outside any settlement limits as defined within the Banbridge / Newry and Mourne Area Plan 2015, the site is within as designated Area of Outstanding Natural Beauty.

The site is an area of land west of No 3 which is a one and a half storey dwelling set back from the public road with a laneway providing access to the public road, No 3 has a large shed and other smaller structures set to the rear of the property (the large shed does not appear to have the benefit of planning permission).

To the west of the site is a recently constructed dwelling positioned close to the public road, the application site is near triangular in its shape with a narrow frontage to the road with the site then widening further back from the road.

The site is located in a rural area although there are a number of properties in the vicinity and a playing field and associated buildings are located opposite the site.

**Site History:**

P/2010/1029/F - 37 Clontigora Road, Killeen, Newry - Proposed erection of rural detached double garage – Permission Granted 20/10/2010.

LA07/2022/0316/CA – 3 Bog Road , Newry – Unauthorised Large Shed – Current Case.

P/2005/0814/F - On Bog Road, 70 metres east of junction with Clontigora Road, Killeen, Newry – Erection of Dwelling – Permission Granted 16/06/2006.

**Planning Policies & Material Considerations:**

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

- Banbridge / Newry and Mourne Area Plan 2015

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

### **Consultations:**

DFI Roads – No objections.

NI Water – No objections.

### **Objections & Representations:**

The application was advertised on 14/09/2022, two neighbours were notified on 08/09/2022, no representations or objections have been received.

### **Consideration and Assessment:**

#### **Strategic Planning Policy Statement for Northern Ireland**

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

#### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. PPS21 states that planning permission will be granted for infill dwellings in accordance with policy CTY8.

#### **Principle of Development**

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The application site benefits from the recently constructed dwelling to the west which is considered to have a frontage with the public road. No 3 to the east of the site and its associated outbuildings is set back from the road which have an access point to the public road. As the curtilage does not extend to the public road, No. 3 does not benefit from a frontage to the public road and therefore cannot be considered as part of the requisite 3 buildings along a substantial and continuously built-up frontage, as required

by policy. Consequently, there is only 1 qualifying building (recently constructed dwelling) that shares a common frontage with the proposed site.

It is considered that the proposal respects the plot size of other development in the area, given that this is an outline application details of design have not been submitted, if required conditions could be used to ensure any development respected the size and scale of properties in the area.

The agent feels that the proposal meets policy requirements regarding there being three buildings with a road frontage, the agent considered that the buildings to the rear of No 3 have a frontage.

The Planning Authority are of the opinion that No 3 does not have a frontage and instead an access point to the public road. Below are examples of PAC decisions to support this.

A recent PAC decision 2021/A0128 (LA07/2020/1002/O), states;

*"Paragraph 5.33 of the justification and amplification of the policy advises that 'for the purposes of this policy a road frontage includes a footpath or private lane'. This means that a road frontage can exist along a road, footpath or laneway. It does not mean a laneway in itself constitutes a road frontage. I find support for this in the final sentence of the second paragraph of Policy CTY8 which refers to the frontage being formed by 'buildings'. Therefore, an access alone cannot constitute road frontage. The size of the access lane is immaterial. A building has a frontage to the road if the plot on which it stands abuts or shares a boundary with that road."*

Another recent appeal decision 2020/A0121 states;

*"Only the access lane to No. 186 extends to the Whitepark Road and an access alone does not constitute frontage. As the plot on which the buildings at No. 186 stand does not have frontage to the road, these buildings do not have frontage to the road. Consequently, there is no substantial and continuously built up frontage at this location. As such, the appeal site cannot constitute a small gap in such a frontage and the appeal proposal fails the fundamental requirement of the infill exception in Policy CTY8."*

Planning appeal 2017/A0204 states;

*'It is correct that any building along a frontage, which policy does not distinguish between in terms of main or subordinate buildings, can contribute to a substantial and continuously built up frontage. It is not however the case that any building (my emphasis) standing on the same plot which abuts or shares a boundary with a road automatically has a common frontage to it, as cognisance must still be taken of the spatial relationship of the buildings within that plot to the actual frontage in order to determine if they form part of that substantial and continuously built up frontage.'*

As a result, the application site is not considered to be a gap within an otherwise substantial and continuously built up frontage but instead it is considered that it would create a ribbon of development.

The proposal is not considered an exception to policy but is contrary to CTY8, as there are no reasons why the development is essential in this rural location and does not meet any exceptions it is contrary to CTY1.



### **Integration, Design and Rural Character**

Policy CTY 13 of PPS 21 requires a building to be visually integrated into the surrounding landscape. The application site is an open agricultural field located on the edge of the public road and as such a dwelling on the site would be considered a prominent feature in the landscape. The site at present is open to views and would be unable to provide a suitable degree of enclosure for a dwelling to integrate into the landscape. To provide a suitable degree of enclosure and screening this would rely on the use of new landscaping. It is considered that the proposal fails to comply with parts a, b and c of Policy CTY13.

CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A new building will be unacceptable where it will be unduly prominent, result in a suburban style build-up of development when viewed with existing buildings, and where it creates or adds to a ribbon of development.

As previously stated the site is open and so any dwelling on the site would be prominent. A dwelling on the site would result in a suburban style build-up of development when viewed with existing buildings in the area and a dwelling on the site would create a ribbon of development along Bog Road. It is considered that the proposal fails to comply with parts a, b and d of Policy CTY14.

### **Area of Outstanding Natural Beauty**

Planning Policy Statement 2 Policy NH6 is applicable due to the location within an AONB. The proposal (for the reasons noted above) is considered unsympathetic to the special character of the AONB and therefore fails this policy criterion.

### **Access and Parking**

DFI Roads raised no objections to the proposal and as such it is considered that access and parking provisions are acceptable.

### **Development relying on non-mains sewerage.**

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

### **Recommendation: Refusal**

#### **Reasons for Refusal**

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

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it fails to meet the provisions for an infill dwelling and would, if permitted, result in the creation of ribbon development along Bog Road and does not represent an exception to policy.

3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is prominent and unable to provide a suitable degree of enclosure for a building to integrate into the landscape and the proposal relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.

4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted be unduly prominent and result in a suburban style build-up of development when viewed with existing and approved buildings and would create a ribbon of development and would therefore result in a detrimental change to and further erode the rural character of the countryside.

5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

**Case Officer:** Wayne Donaldson

**Date:** 15/03/2023

**Authorised Officer:** Ashley Donaldson

**Date:** 15/03/2023



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**1.0 Application Reference:** LA07/2022/1411/F

**2.0 Date Received:** 26th August 2022

**3.0 Proposal:**

Redevelopment of St. Marys Primary School, Lurganure. Works to include phased construction of new single storey primary school building, outdoor canopy covered play area, hard and soft play areas, landscaping, cycle stands, security fencing, new underground storm sewer drainage system, solar panelling on roof of new building, relocation of oil tank and provision of bin store and service yard area. Works to include demolition of principal's office building, external modular classroom and shelter/oil storage blocks. New internal road configuration to include separate car and bus pick up/drop off areas, pedestrian crossing points, additional car parking, separate temporary construction access off School Road and all associated works. Existing access off School Road to be maintained and upgraded.

**4.0 Location:**

Site of existing St. Marys Primary School and vacant lands to the east of no. 3 School Road, Lurganure. The site is partly located within the settlement limit of Lurganure surrounding the existing premises with the proposed building to be located within an extended boundary within the countryside area as defined in the Banbridge, Newry and Mourne Area Plan 2015.

**5.0 Site History:**

**LA07/2022/0883/LDP-** Internal refurbishment of the primary school and minor associated external works. Permitted Development.

**LA07/2020/1219/PAD-** Re-development of St. Mary's Primary School, 3 School Road, Jerretspass, Newry. Works to include development of new single storey primary school building in the north east of the site, retention and refurbishment of the existing main school building and modular classrooms followed by the demolition of external classrooms and principal's office building. Proposal to include hard and soft play areas, landscaping, new car parking in the northern portion of the site, re-

location of oil tank and associated works. Existing access off School Road to be maintained- PAD concluded.

**LA07/2017/0317/F-** The provision of two single prefabricated classroom accommodation to facilitate existing rooms within the school to be used for Special Needs and School Meals- Approval

**P/2004/2626/F-** New entrance, fence and parking- Approval

## 6.0 Objections & Representations

- No. of neighbours notified= 28
- No representations received= 0
- Advertise expiry= 12/10/2022

## 7.0 Consultations:

NIEA NED (07.04.23) – Considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommended conditions.

DAERA- Water Management Unit (31.10.22) - If NIW indicate that they are content with the drainage infrastructure solution, WMU would have no objection to this aspect of the proposal. Informatives attached.

DAERA Regulation Unit- No objections subject to conditions

DFI Roads (11.05.23)

Acceptable subject to condition.

Environmental Health (12.10/22) - No objections

SES (18.10.22) - HRA Stage 1 screening has concluded no viable environmental pathway to any feature of a European Site at both construction and operational phases.

NIW (17.10.22)- Approved with standard planning conditions and response specific conditions.

Rivers Agency (19.12.22) - There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site.

FLD1 – The Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

FLD2 – Not applicable to this site based on the information provided.



FLD3 - DfI Rivers has reviewed the Drainage Assessment and comments as follows; DfI Rivers, while not being responsible for the preparation of this Flood Risk Statement and Drainage Assessment, accepts its logic and has no reason to disagree with its conclusions.

FLD4 - Not applicable to this site based on the information provided.

FLD5 - Not applicable to this site.

NIE (19.12.22) – No objection

## 8.0 Consideration and Assessment:

The Banbridge Newry and Mourne Area Plan 2015

The Strategic Planning Policy Statement (SPSS) for Northern Ireland

Planning Policy Statement (PPS) 2 - Natural Heritage

Planning Policy Statement (PPS) 3 - Access, Movement and Parking

Planning Policy Statement (PPS) 15 - Flood Risk and Planning

Planning Policy Statement (PPS) 21 - Sustainable Development in the Countryside

Planning Strategy for Rural NI

## 9.0 Principle of Development

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. As stated above the site is located partially within and partly outside the settlement limit of Lurganare.



Sustainable development is at the heart of the SPSS and the planning system. For the planning system furthering sustainable development in the long-term interest requires the integration and balancing of complex social, economic and

environmental factors when plan making and decision taking. Para. 6.65 of the SPPS states, 'The aim of the SPPS with regard to the countryside is to manage development in a manner which strikes a balance between protection of the environment and inappropriate development, while supporting and sustaining rural communities consistent with the RDS'.

Policy CTY 1 of Planning Policy Statement 21, sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. This policy allows for a necessary community facility to serve the local rural population such as the development proposed.

Policy PSU 1 of PSRNI recognises the need to allocate sufficient land to meet the anticipated needs of the community, in terms of health, education and other public facilities. The policy places emphasis upon making the best possible use of existing sites. It is considered that the proposal is for a community facility. Having considered the supporting information submitted (See Planning Statement dated 26.08.22) and due to the restrictive nature of the site, the requirement for additional lands beyond the settlement to provide the new school development to meet the needs of the community is considered an acceptable exception under the prevailing policy context.

Therefore, the principle of the proposed development on this extended site is accepted.

## **Design**

The proposal seeks to provide a single storey building of traditional design. The building is to be positioned facing the School Road and projects into the rear of the site. The building will have a maximum ridge height of 7.8 metre at the tip of the monopitch style roof above the multi-purpose hall. The building is to have various roof styles and heights which in turn reduces the scale, massing and dominance of the development when viewed from the School Road.

The building design is that of a typical educational facility with a good ratio of solid to void. The walls are to be a white rendered finish with a blue engineered brickwork plinth. Small sections of the elevations are to be finished in a horizontal timber cladding coloured black with the front door entrance having stone feature piers. The pitch roof is to be finished in a concrete slate roof tile coloured blue with the monopitch roof finished in a single ply with aesthetic profile.

The overall design of the development is considered appropriate for the site and the locality whilst respecting the local traditions of form, materials and detailing.

### **Layout/Siting/Landscaping**

The layout indicates the applicants' intentions on retaining the existing boundary fencing to the side with no. 6 Drumiller View and along the southeast boundary. New 2.4 m high security paladin fencing is to be erected all other boundaries of the site to match the existing. Given the natural gradient of the adjoining lands the proposed development includes significant ground works.

The submission includes spot levels and site sections through the application site which show a maximum 1.8m of cut and 1.5m infilling to occur on the site. The plans also propose the use of retaining walls to the front roadside boundary, the northwest boundary and a small section of the southeast boundary between the proposed car park and the side boundary with no. 8 Drumiller View.

The retaining walls are to be a maximum 1.4m with the 2.4m security paladin fencing sited on top. The retaining wall to the front of the site is to be stepped below the adjacent road level, therefore its visual impact within the surrounding area should be minimal. Similarly, the structure to the side of the car park along the southwest boundary will be screened from public view. The structure along the northwest boundary extends approx. 30m in length and will be visible when approaching the application site from the School Road. To reduce its visual impact and to soften the



transition between the urban and rural context at this position additional landscaping should be conditioned as part of any approval.

The proposal includes an extension of the existing site into the adjoining agricultural field i.e. the countryside.

The site is situated at a bend on the School Road. Whilst travelling on the School Road towards Lurganare, the proposed site is to be cut out of the larger agricultural field. When looking into the site at this position there is a clear distinction between the settlement limit and surrounding rural countryside area.



Given the sites position, the proposed groundworks and requirement for retaining structures and the lack of existing boundary treatment the proposal will require significant landscaping to allow the development to successfully absorb within the surrounding landscape without severe detriment to the countryside area.

The applicant has grouped the proposal as close to the existing school building as possible to ensure visual integration with the existing site when viewed from the School Road and to limit the intrusion into the adjoining field. The Planning Department has requested additional native species landscaping in the form of hedging and tree planting along these new boundaries to aid the integration of the development.

The landscaping schedule included proposes a strong buffer of native tree planting. The proposal appropriately conditioned will in time have the capacity to absorb the proposed extension without an adverse impact on the visual amenity or rural character of the surrounding area.



## **Amenity**

It is noted that there are a number of residential dwellings in close proximity to the site, north west of the site no's 61 and 62 School Court and to the south west no's 8 and 9 Drumiller View. The existing office building located along the boundary facing the rear of no's 61 and 62 is to be demolished and a new car parking area constructed in its place. The existing classroom block along the boundary to the side of no's 8 and 9 Drumiller View is also to be demolished. A small portion of this area will form part of the car park area and part of the ground area surrounding the school.

Having considered the proposed development with the existing/ proposed boundary treatment and the separation distances the proposed development will not have a detrimental impact on the private amenity associated with these properties.

The Planning Department has consulted the Environmental Health Department and they have returned with no objections to the proposal.

## **PPS 3 and Carparking Standards**

The proposed extension is to utilise the existing access arrangements which are to be upgraded in line with DFI Roads requests. Both vehicular and pedestrian access are gained from the School Road. The proposal seeks to introduce two access points for pupils that arrive on foot, one from the northwest and one from the northeast of the site. Pedestrian paths will be provided within the school grounds to allow safe movement around the grounds away from vehicular traffic.

The proposal as stated above a new car parking area is to be constructed, providing 29 no. car parking spaces and 1 accessible space. The proposed layout will provide much needed, safer facilities for the pupils, staff and visitors to the school in line with published standards.

The proposal includes cycle accommodation providing a total of 7 no. cycle stands (14spaces).

Proposals meet the requirements of PPS3.

### **Impact on Natural Heritage and Designated Sites- PPS 2**

Policy NH 1 of PPS 2 states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on a European Site or a listed or proposed Ramsar Site.

The Planning Authority is required by Law to carry out an appropriate assessment of the implications for the site in view of the sites conservation objectives. Only after having ascertained that it will not adversely affect the integrity of the site, can the Planning Authority agree to the development and impose appropriate mitigation measures in the form of planning conditions if necessary.

Shared Environmental Services (SES) on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations completed a Habitats Regulation Assessment (HRA) Stage One Assessment.

The stage one HRA screening has concluded that there is no viable environmental pathway to any feature of a European Site at both construction and operational phases.

The Planning Department has therefore undertaken an appropriate assessment of the implications for each site in view of that sites conservation objectives, in line with the requirements of Policy NH 1 of PPS 2.

### **Habitat and Priority Species**

NED having considered the impacts of the proposal as per the application, on the natural heritage interests, and on the basis of the information provided confirmed that they have no concerns subject to planning conditions being imposed. Therefore,

the proposal is not likely to have an unacceptable adverse impact on or damage to a known priority habitat or priority species. The proposal is considered compliant with Policy NH 2 and NH 5 of PPS 2.

### **Drainage and Flood Risk- Revised PPS 15**

The proposed site and adjacent lands are not affected by river or coastal flood plains therefore FLD 1 and 2 are not applicable.

There is to be no modification of the undesignated watercourse to the northeast.

There is to be a connection to an existing land drain prior to the outlet to allow for the storm water discharge to the watercourse.

The FRA and DA notes that the nearest inundation area is approximately 3km to the southwest of the site. The proposal is therefore compliant with FLD 4 and FLD 5.

To ensure the proposed development is compliant with the requirements of FLD 3, DA was required to confirm that the proposed development will not be subject to pluvial flooding and to ensure that surface water can be safely discharged from the proposed site.

In order to ensure the proposed development does not increase the risk of pluvial flooding elsewhere, it is proposed that surface water discharge from the development be discharged into the watercourse at the existing pre-development greenfield rate of 6.7 l/s. This will be achieved through onsite attenuation and the discharge limited by the proposed hydro brake.

A Schedule 6 application was submitted to DFI Rivers requesting permission to discharge storm water from the site into the watercourse at the greenfield runoff rate. The Schedule 6 consent was issued on the 20 Jan 2022 and it only valid for 24 months. The consent approves the discharge of storm water to the watercourse at this location at a maximum flow rate of 6.7 l/s.

An assessment of the proposed development in light of revised PPS 15 found that the proposed development is considered to be compliant with FLD 1, FLD 2, FLD3, FLD 4 and FLD 5.

### **Water/ Sewerage**

The applicants had initially lodged a PDE with NI Water and the response received advised that the existing main water connection will be available.

As the existing WWTW is at capacity the applicant completed a Wastewater Impact Assessment which was submitted as part of the application. The WWIA proposes to discharge the foul sewerage to the existing NI Water sewer at a 'like for like' rate. NI Water have responded to this proposal stating no objections as the proposal is 'like for like' in terms of foul flow and that there is no intensification proposed on site.

As there is no public storm sewer, the proposed storm drainage is designed to discharge storm water to the undesignated watercourse at the northeast of the site, as discussed above.

Consultation with NI Water as part of the planning process has confirmed all the above and they have raised no objections to the proposed development.

### **Recommendation: Approval**

#### **Draft Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans:

-



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

3. Prior to any demolition works and within twenty-four hours of demolition, the existing buildings on the site shall be checked for bat presence and all demolition works shall be monitored by a qualified ecologist. A report of the demolition shall be submitted to the Local Planning Authority within 2 weeks of demolition and agreed in writing to the stratification of NIEA.

Reason: To ensure protection to bats and their roosts.

4. No development activity, including ground preparation or vegetation clearance, shall take place until a protection zone(s), clearly marked with posts joined with hazard warning tape, has been provided around the entrance to the outlier sett O1 entrance at a radius of 25 metres (as shown in Figure 3 of the Badger Mitigation Plan). No works, vegetation clearance, disturbance by machinery, dumping or storage of materials shall take place within the protection zone(s) without the consent of the Planning Authority unless an appropriate Wildlife Licence has been obtained from NIEA the details of which shall be submitted to and agreed in writing with the Local Planning Authority to the satisfaction of DAERA. The protection zone(s) shall be retained and maintained until all construction activity has been completed on site.

Reason: To protect badgers and their setts on the site.

5. Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, that demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event. This shall be submitted to and agreed in writing with the Local Planning Authority to the satisfaction of Rivers Agency.

Reason – In order to safeguard against surface water flood risk.

6. All fuel storage tanks and associated infrastructure shall be fully

decommissioned and rendered safe in situ in accordance with best practice, and, if necessary, the quality of surrounding soils and groundwater shall be verified by suitable sampling and assessment.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

7. If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works shall cease, and the Local Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance (available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>.) In the event of unacceptable risks being identified, a remediation strategy shall be agreed in writing with the Local Planning Authority and subsequently implemented in accordance with the approved details and timeframe.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

8. After completing all remediation and decommissioning works under Conditions 6 and 7 prior to operational use of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. The verification report should present all the remediation, decommissioning and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

9. No development shall be commenced until a Sewer Adoption Agreement has been authorised by NI Water to permit a connection to the public sewer in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 and Sewerage Services Act (Northern Ireland) 2016. The details of which shall be submitted to and agreed in writing with the Local Planning Authority.

Reason: To prevent pollution and to ensure public safety. To ensure compliance with the Water and Sewerage Services (Northern Ireland) Order 2006 and the Sewerage Services Act (Northern Ireland) 2016.

10. All hard and soft landscape works shall be carried out in accordance with drawing No..... date stamped..... and shall be managed and maintained in accordance with the..... date stamped .... The works shall be carried out prior to the operational use of any part of the development.

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

11. The existing natural screenings of the site, as indicated on approved drawing ref: .... dated ..... shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Local Planning Authority, prior to removal.

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

12. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance/demolition and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in

place to protect nesting birds. Any such written confirmation shall be submitted to and agreed in writing by the Local Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

### 13.DFI Roads Conditions

**Case Officer:** Joanne McVeigh

**Authorised Officer:** Patricia Manley





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2023/2337/F

**Date Received:** March 2023

**Proposal:** Proposed installation of a sculpture of Tom Dunn (hedge school teacher) in between two granite benches.

**Location:** The Square, Mary Street, Rostrevor, BT34 3GU

## 1.0 Site Characteristics and Area Characteristics

**1.1** The application site is located at The Square Rostrevor; forming the central part of the village. The application site is noted to be contained within the following designations:

- Rostrevor Conservation Area
- Mourne Area of Outstanding Natural Beauty
- Settlement Development Limit of Rostrevor
- Area of Archaeological Potential

**1.3** The application site is located at a central point within Rostrevor Village known as the Square and comprises a small portion of amenity lands adjacent to the existing mature tree, plaque, seating, table, and car park.

**1.2** It is noted there are a number of listed buildings in the immediate area, while this area is also identified as an Area of Archaeological Potential.

**1.4** The proposal includes the installation of a sculpture of Tom Dunn (hedge schoolteacher) in between two existing granite benches and table.

The Sculpture will be cast in bronze and welded to a box frame foundation set into the ground.

**Image 1 Photograph of the application site**



## **2.0 Planning Policies and Material Considerations**

The Planning application has been assessed against the following:

- The Regional Development Strategy 2035
- Banbridge, Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement (SPPS) for Northern Ireland 2015
- PPS 2 Natural Heritage
- PPS 3 Access Movement and Parking
- PPS 6 Planning Archaeology and the Built Heritage
- PPS8 Open space, sport and outdoor recreation
- Conservation Area guidance

### 3.0 Site History

**3.1** With regards to the Planning History, the following histories are relevant:

- P/2000/0013/F at The Square, Church Street, and Bridge Street, Rostrevor for Environmental improvements including alterations to carpark, amenity area, footways and carriageways. Approved
- P/2010/0542/F at 1-5 Sangsters Court, Rostrevor for the Erection of new street cabinet to facilitate provision of new fibre optic infrastructure across the BT network. Cabinet dimensions approx. 1600mm high \*1200mm wide \*450mm deep. Approved.
- LA07/2022/1181/F- The Square, Paving works (granite sett paving and resin bound surfacing) Replacement of wooden slats on existing seats. Engraving of letters on existing seats, Wrapping existing service boxes with vinyl artwork (content to be confirmed by council). Approved
- LA07/2023/2525/F- ands adjacent to 3-28 The Square, 1-38 Bridge Street, 1-34 Church Street, 2 Church Street, 4-8 Mary Street, Rostrevor. Environmental improvements comprising the installation of new natural stone footpaths, improvements to existing uncontrolled crossing points, refurbishment of existing street lighting, like for like replacement of existing damaged pedestrian guard rails, installation of cycle stands and all associated works. Pending.

### 4.0 Consultations

**4.1** Consultations were issued to the following consultees:

- Historic Environment Division – (Monuments and Buildings) advised that due to the scale and nature of the application it satisfies the requirements of the SPPS and PPS6.
- DFI Roads – offered no objection to the proposal.

### 5.0 Objections and Representations

**5.1** A round of neighbour notification and advertising was undertaken in line with statutory requirements. NN was carried out with properties in The Square and Sangsters Court in April 2023, while the application was also advertised in the local press in May 2023.

No objections have been received to date (12.06.2023).

ClIr Gibbons contacted the Planning Dept, advising that the proposed location of the statue, in front of the plaque, seating and historical stone table, will cause concern amongst those who lobbied for these elements.

In response the Council, as applicant, advised that the Tom Dunn sculpture and overall project, £85,000 investment of PEACE IV funding through NMANDD Local Action Plan, adds to the historical significance and tourism value of the hooping stone in The Square Rostrevor. The hooping stone is directly linked to the story of Tom Dunn and referenced a number of times in both the interpretative panels that will sit alongside the stone and the Tom Dunn audio walking trail app.

## 6.0 Assessment:

### Proposed Site Block Plan



### Proposed sculpture



### Banbridge Newry and Mourne Area Plan 2015

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

The application site is located within the Settlement Development Limit of Rostrevor. It is located further within the remit of the following designations:

- Rostrevor Conservation Area
- Mourne Area of Outstanding Natural Beauty



- Settlement Development Limit of Rostrevor
- Area of Archaeological Potential

### **Strategic Planning Policy Statement (SPPS) 2015**

**6.2** The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. This policy document sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy. During this transitional period planning authorities will apply the SPPS and retained policy documents.

**6.3** The core Planning Principles set out within the SPPS are relevant to the proposed development:

- Improving Health and Well Being
- Creating and Enhancing Shared Space
- Supporting Good Design and Positive Place Making
- Preserving and Improving the Built and Natural Environment

**6.4** It is considered that the proposal aims to enhance the area and in essence abide by the core planning principles set out within the SPPS. The proposal is compliant to the guidance set out within the SPPS.

### **PPS 2 Natural Heritage**

**6.5** Given the location of the application site and its expressed designations PPS2 applies in terms of policies the following policies should be assessed in the determination of this application:

#### **Policy NH2 – Species Protected by Law**

##### **6.6 European Protected Species**

*Planning permission will only be granted for a development proposal that is not likely to harm a European protected species. In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:-*

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

##### **National Protected Species**

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

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

The proposals for a new sculpture are located immediately adjacent to a mature tree, whereby it is considered this sculpture will not impact on the integrity of this tree and any associated wildlife or protected species due to its nature, size and siting. It is a small sculpture (approx. 1.5m high) to be set on the existing area of hard-standing, outside of the bark surfaced area around the tree and low kerbing.

### **Policy NH 6 – Areas of Outstanding Natural Beauty**

**6.7** *Planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met:*

- a) the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and*
- b) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and*
- c) the proposal respects:*
  - local architectural styles and patterns;*
  - traditional boundary details, by retaining features such as hedges, walls, trees and gates; and*
  - local materials, design and colour*

**6.8** Taking into account the above policy, it is considered the proposals do not offend this policy due to their minor nature, size, appearance and siting, which will be sited adjacent to and be read together with existing street furniture.

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

**6.9** The nature of the proposal will not impact on the parking provision in this area and is easily accessible and convenient for any and all interested persons in accordance with Policy AMP 1 of PPS 3 'Access Movement and Parking'.

DFI Roads was consulted as part of the application process and offered no objection. It is considered the proposals will not obstruct the movement of pedestrians, being sited between 2 existing benches and backing onto an existing kerbed mature tree. The layout and positioning of existing street furniture and general available movement and circulation space and flow is also noted. It is considered the siting of the proposed sculpture indicated does not adversely impact on circulation space and free flow of movement of pedestrians, whereby the plaque to the rear can still be accessed. It is considered the proposals do not offend the policies contained within PPS 3, including AMP1.

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

### **Policy BH 11 Development affecting the setting of a listed building.**

**6.10** *The Department will not normally permit development which would adversely affect the setting of a listed building. Development proposals will normally only be considered appropriate where all the following criteria are met:*

- (a) the detailed design respects the listed building in terms of scale, height, massing and alignment;*
- (b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and*
- (c) the nature of the use proposed respects the character of the setting of the building.*

### **Policy BH12 New Development in a Conservation Area**

**6.11** *The Department will normally only permit development proposals for new buildings, alterations, extensions and changes of use in, or which impact on the setting of, a conservation area where all the following criteria are met:*

- (a) the development preserves or enhances the character and appearance of the area;*
- (b) the development is in sympathy with the characteristic built form of the area;*
- (c) the scale, form, materials and detailing of the development respects the characteristics of adjoining buildings in the area;*
- (d) the development does not result in environmental problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area;*
- (e) important views within, into and out of the area are protected;*
- (f) trees and other landscape features contributing to the character or appearance of the area are protected; and*
- (g) the development conforms with the guidance set out in conservation area documents.*

**6.12** As part of this application it was necessary to consult Historic Environment Division due to its proximity to a number of listed buildings and being within an Area of Arch Potential as set out above. Historic Environment Division (Monuments and Buildings) considered the impacts of the proposals on the surrounding listed buildings and is content the proposals satisfy the SPPS and PPS6.

In addition, it is considered the siting, size, scale and finishes and appearance of the proposed sculpture will not offend policy BH12 of PPS6. The sculpture will be approx. 1.5m high (approx. 5 foot high and 3 foot wide), and will be sensitively sited between 2 seats, with the existing mature tree acting as a backdrop and will not impact on any views into or out of the area.

Similarly, HED Monuments are content the proposals satisfy archaeological policy requirements, due to its scale and nature.

The Sculpture will be cast in bronze and welded to a box frame foundation set into the ground. It is considered that the proposal, which is small in nature and scale will have limited impact primarily due to its small size, nature, appearance, and sympathetic siting (details as set out above). The proposed location indicated, on an existing area of hard-standing, will not impact on any landscape feature. This siting is outside the low kerbing and bark surface area of this mature tree which is protected being within the CA. For the reasons previously stated it is considered the sculpture will not impact on the integrity of this tree. The sculpture will primarily by read together with other existing street furniture, however and is positioned sensitively to prevent the appearance of any potential clutter. It is considered that the proposal will preserve and enhance the setting and character of the Rostrevor Conservation Area.

### **PPS8 Open space, sport and outdoor recreation.**

**6.13** This area of land identified for this sculpture comprises a small area of existing amenity, which is considered will not be adversely impacted by the proposals due to its small size.

**6.14** Taking into consideration the above assessment, including the issues raised by Cllr Gibbons, it is considered that the proposal is compliant with policy and there are no grounds to sustain a refusal. Accordingly, Approval is recommended.

## **7.0 Recommendation – Approve**

### **8.0 Conditions:**

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

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

- 2. The development hereby permitted shall take place in strict accordance with the following approved plans: 01, 02, 03, 04, 05.**

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

### **Informatives:**

- 1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.**
- 2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.**



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| <b>Case Officer Signature: M Keane</b><br><b>Date: 12.06.2023</b>     |
| <b>Appointed Officer Signature: P Rooney</b><br><b>Date: 13-06-23</b> |



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

**Application Reference:**

LA07/2022/1399/O

**Date Received:**

22.08.22

**Proposal:**

Erection of a dwelling and detached garage

**Location:**

Lands approximately 22m north of No.72 Benagh Road  
Newry

**Site Characteristics & Area Characteristics:**

The site is within the rural countryside and is outside any settlement development limits as designated under the Banbridge, Newry and Mourne Area Plan 2015 (BNMP, 2015).

The red line boundary comprises a plot of land north of No. 72 Benagh Road. The site is elevated and accessed via a meandering entrance off Benagh Road. The site can also be accessed along the southern boundary between the application site and the adjacent dwelling. The plot of land is occupied by outbuildings which are used as storage space for No. 72. There is also a mobile home and a storage container sited on the land. However, the red line boundary does not include the existing outbuildings and mobile home.

A stone wall and a post and wire fence defines the roadside boundary, a hedgerow along the southern boundary and mature trees and vegetation and a post and wire fence along the northern boundary. The eastern boundary of the application site is undefined.

The surrounding land use is predominantly agricultural with a number of detached roadside dwellings and farm holdings scattered throughout the area.



Application site

Application site



Aerial view of application site

**Planning Policies & Material Considerations:**

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- DCAN 15: Parking Requirements
- Building on Tradition

**Site History:**

- P/2007/1728/F – 72 Benagh Road Mayobridge - Erection of one 5 kW wind turbine, 15 metre high with 5 metre diameter rotor – Permission granted

**Consultations:**

- DfI Roads –No objections subject to conditions
- NI Water – Recommended approval

**Objections & Representations:**

- Neighbour notifications: 2 addresses were notified 12<sup>th</sup> October 2022. Following a site visit, an additional 3 addresses were notified 14<sup>th</sup> December 2022.
- Advertisement: 28<sup>th</sup> September 2022.

No representations or objections have been received to date (30.03.23).

**Assessment**Proposal

This is an outline application for the erection of an infill dwelling and garage on lands north of No. 72 Benagh Road. No floorplans or elevations have been submitted with this application; these would be required at reserved matters stage.

Principle of Development

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located outside settlement limits on the above Plan and is un-zoned. There are no specific policies in the Plan that are relevant to the determination of the application, and it directs the decision-maker to the operational policies of the SPPS and the retained PPS21.

There is little change in the SPPS from that of the policies within PPS 21 and it is arguably less prescriptive, therefore PPS 21: Sustainable Development in the Countryside will provide the material considerations for this application.



As the application is for the infill of a site, the relevant policy would be Policy CTY 8 – Ribbon Development. This policy provides the criteria to be met in order to grant permission for an infill site.

In assessing proposals against policy CTY8, the PAC has set out four steps to be undertaken in order (e.g. in appeal decision 2016/A0040):

- a. Identify whether there is a substantial and continuously built up frontage.
- b. Establish whether there is a small gap site.
- c. Determine whether the proposal would respect the existing development pattern in terms of size, scale, siting and plot size.
- d. Assess the proposal against other planning and environmental requirements (typically, integration and impact on rural character).

This approach will be followed below.

A substantial and continuously built-up frontage is defined as including a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The site in question sits along Benagh Road. South of the site is no. 72 Benagh Road which has frontage to the road. Immediately south of No. 72 is No. 72a which also has frontage to the road. Immediately north of the application site there is a vacant vegetated plot of land. Beyond this plot of land to the north, No. 46 Benagh Road has frontage to the road. As such, I am satisfied that there is a substantial and continuously built up frontage of 3 buildings.

The next step is establishing whether there is a small gap site. The red line application boundary is shown below.



*Site location map*

The red line boundary excludes the existing outbuildings to the rear of the plot. Site photos are provided below.









It is evident that there are existing outbuildings on the site, and as such there is no gap site. The building has been excluded from the application site however this does not alter the fact that a building exists between Nos. 72 and 46 Benagh Road and on the site in question and there is no gap here to be developed.

The supporting statement submitted alongside the application site states that "while the proposed site contains accompanying development to the rear, in the form of the modular buildings associated with No. 72 Benagh Road which lie immediately east of the proposed site, CTY 8 is inclusive, not exclusive i.e. it does not state that frontages that have accompanying development to the rear are excluded."

It is clear that the Agent acknowledges that there are buildings occupying the rear of the plot. The red line boundary has been contrived to subdivide the plot; however, the current ground conditions are contradictory to the Agent's statement above. Although the outbuilding is used as additional storage for No. 72, the building occupies the application plot south of the dwelling whereby the outbuilding itself has frontage to the road. As such, no gap exists, and the proposal is not an exception as per Policy CTY 8.

The Planning Department advised the agent of the concerns outlined above. In response, the Department was presented with a hypothetical situation, whereby the applicant was willing to demolish the said buildings if the Council could confirm the application will progress positively thereafter.



The Agent was reminded of the Planning Department's role whereby the Department assesses the application that sits before it and not hypothetical situations. Providing advice and direction on a further hypothetical proposal could also be interpreted as amounting to pre-determining an application.

In response, a rebuttal document was also submitted. The Agent reiterated a number of appeal decisions to support the proposal:

- 2011/A0103
- 2016/A0040

The Council queries the relevance of the above appeal references as the examples above do not stand on all fours with the proposal. The Planning Department has advised the Agent that the proposed plot is already occupied, therefore there is no gap. The development of the application site would go against the thrust of Policy CTY 8 whereby the proposal involves the development of a plot that is already occupied.

The above appeals refer to proposals that were refused by the Planning Authority due to the presence of **buildings to the rear of the application site on different plots**. The buildings observed during the site visit and shown above are not on different plots but occupy the plot itself.

The Agent advised that "the site location map clearly illustrates the existing buildings are located outside of the red line and are therefore not part of the proposed plot." The Department are of the opinion that the plot itself is occupied and the red line has been contrived, rather than reflecting the current ground conditions.

The Agent also referred to a number of planning decisions made by the Council.

- LA07/2021/1591/F – Permission was granted for the development of 2 infill dwellings. During the site visit for this application, a number of temporary structures were noted including a wooden shed, a tin shed and a mobile home. Those site conditions differ to the concrete structure that occupies the plot in question.
- P/2014/0155/O – Permission was granted for the infill dwelling on the basis that the existing building was to be demolished.
- LA07/2017/1166/O – permission granted for an infill dwelling on a site that was occupied by existing mushroom houses that were to be removed as part of the proposal.

Given the above, the proposal fails to comply with the SPPS and Policy CTY 8 of PPS 21 Sustainable development in the countryside in that there is no gap site.

Notwithstanding the above, I will provide comment on remaining steps to be undertaken for applications assessed under Policy CTY 8. This step determines whether the proposal would respect the existing development pattern in terms of size, scale, siting and plot size. A spatial view of the application site and adjacent development along this side and stretch of Benagh Road is shown below.



*OSNI Map showing measurements*

Para 6.78 of the SPPS requires that the supplementary guidance contained within the 'Building on Tradition' a Design a Sustainable Design Guide for the NI countryside' is taken into account in assessing all development proposals in the countryside. Para 4.4.0 of this document advises that new development under CTY 8 "will require care in terms of how well it fits in with its neighbouring buildings in terms of scale, form, proportions and overall character." The document goes on to advise that "a gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon."

The application site has a frontage of approx. 46m. The existing plot sizes within this ribbon along Benagh Road range from approx. 13m to 49m (vacant plot north of application site), whereby the average plot size of developed sites is approx. 25m. It is acknowledged that the application site is not directly in line with the average plot sizes along the continuously built-up frontage; however, this policy test is not simply a mathematical equation, whereby the proposed plot will be larger than others along this frontage. The proposal is on the basis that it represents one half of a two-dwelling gap.

As such, one dwelling would be sited on the application site outlined in red and the second dwelling would be sited on the remainder of the plot to the north. The plot sizes along both sides of this stretch of Benagh Road are also acknowledged.

As such, it is considered the 'gap' shown by the purple and green measurements would be able to accommodate up to two dwellings with the application site itself being able to accommodate 1 dwelling. The proposal is considered to represent a gap site for the purposes of Policy CTY8. The second test is met.

The third test refers to size, scale, siting and plot size. The application site defined by the red line boundary is restricted and as such, a proposed dwelling on this site would respect the adjacent development in terms of siting, without the requirement for siting conditions. Moreover, the application site is an acceptable size in that it would respect the existing plot sizes without the need for conditions restricting the curtilage.

The development of a gap site must also satisfy the integration policies of CTY 13 and CTY 14.

Policy CTY 13 identifies seven cases where a new building in the countryside will be unacceptable for integration and design reasons:

The roadside buildings along Benagh Road vary from single storey to two storeys and also vary in style and design. There is a level platform within the red line boundary, however it is elevated above road level and No. 72 Benagh Road. Notwithstanding the objection to the principle of an infill, having account the elevated nature of the site, a ridge height and house type condition would be required to ensure that a new dwelling would not appear prominent. The site is defined by existing boundaries to the north, south and west. The site would be able to provide a suitable degree of enclosure for the building to integrate into the landscape and would not rely on the use of new landscaping for integration. As this is an outline application, no floor plans and elevations have been submitted, therefore the design of the building will be considered at RM stage. Subject to appropriate conditions, the proposal can comply with Policy CTY13.

Policy CTY 14 seeks to ensure that new buildings in the countryside do not cause a detrimental change to, or further erode the rural character of an area. There are five cases identified by this policy where a new building will be unacceptable.

As outlined above, subject to conditions (ridge height and landscaping plan), a proposed dwelling on this site would not be unduly prominent in the landscape given the existing development adjacent. Given the fact that the plot is already occupied, and the principle of development cannot be established, the development of this site would result in suburban style build-up of development when viewed with existing and approved buildings whereby the proposal would result in a build-up of development detrimental to the rural character of the area. As the site is already



occupied by a building, the addition of a new building on the site would not add or create a ribbon of development along Benagh Road.

The proposal fails criterion (b) of Policy CTY14.

#### Impact on Amenity

The nearest neighbouring dwelling is No. 72 Benagh Road. As this is an outline application, no floor plans or elevations or final site layout drawings with levels have been submitted. However, I am satisfied that given the size of the application site and subject to careful design, siting and layout, a new dwelling on this site would not impact the amenity of the neighbouring dwellings to an unacceptable level in terms of overlooking, loss of light or overshadowing.

#### Access and Transportation

Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. Paragraph 5.16 of Policy AMP2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road. DfI Roads have been consulted and are content with the proposal subject to conditions.

#### CTY 16: Development Relying on Non-Mains Sewerage

Planning permission will only be granted for development relying on non mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. The application has outlined on the P1 form that a proposed treatment unit is the proposed means of disposing sewage. A condition would be attached to any approval to ensure that prior to commencement of development the applicant shall submit a copy of a consent to discharge for the proposed site.

#### **Recommendation:**

Refusal

#### **Reasons for refusal:**

1. The proposal fails to comply with the SPPS and Policies CTY 1 and CTY 8 of PPS 21 Sustainable development in the countryside in that there are no overriding reasons why this development is essential in this rural location.
2. The proposal fails to comply with the SPPS and Policy CTY 8 of PPS 21 Sustainable development in the countryside in that there is no gap site.
3. The proposal fails to comply with the SPPS and Policy CTY 8 of PPS 21 Sustainable development in the countryside in that there is accompanying development to the rear.



4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
  - the dwelling would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings.

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| <p><b>Case Officer Signature: Eadaoin Farrell</b></p> <p><b>Date:30.03.23</b></p> |
| <p><b>Appointed Officer Signature: M Keane</b></p> <p><b>Date: 30-03-23</b></p>   |

- Officers appear to indicate that they are content that the proposal meets all four steps which are to be undertaken when assessing an application against Policy CTY 8 of PPS 21 (e.g., in appeal decision 2016/A0040). However, a recommendation for refusal has been given on this application and this case appears to rest on the issue of whether development to the rear of the application site is detrimental to the proposal or not. There is a suggestion that the offending building is on the site, with the reality being it is behind the site.
- The first of the four steps to be undertaken includes identifying whether there is a substantial and continuously built-up frontage present. For the purpose of Policy CTY 8 the definition of a substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. The planning department state within their report that the first test has been met in that a substantial and continuously built-up frontage is present. Therefore, for the purposes of meeting this test the planning department do not appear concerned that there is development to the rear of the application site at this point of the assessment.
- The second part of the planning departments assessment is contradictory on this point. They state within the report that a gap site does not exist as there are buildings occupying the plot. However, they also clearly state within their assessment that "the proposal is considered to represent a gap site for the purposes of Policy CTY 8". "The second test is met".
- It should be noted that the definition of a substantial and built-up frontage does not exclude frontages that have 'accompanying development to the rear'. In appeal 2016/A0066 the PAC ruled that in using the word "includes" in the definition of a built-up frontage Policy CTY8 sets a baseline for acceptable forms of infill development. In doing so it does not exclude situations where there is accompanying development to the rear. The PAC found that denying the presence of a gap site just because of the presence of development to the rear of a site would be a misinterpretation of Policy CTY 8. Therefore, the planning departments third reason for refusal is not sustainable.
- The planning department queried the relevance of appeal decisions 2011/A0103 and 2016/A0040 that were cited by the applicant, in which similar references were made to the fact that Policy does not exclude development to the rear. The planning department considered the appeals to not be relevant as they referred to buildings on different plots, whereas in this case the planning department consider the buildings to be on the plot itself. It is important to note that Policy does not specify if the development to the rear is on or outside of the plot and the fact that development to the rear is not excluded is the main point.
- The application site, is what is outlined in red: not what lies behind or beside it. Unequivocally, there is no existing building on the application site. The planning department claim that the red line has been contrived, this is not the case. In the council's advice guide 1 – How to make a planning application it states that "The application site must be edged clearly with a red line on the location plan. It should include all land necessary to carry out the proposed development". The applicant did not consider the buildings to the rear to be on land necessary to carry out the proposed development and therefore did not include them in the red line. Its



purpose is not to reflect current ground conditions as suggested by the planning department. This is no different that if an applicant was applying for two dwellings in an agricultural field, not all of the field has to be outlined in red, only the section of land to be developed.

- A recent example of this being considered acceptable is when application LA07/2022/0995/O was recommended for refusal by the planning department and was overturned at planning committee as it was considered to not be detrimental to the area and complied with policy as interpreted in the past by the committee. The building to the rear of the site was not included in the applicants red line, despite being located on the same holding.
- Examples of previous applications that were granted planning approval by the planning department despite having a building or buildings present on the proposed gap site at the time of applying for planning permission were presented to the council. Officers made no substantive comment on these cases. Within the case officers report for planning application LA07/2017/1166/O it is stated that the application site does not currently form a small gap in this frontage. However, it is proposed that the existing mushroom houses are removed to the front of the application site. This does not require planning permission and so although there is currently no gap, this could be created at any time under permitted development and therefore the policy requirement that there is a small gap in a continuously built-up frontage could be met. The proposed removal of the mushroom houses was not stated in the application description nor was it conditioned on the approval of this application. The fact that the planner stated that the policy requirement could be met, despite by planners' logic, no gap being present, gives an indication that they were content to approve this application on this basis, whereas the planning department in the applicant's case do not wish to engage. When asked if removing the building from the site would alleviate the planning departments concerns it was advised that "the planning department will not provide comment on hypothetical situations". A subsequent application was submitted for this same site under LA07/2021/0223/F where mushroom houses to the front of the site to be demolished and those to the rear are to be retained, again bringing into question the acceptability of development to the rear. We would ask the planning committee to consider the need for a consistency in decision making in this district on the back of previous decisions.
- All refusal reasons are intertwined: if there is an opportunity to infill a gap in a built-up frontage, Policy CTY 8 is satisfied. In turn that satisfies CTY 1. Consequently, since CTY 8 sanctions the infilling of small gaps in existing ribbons of development, Policy CTY 14 is not offended (as the ribbon has been infilled, not extended).
- Members simply need to determine whether they agree with the planning department that a gap site does not exist and if so, they can quickly clarify if it would require the removal of the contentious buildings to comply with Planning Policy requirements. The applicant indicated this can be done in advance of a decision. We do believe this is even necessary based on previous decisions made by both the council and the planning committee.

## Committee Application

| Development Management Officer Report   |   |
|---|---|
| <b>Case Officer:</b> Annette McAlarney  |   |
| <b>Application ID:</b> LA07/2020/1768/DC  | <b>Target Date:</b>   |
| <b>Proposal:</b><br>Discharge conditions 2 (Haulage Routes) and 28 (Landscaping Plan) of planning approval LA07/2015/1088/F                 | <b>Location:</b><br>100m west of 133 Carrigagh Road<br>Finnis<br>Dromara  |
| <b>Applicant Name and Address:</b><br>Resolve Planning and Development<br>Innovation Factory<br>385 Springfield Road<br>Belfast<br>BT12 7DG | <b>Agent Name and Address:</b><br>Resolve Planning and Development<br>Innovation Factory<br>385 Springfield Road<br>Belfast<br>BT12 7DG |
| <b>Date of last Neighbour Notification:</b>   |   |
| <b>Date of Press Advertisement:</b>   |   |
| <b>ES Requested:</b> No   |   |
| <b>Consultations:</b>   |   |
| DFI Consult   | 13/01/2021  |
| DFI Consult   | 09/12/2021  |
| <b>Representations:</b>   |   |
| Letters of Support  |   |
| Letters of Objection  |   |
| Petitions   |   |
| Signatures  |   |
| Number of Petitions of Objection and signatures   |   |
| <b>Summary of Issues:</b> Traffic generation on local road network  |   |



## Site Visit Report

### Site Location Plan:

### Characteristics of the Site and Area

Application is seeking discharge of Conditions 2 & 28 attached to previously approved application under LA07/2015/1088/F for an anaerobic digestion plant including a CHP unit, gas flare stack, three silos, 3 digestion tanks and associated site works including NIE sub-station at 133 Carrigagh Road Finnis Dromara.

### Description of Proposal

Discharge conditions 2 (Haulage Routes) and 28 (Landscaping Plan) of planning approval LA07/2015/1088/F



2. No development shall commence until the following details have been submitted to and approved in writing by the Planning Authority
  - (a) Haulage routes of all Feedstock and Digestate to/from the facility, frequency of deliveries and type of vehicle to be used, and
  - (b) Details of any necessary road improvements to accommodate the construction and operation of the anaerobic digestion facility

Reason: In the interests of amenity and road safety.



the planning authority.

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

28. No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme showing:
- The planting of native trees and shrubs to assist in screening the site along the western boundary as indicated on drawing ref 03 date stamped 22 October 2015, and
  - The numbers, species and sizes of the trees and shrubs to be planted in the above location.

The scheme of planting as finally approved shall be carried out during the first planting season before the development becomes operational. All hard and soft landscaping works shall be carried out in accordance with the appropriate British Standard. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.

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

## Planning Assessment of Policy and Other Material Considerations

### PLANNING HISTORY

LA07/2015/1088/F

### SUPPORTING DOCUMENTS

2 letters from Resolve Planning

Landscaping Plan

Haulage Route Map

### CONSULTATIONS

DFI Consult 13/01/2021

DFI Consult 09/12/2021

### REPRESENTATIONS

Nil

### EVALUATION

Application is seeking discharge of Conditions 2 & 28 attached to previously approved application under LA07/2015/1088/F for an anaerobic digestion plant including a CHP unit, gas flare stack, three silos, 3 digestion tanks and associated site works including NIE sub-station at 133 Carrigagh Road Finnis Dromara.

Formal consultation was undertaken with DFI Roads in relation to the discharge of condition No.2. DFI Roads responded on 13 Jan 2021 with the following comments

Before DFI Roads can make comment on this discharge of condition, can you please ask the applicant to submit the following details as previously requested.

1. Proposed passing bays associated with the designated haulage routes along Carrigagh Rd.
2. Details of location of poultry litter as detailed on plan.
3. Details of slurry tank locations.

And again, on 09 December 2021 the following comments were received.

Dfi Roads considers the application unacceptable as submitted. Insufficient detail is available on transportation issues. Should Planning Service be minded to progress the application towards an approval Dfi Roads require the following points to be addressed.

1. Full haulage routes have not been demonstrated from proposed sources. Details required for internal haulage routes for on farm feeds which stated at committee would be drawn through existing fields to reduce impact on public road.
2. Dfi note that comment was made from the committee chair at the time of approval that the approval was subject to Dfi Roads being satisfied.
3. Dfi require fully constructed passing bays to allow for the largest vehicles attending the site to occupy.

The original planning permission granted under LA07/2015/1088/F was recommended for refusal by Planning Officers and was subject to a full hearing by the Planning Committee in December 2018. DFI Roads were opposed to the proposal and were in attendance at the Committee meeting.

The concluding actions of the Planning Committee were based on their opinion that there would be no intensification on the local road network and that there would actually be a reduction in traffic movements as a result of this proposal. Legal advice was provided to the Committee to advise that it was a judgement call for committee in going against the advice of a statutory consultee.

The proposal to overturn the officer recommendation was agreed by Committee, additional information to DFI Roads satisfaction was to be submitted and conditions were delegated to officers.

In seeking to discharge the above conditions, specifically Condition No.2, the agent has submitted a Haulage Route Map annotated with types of vehicle and frequency of movements. Passing bay locations have been identified on the Carrigagh Road as was submitted during LA07/2015/1088/F. Details of the source of the slurry and poultry feedstock has been provided and therefore part (a) of Condition No.2 can be discharged. With regard to part (b) of that condition upon review and in light of the view of committee that no intensification will occur and in fact a significant reduction in vehicle movements will result the Planning office are content that there are no necessary road improvements required and therefore the terms of condition No.2 can be fully discharged.

In relation to the discharge of condition No.28, this required the submission of a landscaping plan, this has been received and is deemed acceptable. Plan 1b refers. Condition No.28 is therefore also discharged.

|   |                            |
|---|----------------------------|
|  <p><b>Landscaping and planting plan Dwg 1b.</b></p> |                            |
| <b>Neighbour Notification Checked</b>   | NA                         |
| <b>Summary of Recommendation</b><br>Discharge of conditions 2 and 28 recommended  |                            |
| <b>Conditions:</b><br>Conditions discharged   |                            |
| <b>Case Officer: A.McAlarney</b>  | <b>Date: 27 March 2023</b> |
| <b>Appointed Officer: A.McKay</b>   | <b>Date: 27 March 2023</b> |





## To The Chairman & Members of the Council's Planning Committee

### Report from the concerned residents of Finnis, Carrigagh & Slievenaboley – April 2023

#### Questions under speaking rights – Reference Planning Application LA07/2020/1768/DC – Anaerobic Digestion Plant

1. The Planning Permission for the application number LA07/2020/1768/DC was accompanied by 29 conditions of planning in September 2019. The wording on the letter of approval was as follows:

“The Council in pursuance of its powers under the Planning Act (Northern Ireland) 2011 hereby GRANTS PLANNING PERMISSION for the above-mentioned development in accordance with your application subject to compliance with the following conditions which are imposed for the reasons stated”.

We understand that the applicant has requested a discharge of conditions 2 & 28 and the removal of condition 7. **How can these requests be granted if the original Planning Approval was subject to compliance of the conditions? Has the applicant complied with these 3 conditions or indeed with any of the 29 conditions? Can we ask who initiated the proposal to discharge these conditions?**

We ask these questions with regards to the duty of care for the Public and other road users in respect of Road Safety, Environmental Protection and Public Health.

2. We understand that the Committee might be contemplating ignoring the advice of the Statutory Consultee ie The Department for Infrastructure. **Can the Chairman confirm if indeed this is the case and if so, what risk does this place the Council at should someone be badly injured or worse, killed in an accident involving the subsequent Anaerobic Digestion Plant**

**traffic?** Surely the Council has a duty of care to the Public in this regard. We ask this question also in terms of Road Safety.

3. The minute approving the Anaerobic Digestion Plant stated, "It was also agreed that the Planning Officers be granted authority to delegate any relevant conditions". The Planning Officers exercised their "authority to delegate any relevant conditions" when the Planning Approval was issued in September 2019.

**Why is this matter now coming back to the Planning Committee when it is contrary to the original minute?** Our group are of the view that the Planning Officers exercised their authority to delegate with the 29 conditions and the only task remaining would be to check for compliance. We also ask this question in terms of good governance.

4. The access to the proposed site is via the Concrete Lane off the Carrigagh Road. **Is the Committee aware that the applicant does not have proper Right of Way up this entrance?** This will obviously affect the construction work of the Anaerobic Digestion Plant and will therefore have a major impact on the compliance of condition number one. We also ask this question as a requirement by section 61 of the Planning Act (Northern Ireland) 2011.

5. **Has the Council got the necessary resources to police the 29 conditions as attached to the Planning Permission, and if so, is there a plan of action prepared to check for compliance of all conditions?** We also ask this question under Good Governance.



6. Is the committee aware that there are several domestic buildings in proximity of the proposed Anaerobic Digestion Plant site, examples 131, 137, 123 and 121 are within a range of 340 to 380 metres from the proposed site? Can we also ask what is the legal Health and Safety distance from the proposed site? We also ask this question under the Health and Safety of the relevant house holders.
7. Is the Committee aware of a recent pollution matter on the waterway adjacent to the Anaerobic Digestion Plant site on 19<sup>th</sup> September 2019, shortly after the Planning permission for the Anaerobic Digestion Plant was granted by the Council, reference document uploaded on Planning Portal? Surely this is evidence that the existing drainage and storage facilities are not compliant with the standard required to store overflow of the Digestion Plant waste/feedstock. Furthermore this should necessitate a review of the consultation put forward by Rivers Agency? We also ask these questions under environmental protection and public health.
8. This project has now been ongoing for the past 7.5 years. Can the Planning Officer inform our group if the applicant, over this period, has submitted to the Statutory Consultee an ACCEPTABLE PLAN in terms of the Traffic Intensity, the volumes of the various Feedstock, the routes to be travelled and details of the digestate waste and its distribution? Can we ask for the detailed routes for the Transportation of all Feedstocks and Digestate given that this matter will involve other Council areas? Can the Planning Officer inform our group of the relevant legislation regarding the transportation of Chicken Litter and surely this legislation cannot be ignored? Again, we would stress the importance of the council



**exercising its Duty of Care to the public who live along the transport routes of the Chicken Litter transportation. We also ask these questions under Health and Safety, Public Health and Environmental Protection.**

**Edward Patterson on behalf of the concerned residents of Finnis, Carrigagh and Slievenaboley.**



**Resolve Planning**  
Innovation Factory  
Forthriver Business Park  
385 Springfield Road  
Belfast  
BT12 7DG  
[resolveplanning.com](http://resolveplanning.com)

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## NMDDC PLANNING COMMITTEE MEETING

Date: 10am Wednesday 28<sup>th</sup> June 2023

Item No. 15.0

**Address:** 100m west of 133 Carrigagh Road, Finis, Dromara

**Reference No:** LA07/2020/1768/DC (Discharge of Conditions to Anaerobic Digester Development Approved under LA07/2015/1088/F)

**Applicant of Approved Development:** United Renewables Ltd

Good morning/afternoon Councillors,

Today you are presented with a recommendation to discharge two planning conditions attached to an approved AD facility in Finnis (copy of the Decision Notice attached). You will note that the original application was approved on the 4<sup>th</sup> September 2019 following detailed consideration of the application by the Planning Committee at its meeting in December 2019. The approval notice has 29 no. conditions attached, two of which are before you today for formal discharge - these require the submission and approval in writing by the Planning Authority, of landscaping and roads details.

The first condition (Condition No. 28) is very straightforward – it seeks submission and approval of a landscaping plan. This was lodged with the Council's planning department in November 2020 and is recommended for discharge by the planning officers today. We fully support this standard discharge of the condition application.

The second condition (Condition No. 2) seeks the submission of details of any necessary road works required to implement the approval. As you have already heard today, the Planning Committee have (in granting approval for the host planning permission) found that no intensification will take place as result of the approval, meaning that no road improvements works are required to implement the permission. The Council's planning officers have confirmed this today in their recommendation to discharge Condition No. 2.

For the avoidance of doubt, the Committee should be aware that the matter of intensification was fully and robustly considered by the 2018 Planning Committee in reaching its decision to approve the application. The



**RTPI**

Chartered Town Planners

Council's planning officer's are fully aware of this fact and have concluded that the condition can be discharged without any road improvement works. We therefore fully support the Council's approach to the discharge of Condition No. 2.

In terms of the points raised within the objection received on discharging these conditions, it is important to note that discharging conditions is a standard procedural process following the Planning Committee's full consideration and approval of a development. It is not procedurally or lawfully open to the Planning Committee to exercise its discharge of condition powers in such a way as to seek to frustrate or challenge the principle of the permission already granted. This has recently been confirmed in case law – reference *R (Cathie) v Cheshire West and Cheshire Borough Council* [2022] EWHC 2148.

On behalf of the applicant of the AD facility and the local farmer on whose lands it will operate from, I very much welcome planners' intention to discharge these conditions.

Thank you for your time.

Sarah McDowell MRTPI (sarah@resolveplanning.com)  
**Associate**  
Resolve Planning

Enc: LA07/2015/1088/F Approval

Liam Hannaway  
Chief Executive



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

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## APPROVAL OF PLANNING PERMISSION

Planning Act (Northern Ireland) 2011

Application No: **LA07/2015/1088/F**

Date of Application: **22nd October 2015**

Site of Proposed  
Development:

**100 mts west of No 133 Carrigagh Road  
Finnis  
Dromara  
Co Down**

Description of Proposal:

**Proposed anaerobic digestion plant that includes a CHP  
unit, gas flare stack, three silos, 3 digestion tanks and  
associated site works including NIE sub-station**

Applicant: **United Renewables Ltd**  
Address:

Agent: **Brendan Monaghan**  
Address: **T/a Lissan Design  
45 Letteran Road  
Moneymore  
Co Derry  
BT45 7UB**

Drawing Ref: **01-06**

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

## GRANTS PLANNING PERMISSION

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

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

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

**Oifig an Iúir  
Newry Office**  
O'Hagan House  
Monaghan Row  
Newry BT35 8DJ

**Oifig Dhún Pádraig  
Downpatrick Office**  
Downshire Civic Centre  
Downshire Estate, Ardglass Road  
Downpatrick BT30 6GQ

0300 013 2233 (Council)  
0300 200 7830 (Planning)  
council@nmandd.org  
www.newrymournedown.org

**Ag freastal ar an Dún  
agus Ard Mhacha Theas**  
**Serving Down  
and South Armagh**





2. No development shall commence until the following details have been submitted to and approved in writing by the Planning Authority
  - (a) Haulage routes of all Feedstock and Digestate to/from the facility, frequency of deliveries and type of vehicle to be used, and
  - (b) Details of any necessary road improvements to accommodate the construction and operation of the anaerobic digestion facility

Reason: In the interests of amenity and road safety.

3. The CHP building as indicated on stamped approved Drawing ref 03 dated 22 October 2015 shall be used only in conjunction with the anaerobic digestion facility hereby approved and for no other purpose.

Reason: In the interests if character and amenity within this rural location.

4. All Dairying operations associated with the farm Business (ref 603396) shall cease prior to the commissioning of the anaerobic digestion facility hereby approved.

Reason: In the interests of road safety and amenity.

5. The waste materials accepted at the facility hereby approved shall be restricted to the European Waste Catalogue Code 02 01 06 animal faeces, urine and manure (including spoiled straw), effluent, collected separately and treated off-site. The other feedstock materials shall be restricted to grass silage, straw, beet and maize silage and poultry litter.

Reason: In the interests of environmental protection

6. The capacity of the anaerobic digestion facility hereby approved shall not exceed 16,000 tonnes of feedstock per annum.

Reason: To restrict the capacity of the plant to that applied for, in the interests of the amenity of the area and road safety.

7. Of the 16,000 tonnes of feedstock referred to in Condition 6, a maximum 4,000 tonnes shall be Poultry Litter, a max 5,000 tonnes shall be animal manure and a max 7000 tonnes shall be Grass silage.

Reason: In the interests of environmental protection and public health.

8. All deliveries of feedstock to the development hereby approved, shall take place between the hours 07:00 and 19:00 Monday to Friday; 08:00 and 18:00 Saturday and no deliveries on Sundays or bank holidays.

Reason: In the interests of neighbour amenity.

9. Dispatch of digestate from the development hereby approved shall only occur between the hours of 07:00 and 19:00 Monday to Friday; 08:00 and 18:00 Saturday and no dispatch on Sundays or bank and public holidays.

Reason: In the interests of neighbour amenity.

10. All construction work shall take place between the hours of 08.00 and 18.00 Monday to Friday



(excluding public and bank holidays) and 08.00 and 13.00 on Saturdays.

Reason: In the interests of neighbour amenity.

11. The enclosure housing the CHP unit shall be in place before the anaerobic digestion facility becomes operational so as to ensure the sound pressure levels stated in Lissan Design Attachment 1, Drawing ref 06 date stamped 07th March 2016 are not exceeded.

Reason: In the interests of neighbour amenity.

12. There shall be no external lighting of the site.

Reason: In the interests of rural character and general amenity of the area.

13. The three digestate tanks hereby permitted shall be of painted colour either RAL 6005 Moss Green or RAL 6009 Fir Green. The colours hereby approved shall be maintained as such for the duration of the development hereby permitted.

Reason: To minimise the visual and landscape character impact of the development on the rural area.

14. All animal slurry shall be transported to site in sealed containers and delivered directly into the underground reception tank, as shown in Drawing ref 03 date stamped 22 October 2015, via sealed pipework, with no open pouring of slurry permitted.

Reason: In the interests of neighbour amenity.

15. There shall be no venting of the underground reception tank to air.

Reason: In the interests of neighbour amenity.

16. All transfer of animal slurry from the underground reception tank to the digester tank shall be via a sealed closed loop system, with no open pouring of slurry permitted.

Reason: In the interests of neighbour amenity.

17. All silage and poultry litter shall be stored in the silos 1, 2 and 3 as shown in Drawing ref 03 date stamp 22 October 2015

Reason: In the interests of neighbour amenity.

18. All poultry litter must be transported to site in covered trailer/s.

Reason: In the interests of neighbour amenity.

19. Only dry poultry litter shall be accepted at the site.

Reason: In the interests of neighbour amenity.

20. All poultry litter shall be transferred directly into the silo/s and covered with a vermin proof cover. This cover should meet, as minimum, the specification contained in Lissan Design Attachment 3, Drawing ref 06 date stamped 07th March 2016.

Reason: In the interests of neighbour amenity.





21. All Poultry litter, when on site, shall be kept covered with vermin proof cover at all times, with the exception of delivery to or removal from the silo.  
  
Reason: In the interests of neighbour amenity.
22. Digestate shall only be removed from the end storage tank using vacuum tankers.  
  
Reason: In the interests of neighbour amenity.
23. A Nutrient Management Plan (NMP) shall be provided to and agreed in writing with the Planning Authority prior to commissioning of the anaerobic digestion facility. This shall identify the land parcels on which the digestate will be spread, confirming that no digestate will be spread within 7.5km of a designated site.  
  
Reason: To safeguard the protection of designated sites.
24. The facility hereby approved shall operate in accordance with the agreed NMP as requested under Condition 23. Any variation or alteration to the NMP shall be submitted to and agreed with the Local Planning Authority prior to any changes being enacted.  
  
Reason: To prevent adverse impacts on the integrity of European Sites from deposition of ammonia.
25. Within 28 days of the receipt of a written request from the planning authority following a complaint, which it judges to be reasonable, from an occupant of a dwelling relating to noise from operation of the anaerobic digestion plant, the plant operator shall, at his or her expense, employ a suitably qualified and competent person to undertake a noise survey at receptor locations to be agreed with the planning authority to assess the level of noise emissions from the plant when all plant and equipment are operating under normal operating conditions. The planning authority shall be notified not less than two weeks in advance of the commencement of the noise survey. The results of the survey and the data on which it was based shall be submitted to the planning authority within three months of the date of the written request, unless otherwise agreed in writing with the planning authority.  
  
Reason: In the interests of neighbour amenity.
26. Within 28 days of the receipt of a written request from the planning authority following a complaint, which it judges to be reasonable, from an occupant of a dwelling relating to odour from operation of the anaerobic digestion plant, the plant operator shall, at his or her expense, employ a suitably qualified and competent person to undertake compliance testing and odour monitoring at receptor locations to be agreed with the planning authority to demonstrate whether the agreed odour concentration of 3ou/m3 is being achieved when all plant and equipment are operating under normal operating conditions. The planning authority shall be notified not less than two weeks in advance of the commencement of the compliance testing and odour monitoring. The results of the compliance testing and odour monitoring survey, and the data on which it was based, shall be submitted to the planning authority within three months of the date of the written request, unless otherwise agreed in writing with the planning authority.  
  
Reason: In the interests of neighbour amenity.
27. All existing vegetation along the site boundaries as indicated on drawing ref 03 date stamped 22 October 2015 shall be permanently retained with no removal without the written consent of



the planning authority.

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

28. No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme showing:
  - a. The planting of native trees and shrubs to assist in screening the site along the western boundary as indicated on drawing ref 03 date stamped 22 October 2015, and
  - b. The numbers, species and sizes of the trees and shrubs to be planted in the above location.

The scheme of planting as finally approved shall be carried out during the first planting season before the development becomes operational. All hard and soft landscaping works shall be carried out in accordance with the appropriate British Standard. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.

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

29. Within 6 months of the commissioning of the anaerobic digestion facility a site decommissioning and restoration scheme shall be submitted to and approved in writing by the planning authority. The submitted scheme shall include specific details of the removal of all aspects of the development and how the site is to be restored and the timescale for carrying out these works. The agreed site decommissioning and restoration scheme shall be fully implemented when the anaerobic digestion facility is decommissioned.

Reason: To ensure the decommissioning and restoration scheme is acceptable at this location





## Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. At present, there are existing NIE Networks high voltage overhead lines in close proximity to the site of the proposed development. As these lines may service both the immediate and wider areas, it is NIE Networks' view that these lines are presently required to remain.

The proposed development should take into account the position of any NIE Networks equipment in the area to ensure safety. The developer should maintain statutory clearance from NIE Networks equipment during the construction phase of the project and also during future maintenance programmes in accordance with HSE Guidance Note GS6 (Avoidance of Danger from Overhead Electric Lines) and HSE Booklet HS(G)47 (Avoiding Danger from Underground Services). Further information is also available at

<http://www.nienetworks.co.uk/Safety-Environment>.

Any infringement of the clearances to NIE Networks equipment may require overhead line diversions or placing the circuits underground.

In addition, the development must also take into account the scope for interference with NIE Networks radio telecommunication equipment.

Should information be required at this stage regarding the location of NIE Networks equipment adjacent to the development, please contact NIE Networks with the location details of your proposed development at:

- Northern Ireland Electricity Networks Ltd, Distribution Service Centre, Request for Markup, Carn Industrial Estate, Craigavon, BT63 5QJ.
- [markups@nienetworks.co.uk](mailto:markups@nienetworks.co.uk)
- 08457 643643

4. A waste management authorisation for the site is required and should be sought from DAERA Waste Management Section.
5. Should the feedstocks change at any point in the future then DARD should be consulted as ABPR approval may be required.

Dated: 4th September 2019

Authorised Officer

## Form P19

### EXPLANATORY NOTES TO ACCOMPANY APPROVALS

| Type of Approval  | See Notes   |
|---|-------------|
| (a) Planning Permission or Approval of Reserved Matters | 1, 2, 3 & 4 |
| (b) Consent to Display Advertisements                   | 1, 2, 4 & 5 |
| (c) Listed Building Consent                             | 1, 2, 4 & 6 |

#### Notes

1. If you are unhappy with the conditions placed on the permission/approval/consent granted by the Council or Department for Infrastructure (the Department) you may appeal to the Planning Appeals Commission, Park House, 87-91 Great Victoria Street, Belfast BT2 7AG [Tel: (028) 9024 4710] within 4 months of receipt of the notice. Guidance on Appeal procedures is available on the Planning Appeals Commission's website ([www.pacni.gov.uk](http://www.pacni.gov.uk)) or by contacting the Commission directly at the aforementioned address.
2. You should check whether further approval is required under other legislation, such as the Building Regulations or the Water Act.
3. If your proposal involves an access or any vehicular crossing of the highway, it is in your interest to notify your intentions to the authorities responsible for electricity, telephones, water, etc to allow them the opportunity to carry out any planned works first and so avoid breaking through any newly made surfaces.
4. Failure to adhere to the approval plans or comply with conditions attached to this permission is a contravention of the Planning Act (Northern Ireland) 2011 [or the Planning (Control of Advertisements) Regulations (Northern Ireland) 1973 in the case of advertisements], and may result in enforcement action.
5. If you intend to display an advertisement on land which is not in your possession you should first obtain the consent of the landowner or the person(s) entitled to grant such permission.
6. If you have obtained Listed Building Consent to demolish a building you must not do so before the Department for Communities Historic Environment Division has:
  - (i) Been given reasonable access to the building for one month following the granting of consent; or
  - (ii) Stated that it has completed its record of the building; or
  - (iii) Stated that it does not wish to record it.

The Department for Communities Historic Environment Division can be contacted at [HEDPlanning2.General@dcem.gov.uk](mailto:HEDPlanning2.General@dcem.gov.uk) or Tel: (028) 9082 3177 or (028) 9082 3126.



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2022/1257/RM

**Date Received:** 03.08.2022

**Proposal:** Erect new dwelling and detached garage with associated access and site works

**Location:** 40m SW of no. 67 Tullyframe Road, Atticall, Kilkeel

## 1.0 Site Characteristics and Area Characteristics

**1.1** The application site is located out with any designated settlement development limits as defined within the Banbridge, Newry and Mourne Area Plan 2015 (Map 3/01 Newry and Mourne District). The application site is located approximately 1.32 miles south west of the settlement development limit of Atticall. The site is located within an agricultural field close to number 67 Tullyframe Road. The site is located within an Area of Outstanding Beauty namely Mourne and is approximately 60m west of the Whitewater river ASSI.

**1.2** In terms of access proposed, the application proposes to access the Tullyframe Road at a new access point adjacent to number 63 Tullyframe Road. In order to access the property, it is proposed that a new laneway will be created diverting from the existing laneway. The new laneway will be to the rear of number 65 Tullyframe Road. The laneway would then exit onto the Tullyframe Road at the boundary of the agricultural field north of the access to number 63 Tullyframe Road.



**Image 1 Photograph of the Application site**



**1.3** The application submitted is for the approval of Reserved Matters.

## **2.0 Planning Policies and Material Considerations**

**2.1** This planning application has been assessed against the following policies:

- Banbridge, Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland
- PPS 2 Natural Heritage
- PPS 3 Access, Movement and Parking
- DCAN 15 Vehicular Access Standards
- PPS 21 Sustainable Development in the Open Countryside
- Building on Traditional Sustainable Design Guide

## **3.0 Site History**

**3.1** The Planning History of the application site and surrounds has been set out in the table below. The application under assessment is associated with planning approval for application reference: LA07/2021/1252/O.

| Reference        | Location  | Proposal                            | Status              |
|------------------|---|-------------------------------------|---------------------|
| LA07/2022/1288/F | Site adjacent to and north of 65 Tullyframe Road<br>Attical<br>Kilkeel<br>Newry<br>BT34 4RZ | Infill Site for dwelling and Garage | Under Consideration |



|                   |  |  |                       |
|-------------------|--|--|-----------------------|
| LA07/2021/1252/O  | 40m south west of No. 67 Tullyframe Road Attical Kilkeel   | Site for dwelling and detached garage  | Approved              |
| LA07/2021/2031/F  | 55 metres north west of 67 Tullyframe Road, Kilkeel  | Change of house type in lieu of LA07/2015/1184/F   | Approved              |
| LA07/2021/1753/RM | Site adjacent to and north of 65 Tullyframe Road, Attical, Kilkeel, BT34 4RZ,  | Infill site for dwelling and garage  | Application Withdrawn |
| LA07/2020/0405/O  | Site adjacent to and North of 65 Tullyframe Road, Attical, Kilkeel,  | Infill site for dwelling and garage  | Approved              |
| LA07/2019/0303/RM | 20m North East of No. 61 Tullyframe Road, Kilkeel, BT34 4RZ,   | Dwelling and detached garage with new access   | Approved              |
| LA07/2018/1010/DC | 25 metres SouthWwest of No. 65 Tullyframe Road, Kilkeel,   | Discharge condition No. 7 of planning approval LA07/2016/0536  | Condition discharged  |
| LA07/2017/1837/F  | From existing line approximately 90m W of 67 Tullyframe Road, Kilkeel to existing line approximately 20m SE of 109 Tullyframe Road, Kilkeel, | Erection of a new 11kV overhead line on wood pole structures to provide an electrical system upgrade between existing NIE Networks equipment | Approved              |
| LA07/2016/0536/RM | 25 metres south west of No. 65 Tullyframe Road, Kilkeel,   | Dwelling and detached garage   | Approved              |
| P/2015/0191/O     | 20 metres north east of 61 Tullyframe Road, Attical, Kilkeel,  | Site for dwelling and detached garage with new access onto public road   | Approved              |
| LA07/2015/1184/F  | 55 metres North West of 67 Tullyframe Road,  | Proposed storey and a half replacement dwelling 55 metres North West of 67 Tullyframe Road. for, Mr John Magee                               | Approved              |

|                |   |  |           |
|----------------|---|--|-----------|
| P/2013/0347/O  | 25 metres south west of No.65 Tullyframe Road, Kilkeel, | Site for infill dwelling and detached garage         | Approved  |
| P/2007/1678/F  | 63 Tullyframe Road, Tullyframe, Kilkeel. BT34 4RZ.      | Erection of replacement dwelling.                    | Approved  |
| P/2004/0672/F  | 65 Tullyframe Road, Kilkeel, Co.Down.                   | Attic conversion with provision of 3 dormer windows. | Approved  |
| P/2004/0546/RM | 80m South of No 63 Tullyframe Rd Kilkeel                | Erection farm retirement dwelling and garage         | Approved  |
| P/2002/1438/O  | 80m South of No 63 Tullyframe Rd Kilkeel                | Site for farm retirement dwelling & garage           | Approved  |
| P/1998/1637    | Adjacent to 65 Tullyframe Road Kilkeel                  | Erection of Farm retirement dwelling                 | Withdrawn |
| P/1998/1378    | Site adjacent to no 65 Tullyframe Road Kilkeel          | Farm retirement dwelling                             | Withdrawn |
| P/1988/1204    | Tullyframe Road, Kilkeel                                | Site for farm retirement dwelling                    | Approved  |
| P/1991/0917    | Tullyframe Road Kilkeel                                 | Erection of farm retirement dwelling and garage      | Approved  |

**3.2** A previous outline planning application (LA07/2021/1252/O) for a dwelling and detached garage (farm dwelling) was approved on the 15<sup>th</sup> June 2022. The current application under consideration is the Reserved Matters application in relation to this. The conditions set out within the outline approval included (but are not limited to):

- The reserved matters submission shall be in broad compliance with drawing SSloan 3 Rev A
- A planting and landscaping plan shall be submitted at Reserved Matters Stage
- The proposed dwelling shall have a ridge height no greater than 6.5m above finished floor level.
- The proposed dwelling shall be single storey in form

These conditions will be discussed within the body of this report.

## 4.0 Consultations

**4.1** The following were consulted in relation to the proposed application:

- NI Water – No objections to the proposal

- **DFI Roads** – DFI Roads will require access from the proposed dwelling to existing substandard access laneway to be permanently and properly closed up and demonstrated on 1/500 scale drawing, as the existing access could still be used by the applicant and the proposed access would be considered remote than the remaining existing access to the public road. The existing access is considered substandard and would require sightline of 2.4m x 80m to be acceptable to the Department in terms of intensification and DFI Roads offer the following refusal reason on this basis.

This consultation response is discussed further in paragraph 6.5 below.

## **5 Objections and Representations**

**5.1** 7 neighbours were identified to be notified with regards to this application. The application was advertised in the local press on the 31<sup>st</sup> August 2022. No objections have been received to date (27.03.2023).

## **6 Assessment:**

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

**6.1** Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The application site is located outwith any defined settlement limit as designated in the Banbridge Newry and Mourne Area Plan (Map 3/01 – Newry and Mourne District) and is located within an Area of Outstanding Natural Beauty. There are no specific policies in the Plan regarding the proposed use therefore this application will be assessed against regional planning policy.

### **Strategic Planning Policy Statement 2015**

**6.2** As there is no significant change to the policy requirements for the proposal following the publication of the SPPS and it is arguably less prescriptive the retained policies of PPS2, PPS 3, and PPS 21 will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS.

### **Building on Tradition Sustainable Design Guide for Northern Ireland**

**6.3** Paragraph 6.78 of the SPPS requires that the supplementary guidance contained within the 'Building on Tradition' a Design a Sustainable Design Guide for the NI countryside' is taken into account in assessing all development proposals in the countryside. Section 6 on New Builds as well as the various design principles throughout the document are relevant to the proposal. Section 6 highlights how buildings can be designed to respect the natural landscape and contours as well as guidance on site boundaries. It is evident that the design has taken into consideration the guidance set out within the document.

## **PPS 2 Natural Heritage**

**6.4** Policy NH6 relates to new development within an Area of Outstanding Natural Beauty and is applicable to the application site. It states that planning permission will only be granted where the proposal is an appropriate design, size and scale for the locality. It is considered that the principle of the proposal as presented is sympathetic to the Area of Outstanding Natural Beauty and will not cause any demonstrable harm.

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

**6.5** Policy AMP 2 of PPS 3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. Paragraph 5.16 of Policy AMP 2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road.

**6.6** As set out above, DFI Roads recommends refusal based on the application presented. This refusal has been carried through from the outline application whereby DFI Roads voiced their concerns with regards to the application from a DFI Roads perspective. Whilst refusal was recommended at outline stage, the application was overturned at Planning Committee and permission was granted. Whilst DFI Roads have set out refusal reasons; based on the approval at outline the refusal reasons cannot be sustained. The proposals now submitted are the same as those approved at outline stage. Splays of 2.4m by 80m are to be provided.

## **PPS 21 Sustainable Development in the Countryside**

**6.7** Policy CTY1 states a range of types of development which in principle are considered to be acceptable in the countryside. This includes a dwelling on a farm if it is in accordance and meets the policy requirements of CTY10.

**6.8** The principle of constructing a farm dwelling on the application site in line with policy CTY10 has already been accepted through the outline planning application (LA07/2021/1252/O). The application currently under consideration seeks reserved matters approval for the dwelling and garage. Those reserved matters include the siting, design, external appearance of the dwelling and garage as well as details relating to access and landscaping. The acceptability of those reserved matters is considered below together with other considerations material to this application.

**6.9** The proposed development will be assessed against the Strategic Planning Policy Statement and Policies CTY13 and CTY14 of PPS 21. The outline approval attached conditions which required:

- The reserved matters submission shall be in broad compliance with drawing SSloan 3 Rev A
- A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1, and drawing SSloan 2 Rev B and SSloan1 Rev B prior to the



commencement of any other development hereby approved. This access shall be permanently retained thereafter.

- A planting and landscaping plan shall be submitted at Reserved Matters Stage
- During the first available planting season after the occupation of the building for its permitted use, native species trees shall be planted along the boundaries of the site in accordance with a scheme submitted to and approved by the Council. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice.
- If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation
- The proposed dwelling shall have a ridge height no greater than 6.5m above finished floor level.
- The proposed dwelling shall be single storey in form
- The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.
- Prior to commencement of development the applicant shall submit a copy of a consent to discharge for the proposed site, to be agreed in writing by the Planning Authority.

**6.10** The proposed dwelling is 6.4m above the finished floor level. The dwelling is single storey in form with an upper floor to provide for more living space. The dwelling is akin with dwelling types found in the area and it is considered that the design principles have been carefully considered as to integrated into the site and surrounds. The site plan indicates the curtilage of the site, with its enclosure defined via a dry-stone wall and the planting of native trees.

**6.11** The materials proposed to finish the dwelling include:

- Roof- flat black concrete tiles
- Downpipes and Gutters – Black uPVC
- External Doors – Composite finished black
- Walls – Smooth Render painted cream. Porch and family room to be clad externally with 200mm stone

**6.12** The garage is to be approximately 5m in height creating a subordinate feel to the main dwelling. The garage is located to the rear of the main dwelling. The garage is to be finished in the same materials as the main dwelling house. It is

noted that there are solar panels on the roof of the garage. The garage is to be single storey and also home the boiler house.

**6.13** In terms of siting and enclosure it is proposed the dwelling will be enclosed via a dry-stone wall and reinforced with a number of new trees to be planted. In summary it is considered that the proposal complies with the Strategic Planning Policy Statement and Policies CTY 13 and CTY 14 of PPS 21.

### **Amenity**

**6.14** It is considered that the proposed dwelling is far enough removed from the main farm dwelling to ensure that there is no overlooking/loss of privacy caused by or to the occupants of neighbouring or the proposed occupants. No objections or representations have been received.

### **Recommendation – Approval**

Drawings upon which relate: SSloan1, SSloan2, SSloan3, SSloan4, SSloan 5

#### **Conditions**

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

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

2. During the first available planting season after the occupation of the building for its permitted use, native species trees shall be planted along the boundaries of the site in accordance with a scheme submitted to and approved by the Council. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise.

Reason: To ensure the development integrates into the countryside.

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

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

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

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

5. A formal water / sewer connection application must be made for all developments prior to occupation, including those where it is proposed to re-use existing connections.

Reason: To prevent pollution and to ensure public safety. To ensure compliance with the Water and Sewerage Services (Northern Ireland) Order 2006 and the Sewerage Services Act (Northern Ireland 2016).

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

Reason: In the interests of visual amenity.

7. Development shall not be occupied until the surface and foul water drainage works on-site and off-site have been submitted to and approved by the relevant authority and constructed by the developer in line with approved design.

Reason: In the interest of public health

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

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

9. The dry stone wall proposed along the site boundaries, as indicated on the plans hereby approved, shall be completed in its entirety prior to the occupation of the dwelling hereby approved. This wall shall be permanently retained.

Reason: In the interests of visual amenity.

#### Informatives:

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. Statutory water regulations are in force, which are designed to protect public water supplies against contamination, undue consumption and misuse. All internal plumbing installation must comply with the current Water Supply (Water Fittings) Regulations (Northern Ire-

land). Applicants should contact NI Water's Water Fittings Regulations team via waterline@niwater.com if they have any queries.

4. For single properties where there is no sewer NI Water provide an annual septic tank desludge/emptying service. Further information is available by contacting Waterline on 03457 448800 or waterline@niwater.com . Desludge/emptying request is also available via NIW Self Service Portal at <https://selfservice.niwater.com/DesludgeOpen>

5. The existing access to the public road is substandard and unsafe

**Case Officer Signature: Roisin McGrane**

**Date: 27.03.2023**

**Appointed Officer Signature: M Keane**

**Date: 29-03-23**



**Supporting Planning Report**  
**prepared by**  
**Somerville Consulting**  
**on behalf of Mr. David Carlisle applicant**



**An Outline Planning application**  
**Ref: LA07/2022/0578/O**  
**for a detached dwelling on lands 55m North-west**  
**of No. 61 Dromore Road Ballynahinch**

**March 2023**



## **Contents**

- 1.0 Introduction and purpose**
- 2.0 Council Planning Department's issues of concern**
- 3.0 Planning policy - PPS 21 CTY2a Cluster**
- 4.0 PAC caselaw**
- 5.0 Critical Views analysis**
- 6.0 Other material considerations**
- 7.0 Conclusion and recommendation for approval**

## 1.0 Introduction and purpose

Somerville Consulting has been appointed by the applicant Mr. David Carlisle in association with Mr. David Burgess the agent for the application. The purpose of this report is to address the issues of concern raised by Newry, Mourne and Down District Council Planning Department at the Committee meeting on 11<sup>th</sup> January 2023 and further to the application's deferral for a site visit.

Planning law and practice is based on a presumption in favour of development in Northern Ireland. It is qualified in that there must be **no demonstrable harm** caused by the proposal. This supporting planning report will make the case that there is no demonstrable harm caused by the proposed dwelling, in fact it will blend with the existing dwellings and buildings long established around the Dromore Road/Edenavaddy Road crossroads.

As well as the policy support for building in the open countryside at this site, the planning case law on the key issue of Policy CTY2a in Planning Policy Statement 21 "Sustainable Development in the Open Countryside" is also an important material consideration in the determination of this application. Section 4.0 of this report examines in detail precedent PAC cases relevant to building in the Open Countryside in circumstances similar to the subject application.



Figure 1: Site location



## 2.0 Council Planning Department's issues of concern

### What is the proposed development?

The proposed development is the erection of a single dwelling and a domestic garage. The site lies outside any designated settlement limit in the open countryside in what can be evidenced as an existing cluster located at the crossroads of the Dromore Road and the Edenavaddy Road, to the west of Ballynahinch town. The appeal site is large however if the proposed dwelling were to be sited in the lower southern corner of the site and if it were to have a restricted ridge height and floor space it would clearly be acceptable in principle based on these parameters. My analysis is based on these considerations.



Fig. 2 Potential siting of dwelling within application site

The cluster is formed at a crossroads. It visually comprises a range of buildings that appear grouped together when one travels through the crossroads. A very real awareness of built development as an entity is experienced as one approaches the junction in each of the four directions (east and west along the Dromore Road and north and south along the Edenavaddy Road – see section 5 below Critical Views).

The key buildings that comprise the cluster as a visual entity are as follows:

No. 61 Dromore Road – residential dwelling and its associated buildings including an old stone building with a corrugated tin roof





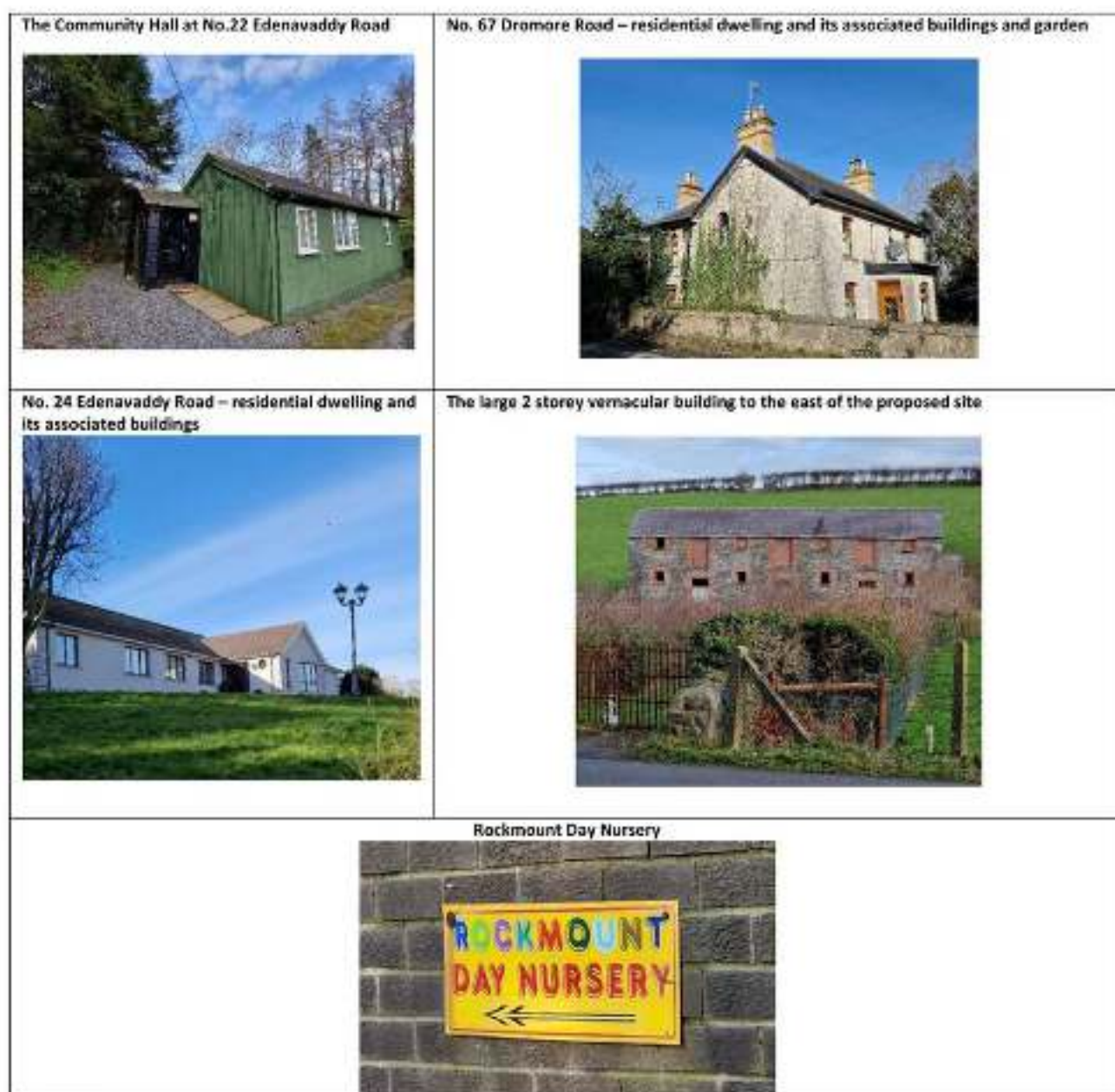


Fig. 3 – Cluster components

#### Site analysis

The application site sits in the south west corner of a field with very strong boundary vegetation to the Ednavaddy Road and the existing laneway that separates the site from No. 61 Dromore Road. The large two storey vernacular building and the rising ground to the north east offer a substantial backdrop. The northern boundary is open which could be planted with indigenous hedging to match the existing boundaries.



Fig. 4 Substantial boundary vegetation at c. 2m. View from existing laneway. Existing double-sided laneway planting - thick and fulsome even in winter.

## Issues of concern

The Planning Department have recommended the application for refusal on the following basis:

1. Fails to comply with the SPPS and Policy CTY2a of PPS21 in that the cluster which the site is associated with is **not associated with a focal point**, is **not considered a visual entity** in the landscape, is **not bounded on at least 2 sides by development** and cannot be absorbed into the existing cluster through rounding off and consolidation therefore visually intruding into the open countryside
2. Is contrary to the SPPS and PPS 21 CTY 8 and CTY14 in that the application site **cannot be considered a gap site** for development in that there is not a substantial and built-up frontage and would therefore result in the creation of ribbon development
3. Is contrary to the SPPS and PPS 21 CTY 13 as the **site lacks long established natural boundaries\*** to provide a suitable degree of enclosure for the building to integrate into the landscape and relies primarily on the use of new landscaping for integration.  
(\*my emphasis).

In elaboration of the above points the Council Planning Department raised the following issues at the January Committee meeting:


| Issue   | Response  |
|---|---|
| - the boundaries of no. 61 were raised as having been altered through enforcement action and what was outside of the fenceline was countryside and therefore the application site was not bounded on two sides as the barn could not be considered  | - Yes a fence is there but it is completely open and that part of No. 61's property reads in the landscape as a continuation of that corner plot and garden. Trees are planted in the paddock, it is not pasture or arable land, the new wooden fence does not create a visual stop or block sight of the adjacent application site as one drives north of the junction along Edenavaddy Road. The extent of the paddock is limited and too small to create a visual break. |
| - there could be no reliance on farm buildings  | - Yes in the context of criterion 1 but wholly disagree in any visual assessment pertinent to other criteria in CTY2a. Notwithstanding the use of the vernacular building which is dealt with later in this report, it visually cannot be ignored as a significant landmark in the landscape  |
| - Officers were not aware of the hall and its role and that was new information and if Members wanted to rely on that in their consideration that was a judgment call for them, however, the application site was divorced from the existing cluster and was therefore contrary to policy | - The application site is not divorced. The cluster is experienced in a transitory way as one drives up and down both the Dromore and Edenavaddy Roads. There is a clear sense of a gathering of buildings and development on approach to and around the crossroads – the very definition of a cluster in CTY2a.  |
| - a cluster of development must sit outside of a farm and as the agricultural building was located on a farm it could not be included in the assessment   | - There is historic evidence from early Ordnance Survey maps (see Fig. 17 in section 6) that the large vernacular building had a variety of uses including as a dwelling. However, its current function may well be agricultural but that does not invalidate its consideration as a visual element in the landscape.   |
| - as a result of the curtilage of No. 61 having been altered in response to an enforcement order, it had made the barn even more remote from the application site,  |  <p>Because the experience of the cluster is transitory, the presence of the wooden fence along the southern edge of the paddock is largely irrelevant, it doesn't somehow create a physical or visual block between No. 61 and the vernacular building and subject site. It all flows as part of the cluster.</p>  |

Fig. 5 Response to issues raised at Committee meeting



### 3.0 Planning Policy

Section 45 (1) of the Planning Act (NI) 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) 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.

All planning applications must be assessed in the context of the relevant Area Plan, in this case the North Down and Ards Area Plan 2015, and any other material considerations. This section of the report deals with all relevant planning policy starting at the highest level of the policy hierarchy namely the Regional Development Strategy (RDS) and working through the various relevant policy issues with a focus on PPS 21.

#### Regional Development Strategy (RDS-2035)

The RDS whilst offering policy at a regional level in Northern Ireland, explicitly covers the open countryside. Policy SFG13: "Sustain rural communities living in smaller settlements and the **open countryside**" pertains to exactly this type of application where a single dwelling will have no demonstrable harm but will sustain, at a local level, those who need to live in the open countryside.

#### Strategic Planning Policy Statement for Northern Ireland (SPPS – 2015)

The SPPS is a statement of the Department's policy on important planning matters that should be examined in all applications throughout Northern Ireland (NI). The provisions of the SPPS are material to all decisions on planning applications. Sustainable development is at the heart of the SPPS, the application proposal, falls squarely within that wider SPPS objective. The SPPS includes key principles for development and reaffirms the RDS's aims in that good quality housing is a fundamental human need at all locations including the open countryside.

The SPPS reaffirms that the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted having regard to the development plan and all other material considerations, unless the proposed development **will cause harm to interests of acknowledged importance**. What is the harm in this case of a dwelling that nestles on lower ground behind substantial hedgerows along the Edenavaddy Road frontage, is sited behind the substantial existing laneway vegetation and positioned with a backdrop of a large vernacular building and steeply rising hill?

#### The Ards and Down Area Plan 2015 (ADAP)

The purpose of the Plan is to inform the general public, statutory authorities, developers and other interested bodies of the policy framework and land use proposals that will be used to guide development decisions within Ards Borough and Down District over the Plan period. As it has not yet been replaced it is still the extant plan.

Within the NDAAP 2015 the site is located outside any designated settlement and in the open countryside. The prevailing regional policy for the countryside of Ards and Down is primarily contained within Planning Policy 21 'Sustainable Development in the Countryside' which is examined in detail below.

#### PPS 21 Sustainable Development in the Countryside

This is the primary policy framework within which the proposal must be assessed. The Planning Department have cited the proposal is contrary to PPS 21 policies CTY1, CTY2a, CTY 8, CTY 13 and CTY 14.



*Fig. 6 - The application site is in the open countryside but clearly falls within the grouping of existing development at the crossroads of the Edenavaddy and Dromore Roads.*

Table 1 below lists the relevant policies within PPS 21 and provides commentary on how the proposal accords with that policy.

| Policy                                     |  |
|--|--|
| <b>CTY1 Development in the Countryside</b> | <p>Policy CTY 1 – Development in the Countryside is the overarching policy that must be satisfied if a proposal for a dwelling in the open countryside is to be approved.</p> <p>There are a range of types of development which in principle are considered to be acceptable in the countryside under CTY 1 that will contribute to the aims of sustainable development. One of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a. This is the main area of dispute with the Planning Department.</p> <p>All PPS 21 policies will be assessed below.</p> |



|   |   |
|---|---|
| <p><b>CTY2a Established cluster</b></p> | <div data-bbox="459 349 1211 922"> <p><b>Policy CTY 2a – New Dwellings in Existing Clusters</b></p> <p>Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:</p> <ul style="list-style-type: none"> <li>the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;</li> <li>the cluster appears as a visual entity in the local landscape;</li> <li>the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,</li> <li>the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;</li> <li>development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and</li> <li>development would not adversely impact on residential amenity.</li> </ul> </div> <p><b>Policy CTY2a planning policy on clusters</b></p> <p><b>Cluster components</b></p> <p>How do we define the existing cluster around the subject site? See Figure 3 above that shows the individual components that comprise the cluster.</p> <ol style="list-style-type: none"> <li>1. No. 61 Dromore Road – residential dwelling</li> <li>2. No. 67 Dromore Road – residential dwelling</li> <li>3. No. 24 Edenavaddy Road – residential dwelling</li> <li>4. Community Hall</li> <li>5. Large vernacular building</li> <li>6. Rockmount Nursey.</li> </ol> <p><b>Criterion 1 – cluster lies outside a farm and consists of 4 or more buildings – 3 of which must be dwellings</b></p> <p>The application site is part of a larger field but it is not part of a farm complex. The cluster de facto comprises 3 dwellings, 1 Hall, 1 Nursery and the large vernacular building all situated close to the crossroads. Whilst there is some dispute over the use of the large vernacular building in terms of criterion 1 of CTY2a it cannot be omitted from consideration as part of the landscape assessment in criteria 2 and 4.</p> <p>If we omit the vernacular building from criterion 1 can the application still pass the policy test?</p> <p>Yes.</p> <ul style="list-style-type: none"> <li>Does the cluster lie outside of a farm - yes</li> <li>Are there 4 buildings – yes</li> <li>Are three of the buildings dwellings - yes</li> </ul> <p><b>Criterion 2 – visual entity in the local landscape</b></p> <p>There is nothing in policy CTY2a to say that the visual expression of the cluster must be from a static viewpoint. There is no explanatory text to indicate what exactly the policy requires in terms of a visual presence; it refers only to a 'visual entity'. Various buildings are in view from various directions in this cluster. The cluster is experienced in a transitory way when travelling towards the crossroads along both the Dromore and Edenavaddy Roads – see section 5 below for a critical views analysis. This approach is supported in PAC Caselaw Ref: 2014/A0245, see section 4 below.</p> |
|---|---|

|  |
|--|
| <p>The cluster is expressed as a visual entity as one approaches the junction. From all four directions there is a sense of a grouping together: with roofs appearing; garden walls and fences coming into view; and planted boundaries and buildings appearing. This is in tandem with arriving at the crossroads.</p> <p>Any visual assessment of the cluster as a visual entity must include it. It is a non sequitur for the Department to exclude the vernacular building as if it was not there just because there is a claim it may have an agricultural function. The large vernacular building cannot be removed from the landscape. The Planning Dept. contend that "it is not considered that all buildings on the cluster can be read together from any perspective", this is not the policy test. The test is that the cluster is experienced as a visual entity.</p> <p>All buildings in close proximity of the crossroads form the cluster including the large vernacular building. There is clearly a concentration of development at the road junction that constitutes a cluster. The proposal therefore does comply with criterion 2.</p> <p><b>Criterion 3 – association with a focal point OR is located at a crossroads</b></p> <p>It should be noted that the actual wording of criterion 3 includes the text....."such as"..... therefore there are a variety of definitions of a focal point implied in that wording. This is confirmed in PAC caselaw Reference 2011/A0096.</p> <p>It is my understanding that following the Planning Committee meeting and site visit in January 2023, the Community Hall at no. 22 Edenavaddy has been accepted as a Focal Point.</p> <p>Furthermore, the policy also clearly has a second element namely <b>location at a crossroads</b>. The wording of the policy is " the cluster is associated with a focal point such as a social/ community building/facility, <b>or is located at a cross-roads</b>". Whilst the Planning Department are saying the site is not located at a crossroads, there is no policy guidance on just how far or close a site must be. Additionally, if the transitory experience of the cluster is accepted as in line with PAC caselaw, then it follows that the hub of the cluster, the crossroads, is also accepted. I fail to understand the logic that artificially excludes the site from being at a crossroads when the reality of driving through and around the crossroads on the ground means that the site reads within the cluster which itself is located at a crossroads.</p> <p>The subject application therefore complies with both elements of criterion 3 in that there is a focal point (Community Hall at no. 22 ) and the cluster is located at a crossroads.</p> <p><b>Criterion 4 – suitable degree of enclosure and bounded on at least 2 sides</b></p> <p>The Planning Department appear to be saying that there is not a suitable degree of enclosure because:</p> <ol style="list-style-type: none"> <li>1. The paddock attached to no. 61 is non-domestic and represents a break between the application site and the approved domestic garden of No 61 and is "somewhat removed".</li> <li>2. The large vernacular building to the north-east is deemed agricultural by the Planning Dept. The Dept. believes agricultural buildings are excluded from criterion 1 and therefore cannot be counted or used in Criterion 4.</li> <li>3. The open northern boundary</li> <li>4. Therefore it is only bound on 1 side by No 24</li> </ol> <p>Having driven the area several times and in each direction I must disagree with the Department's assessment.</p> <p>The site is bound as follows:</p> <ul style="list-style-type: none"> <li>- by No 24,</li> <li>- by No 61</li> </ul> |
|--|



- by the large vernacular building behind (the existing ridge line is at 1.6 whilst the Edenavady road level is at 99 so there's a 6m differential as shown on proposed plan for No. 61).
- furthermore the significant boundary vegetation to the site along the road frontage and along the laneway has been ignored.

#### The "paddock"

The paddock is a strip of ground at No. 61 which de facto forms part of the curtilage and amenity area associated with the domestic garden of No. 61. The paddock has no other purpose than for domestic use.

Approval R/2014/0670/F on no. 61 Dromore Road shows the "paddock" area to be within the red line. In any event the paddock is not large enough for agricultural use and is not part of a farm. Most significantly as the agent has previously said the access to the paddock is from the main garden, there is no direct access from the road. If the paddock were to be used for agricultural purposes the access would have to be across the lawn of no. 61.

There are trees planted in the paddock, this is not indicative of an agricultural use arable or livestock. In either case; machinery or stock access would have to be through the garden of no. 61.

The historic maps of No 61 (below) consistently show the plot as one undivided unit with no separate fields or paddocks.



Fig. 7 – view of paddock

Even from this limited viewpoint to the side of the community hall off the public road, the paddock attached to no. 61 can still clearly read with the built development either side of it, it is not a visual block or barrier that somehow cuts off the application site, rather it reads as part of the cluster.

Even from this angle (Fig. 7) the paddock reads with the vernacular building and the substantial laneway vegetation along with no. 61.

The paddock is too small an area to create a visual gap. The eye does not separate no. 61 from the paddock or from the application site, it reads as one both from this static viewpoint and in transit.

#### Backdrop of hill has been ignored

The Backdrop of hill has been ignored by the Planning Dept as offering a sense of enclosure. There is a considerable height difference between the road and the hill to the rear of the large

vernacular building. The proposal would be set in the landscape with a very strong backdrop of the hill.

*The large vernacular building as a means of enclosure*

The large vernacular building to the north-east is in situ but has been discounted by the Planning Dept. The building cannot be ignored, regardless of its use.

Once a cluster has been accepted which it has, all buildings that form part of the cluster/group must be assessed in terms of its visual expression and impact.



Fig. 8 Large vernacular building provides a strong backdrop to the application site

The level difference is significant between the Edenavaddy Road at 99.41 and the ridge height of the large vernacular building at c. 106.02 (levels information sourced from approval of no. 61 Dromore Road).

The proposal would therefore have the large vernacular building in the middle ground as its backdrop with the rising ground beyond.

*Existing Vegetation has been ignored as a means of enclosure*

The significant road frontage vegetation and double-sided laneway vegetation c. 2m high has been ignored by the Planning Dept.

Whilst the northern boundary is currently open all the other boundaries do offer significant visual enclosure within the wider cluster. PAC Caselaw states that it is not acceptable to foreshorten an area of character either in an urban or rural settling in order to contrive a refusal, this is inherently unfair.

The proposal would read with No. 61 behind the roadside hedging and with the backdrop of the large vernacular building and the hill behind – see Fig. 9 b below.

The policy does not require enclosure on all four sides, so the more open boundary along the north can be mitigated against with enhanced boundary treatment, all three other boundaries are strong and could be conditioned for retention. PAC Caselaw also confirms that the lack of enclosure on one side is not fatal to a proposal under CTY2a – see section 5 Reference 2017/A0108.

This criterion is therefore fulfilled when the reality on the ground is accepted:

- The proposal is bounded with No. 24



- The proposal is bounded with No. 61 as the Paddock is too small a gap to create a visual block, it reads as part of curtilage of no. 61
- The substantial existing vegetation to the road frontage and along the laneway should be factored in in providing enclosure
- The large vernacular building cannot be set aside in any visual assessment given the ground levels and its physical presence in the landscape. The proposal would read against it
- The hill to the rear also offers a significant backdrop
- The only open boundary is to the north, it is not fatal to an approval as there is precedent in caselaw (2017/A0108 etc) and mitigation planting could be conditioned.

The proposal therefore fulfils criterion 4.



Fig. 9a Strong existing boundary vegetation



Fig. 9b Strong existing boundary on laneway – vernacular building reads with no. 61

#### Criterion 5 – absorbed into the cluster

The Planning Dept. state that the proposal would extend development and visually intrude into the open countryside. How can that be when it forms part of a cluster? No. 24 Edenavaddy Road is located further west than the proposal and the large vernacular building is located further east and north than the proposal so how could it possibly extend development especially if sited in the site's southern corner and bounded by the existing laneway and the Edenavaddy Road vegetation which could all be retained by condition.

As the Planning Department have previously agreed there is a clear aerial view of the cluster, and the evidence in this report show that the subject site will be seen as an integral part of the cluster in a transitory sense, the proposal will not protrude out into the open countryside rather it will be a clear consolidation of the established cluster – see Fig. 10.



Fig. 10 – Aerial view of cluster as agreed by Planning Dept.

**Criterion 6 – no adverse impact on residential amenity**

The Planning Dept. has acknowledged that a suitably designed dwelling would not result in any harmful impact upon adjacent residential amenities given the separation distances between the site and the neighbouring properties.

**Summary on Policy CTY2a**

Whilst all of the criteria in CTY2a can be met in this case as evidenced above, it should be noted that PAC case law Ref: **2017/A0108** has indicated that not every criterion is actually required to be met under the policy in order for an approval to be granted.

**CTY 8 – Ribbon Development and gap sites**

The policy states in CTY 8: "Planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear."

There is no **defined substantial and built-up frontage** in this case. Therefore, the proposal cannot be said to create ribboning as there's no built-up frontage to extend rather it sits within an established cluster. Policy CTY 8 is not relevant

**CTY 13 and 14 Integration and Rural character**

A new dwelling can be controlled by condition in terms of scale, form, proportions and overall character, it is the principle that must be accepted here that the proposal falls within a cluster.

The proposal therefore complies with policies CTY 13 and 14 if it is accepted that the development falls within the cluster. See a full critical views analysis below in section 5.

Table 1 – Planning policy compliance

| Guidance  |   |
|---|---|
| <b>Building on Tradition – a sustainable design guide</b> | <p>The guidance document aims to raise awareness of the importance of looking after the Northern Ireland Countryside and how to achieve a higher quality of sustainable development that will provide a strong basis to protect and enhance our rural assets. The placement of the proposed dwelling at a crossroads with strong boundaries and set in front of the large vernacular building and steep hill which act as a backdrop will fulfil those requirements.</p> <p>The guidance goes on to state development will be acceptable “at the edge of small settlements, within existing built clusters, adjacent to established farm groups or if a case can be made to depart from these, to fully integrate with the surrounding landscape”.</p> <p>The subject proposal is in line with the guidance and it is contained within and enclosed by other development and strong boundary vegetation on three sides.</p> |

Table 2 – Planning guidance compliance

The guidance provided by “Building on Tradition” has been fully reviewed and relied on.



## 4.0 Planning Appeals Commission (PAC) Caselaw

This section of the report sets out the PAC caselaw in regard to PPS 21 Policy CTY2a. The following cases all express precedent elements for issuing an approval on the subject application Ref: LA07/2022/0578/O and should be given significant weight by the Planning Department as follows:

- **2011/A0096** - definition of a focal point
- **2014/A0245** - definition of a cluster, assessment on enclosure
- **2014/A0009** - definition of a focal point
- **2017/A0108** - not all the criteria of CTY2a have to be met
- **2017/A0222** - definition of cluster, lack of enclosure is not fatal, compliance with overall thrust of policy.

### Definition of a cluster

In appeal case 2014/A0245 there is an almost exact precedent for defining a cluster as a transient experience as the commissioner states *"Whilst all of the development around the vicinity of the junction is difficult to see from a static viewpoint, I consider that travelling through the road junction on all approaches there is a transient awareness of a cluster of development which is appreciated as a visual entity in the local landscape"*. Whilst appeal 2014/A0009 resulted in a dismissal there is a key comment in the appeal that states *"policy CTY2a does not define a cluster"*, interpretations of what constitutes a cluster may therefore vary.

### Definition of a focal point

In appeal Reference 2011/A0096 the Commissioner stated *"I agree that the third criterion of the Policy indicates that a social/community building is an example of a focal point and not the only one. The use of the words 'such as' in the Policy supports that conclusion."* In case 2017/A0222 there was a strong awareness of the cluster and because of relatively undeveloped lands either side of it the cluster appeared as a visual entity in the landscape. This is pertinent to the subject application, as outwith the cluster there are undeveloped lands.

### Not all the criteria of CTY2a have to be met

In appeal 2017/A0222 the commissioner concluded that lack of definition on the northern boundary of the appeal site was not critical to the provision of enclosure and criterion 4 was met. Furthermore, that case also said the proposal complied with the overall thrust of the policy which is to round off and consolidate an existing cluster of development without changing the overall character of an area, this is a clear precedent for the subject application.

In appeal 2017/A0108 the PAC reviewed CTY2a and concluded that failure to conform to every aspect of the policy need not necessarily be fatal to a proposal if there are mitigating factors.

On enclosure or rather partial enclosure, appeal 2014/A0245 noted *"Although, the proposal is not immediately bounded on these boundaries, in this case I do not consider this to be fatal to the proposal as in my opinion a dwelling sited as proposed would have a suitable degree of enclosure and would be read within the existing cluster at the junction of the two roads"*.

Appeal 2014/A0245 sets a precedent for a proposal being absorbed into a cluster, it states:

*"Although, the proposal is not immediately bounded on these boundaries, in this case I do not consider this to be fatal to the proposal as in my opinion a dwelling sited as proposed would have a suitable degree of enclosure and would be read within the existing cluster at the junction of the two roads. As such, I consider that a dwelling sited as proposed can be absorbed into the existing cluster and would therefore constitute rounding off and consolidation. The dwelling sited as proposed will not alter the existing character or visually intrude into the open countryside. The 5th criterion has been met."*

All the above cases are highly relevant to the subject application and should be weighed positively in the determination.



## 5.0 Critical Views analysis

The purpose of this critical views analysis is to establish how the cluster is experienced in the landscape on approach from each of the four roads that make up the crossroads.

|  |   |
|--|---|
| <i>Gable of No. 61 appears to right of photograph on approach to the crossroads plus the gates and boundary fencing of No. 61 are also in shot</i> | <i>On closer approach to the crossroads, gate of No. 61, former replacement dwelling in garden of 61, Community Hall, garden of No. 67 and the large vernacular building are <u>all</u> seen together</i> |
|   |   |

Fig. 11 On approach to the cluster from the east – travelling along Dromore Road from Ballynahinch

|   |   |   |
|---|---|---|
| <i>Roofs and buildings appear to the left of the photograph on approach to junction whilst travelling east towards Ballynahinch</i> | <i>Awareness of development to right and left of photograph – travelling east towards Ballynahinch along Dromore Road</i> | <i>Garden vegetation and road signage appear on approach to the crossroads junction</i> |
|    |                                        |    |

Fig. 12 On closer approach from the southeast – middle distance view

|   |  |  |
|---|--|--|
| <i>Garden wall of no. 24 appears on the right whilst the large vernacular building across the road behind the application site also comes into view along with the roof of no. 61</i> | <i>Buildings associated with no. 24 Edenavaddy Road emerge in the landscape along with boundary fences and walls</i> | <i>Entrance gates and boundary wall of no. 24 Edenavaddy Road display a clear residential presence</i> |
|    |                                   |                   |

Fig. 13 On approach to the crossroads travelling south along the Edenavaddy Road





*Fig. 14 On approach to the crossroads travelling north along the Edenavaddy Road*

Other signs of a concentration of development include access roadways and gable ends of dwellings



*Fig. 15 Views of built development within the cluster*



*Figs. 16 a and b Community Hall as a focal point has been agreed*

## 6.0 Other material considerations

Every planning application must be decided on its own merits and in accordance with the Area Plan and considered in the context of all relevant material considerations. In this case, material considerations include the following:

- **Equity of decision making** – in the approval at No. 61 Ref. R/2014/0670/F, the case officer's report stated that *"given the levels and the surrounding undulating landscape, the backdrop with the existing mature trees...the proposed dwelling will be successfully absorbed into the surrounding landscape"*. The case officer's report continued *"the proposal uses the existing landform and natural features of the land to aid integration of such a dwelling"*. Notwithstanding that the approval was for a replacement dwelling, the above assessment relates wholly to the existing landscape. It is the very same landscape in which the proposal is sited. It is the very same change in levels and the backdrop of the very same rising hill that must be considered in the subject application. Parity of decision making is a fundamental maxim of planning. How can the very same landscape and hill be viewed differently when it offers integration and absorption in one case (No. 61) but is ignored in the current application?
- The **uniqueness** of the physical arrangement of this particular cluster.
- Inherent **unfairness** of contriving an area of character different from the reality experienced on the ground – this cluster is viewed in a transitory manner and all the component parts are viewed together in transit. The policy does not require assessment from a static view as the Department has undertaken nor does PAC caselaw.
- **Screening** of the subject site by established vegetation on the road frontage and the laneway must be acknowledged.
- Variety of **PAC cases** demonstrating that not all CTY2a criteria have to be fulfilled, that a focal point can be defined in various ways and that the lack of boundaries is not necessarily fatal to an approval.
- **Historically** the large vernacular building was an important feature in the landscape as noted in Figure 17 below as one of the earliest buildings in the area. It still today is an imposing structure which cannot be ignored.

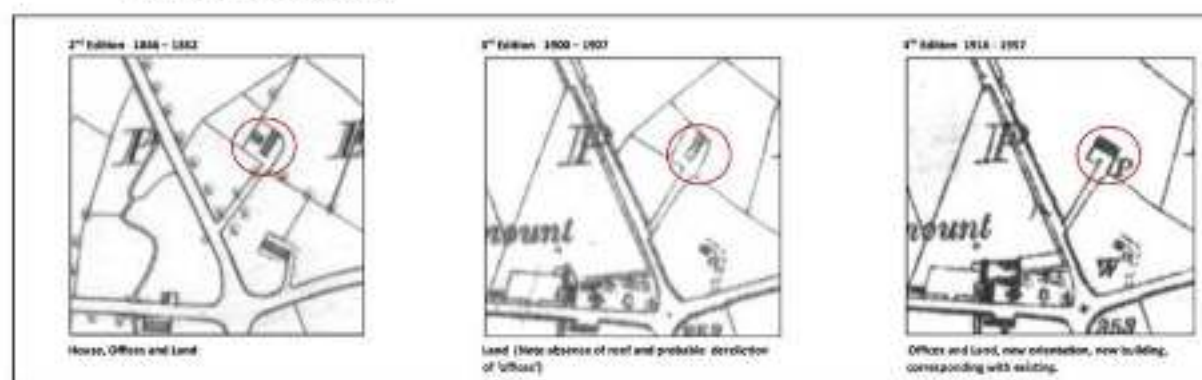


Fig. 17 Historical significance of large vernacular building



## 7.0 Conclusion and recommendation for approval

The proposal for one dwelling is considered wholly acceptable in light of the evidence and PAC caselaw presented in this report. The planning application should be approved for the following reasons:

- There is a presumption in favour of development in the planning process in Northern Ireland and this report demonstrates there is no harm arising from the proposal
- Physical features have been ignored: the substantial boundary vegetation around the road frontage and laneway and the steep hill rising to the northwest of the site which acts as a backdrop
- The large vernacular building cannot be dismissed, it would be illogical to do so in any visual assessment of rural character
- It is not fatal to have one boundary open, as prescribed in PAC case 2014/A0245
- The alleged harm that will result from encroachment into the open countryside is not in reality possible as the application dwelling can be sited south of both no. 24 (which has a very extensive curtilage extending northwards) and the large vernacular building
- It accords with the stated objectives at the regional policy level in the RDS and the SPPS as it will round off an existing cluster
- It is therefore compliant with the policy and in line with PAC caselaw.

I trust that this Supporting Planning Statement will assist the Planning Department in the determination process and persuade them to change their recommendation to an approval. I therefore recommend that the Newry, Mourne and Down District Council Planning Department approve this application.





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

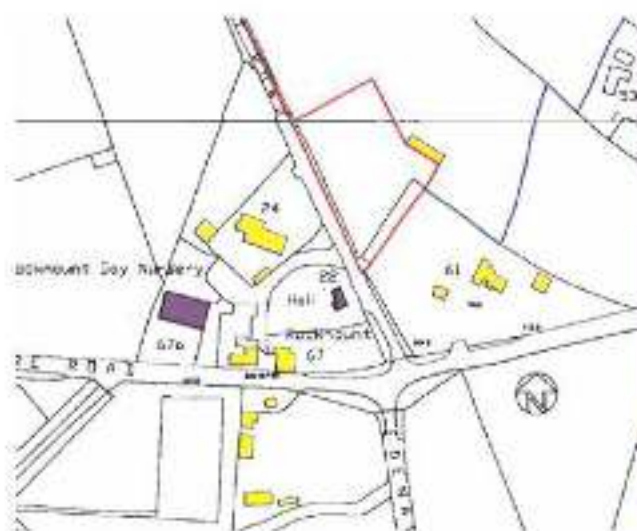
**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2022/0578/O**

**Date Received: 06/04/2022**

**Proposal: New dwelling and domestic garage**

**Location: Approx. 55m NW of 61 Dromore Road, Ballynahinch**



#### **Site Characteristics and Area Characteristics:**

The application site comprises a portion of an agricultural field which is fairly flat in topography and which rises toward the rear north east of the site where a stone barn sits to the rear of the site. The site sits on the Edenavaddy Road opposite a dwelling at no. 24 and the access fir Rockmount Day Nursery. The south eastern and south western boundaries of the site are defined by hedging. There is an access track flanking the south eastern boundary of the site, which serves the stone barn.

The site lies outside the settlement of Ballynahinch and therefore lies in the countryside as identified in the Ards and Down Area Plan 2015.

### **Site History**

No site history for this specific site but history for the adjacent replacement dwelling

R/2014/0670/F - Opposite 22 Edenavaddy Road, Ballynahinch

Proposed replacement dwelling

Granted 09.11.2015

### **Planning Policies and Material Considerations:**

In assessment of this proposal, regard shall be given to the Regional Development Strategy (RDS) 2035, Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS3, 6 and 21 (CTY1, 2a, 8, 13, 14, 15), Building on Tradition (Guidance Document), in addition, to the history and any other material consideration.

### **Consultations:**

DFI Roads – no objections.

NI Water – generic response - no objections

Rivers Agency – No objections

### **Objections & Representations:**

The application was advertised in the local press on which expired on 04.05.2022 and neighbour notification expired on 23/05/2022.

To date there have been no letters of representation received.

### **Consideration and Assessment:**

This application seeks outline permission for the erection of a dwelling and domestic garage.

The policy context for this application is provided for by Planning Policy Statement 21 'Sustainable development in the countryside' (PPS21). Policy CTY1 of PPS21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The applicant has submitted the application on the basis that he considers the proposal to comply with CTY2a of PPS 21 (new dwelling in existing cluster)

Policy CTY2a states that Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- the cluster appears as a visual entity in the local landscape;

- the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,
- the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- development would not adversely impact on residential amenity

In consideration of the above, the site sits opposite no. 24 Edenavaddy Road and the access to Rockmount Day Nursery. The stone barn to the rear of the site does not count as a cluster building, as buildings of an agricultural nature are discounted. There is a small paddock between the site and no. 61 Dromore Road along with an access track to the rear stone barn. There is no development to the north of the site. Officers therefore consider that the site is only bound by development on one side – the dwelling no. 24 across Edenavaddy Road, and is somewhat removed from the bulk of the development along Dromore Road.

Officers do not consider that the cluster appears as a visual entity in the landscape. While travelling along Dromore Road, only no's 61 and 67 are readily visible. When travelling from Dromore road onto Edenavaddy Road past the site, only no. 61 is visible along with the stone barn beyond. Eventually the hall and no. 24 Edenavaddy Road present themselves, but it is not considered that all buildings on the cluster can be read together from any perspective. A cluster of development is somewhat evident from aerial photos and on the Location Plan submitted however this is not obvious on the ground.

The site is not located at a crossroads. There is no focal point. There is a small hall beside no. 24 but there is no history to it as being used as a social/community facility.

The site does not have a suitable degree of enclosure and is not bounded on at least two sides with other development in the cluster, the site lies outside the cluster.

The proposed development would not round off or consolidate development as it lies outside the cluster. It would extend development and visually intrude into the open countryside.

Officers are satisfied that a suitably designed dwelling would not result in any harmful impact upon adjacent residential amenities given the separation distances between the site and the neighbouring properties.





Given the above, that the proposal offends 4 of the list of 6 criteria above the proposal is not considered acceptable under CTY2a of PPS21.

Officers consider it reasonable to consider the policy under any other potentially relevant policy. Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of the size, scale, siting and plot size etc.

In assessment of this application, it is noted that the site would be accessed off Edenavaddy Road. There is no substantial and continuously built up frontage along this side of the road given that the dwelling at no. 61 Dromore Road (which has a dual frontage to both roads) and the small stone building in the garden are the only buildings that could potentially be considered to have frontage onto the Edenavaddy Road. The stone barn to the rear of the application site has an intervening field between it and the road and so has no frontage. There is no development to the north of the site to create the 'bookend.' As such, officers consider that there is no line of three buildings and therefore no gap to be infilled and that rather, the proposal would result in the creation of ribbon development contrary to Policy CTY8.

Officers consider that the site does not comprise a small gap site within a substantial and continuously built up frontage. The proposal fails to comply with Policy CTY8 of PPS21.

The proposal must further be considered against CTY13 and CTY14.

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

A new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

The proposed dwelling would offend (b) and (c) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape as the site is currently open to roadside views and does not have long established boundaries to help integrate it, this would require new landscaping to achieve any degree of integration.



CTY14 – Rural Character, states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

A new building will be unacceptable where:

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

As stated above, the proposal would result in the creation of ribbon development and would therefore conflict with CTY8 and CTY14.

Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access onto a public road where:

- (A) Such access will not prejudice road safety or significantly inconvenience the flow of traffic and
- (B) The proposal does not conflict with Policy AMP3 – Access to protected Routes (which is not applicable in this case).

In assessment of this policy requirement, DfI Roads were consulted and have responded with no objections to the proposal subject to compliance with the attached RS1 at reserved matters stage.

Having assessed the proposal against the relevant planning policies and material considerations which apply to the application, it is determined that this proposal is not in accordance with either Policy CTY2a, CTY8, CTY13 and CTY14 of PPS21 and therefore refusal is recommended.

### **Recommendation:**

Refusal is recommended.

### **Refusal Reasons:**

1. The proposal fails to comply with the SPPS and Policy CTY2a of PPS21 in that the cluster which the site is associated with is not associated with a focal point, is not considered a visual entity in the landscape, is not bounded on at least 2 sides by development and cannot be absorbed into the existing cluster through rounding off and consolidation therefore visually intruding into the open countryside.
2. The proposal is contrary to the SPPS and PPS 21 CTY 8 and CTY14 in that the application site cannot be considered a gap site for development in that there is not a substantial and built up frontage and would therefore result in the creation of ribbon development.

3. The proposal is contrary to the SPPS and PPS 21 CTY 13 as the site lacks long established natural boundaries to provide a suitable degree of enclosure for the building to integrate into the landscape and relies primarily on the use of new landscaping for integration.

Informative

The drawing number to which this decision relates is A 5640.

|                       |                         |
|-----------------------|-------------------------|
| <b>Case officer:</b>  | <b>J McMullan</b>       |
| <b>Authorised by:</b> | <b>A.McAlarney</b>      |
| <b>Date:</b>          | <b>14 November 2022</b> |



**Somerville Consulting Speaking notes by Una Somerville Planning Consultant - in support of a planning approval for a single house Ref: LA07/2022/0578/O at Newry Mourne and Down Planning Committee 28<sup>th</sup> June 2023 at 10.00am**

## Introduction

I am Una Somerville a qualified Planner with almost 40 years' experience working in Northern Ireland including being a former Planning Appeals Commissioner. I am here today to persuade the Committee to vote in favour of a planning approval for a single modest dwelling on lands 55m North-west of No. 61 Dromore Road Ballynahinch.



The basis of Planning law and Practice in the north of Ireland is that there is a presumption in favour of development unless there is harm. What would be the harm here? The alleged harm is that the open countryside would be detrimentally affected.

But this isn't the open countryside, this site is within an established cluster. This is how I define it in line with PPS 21 Policy CTY2a:

6 criteria to be addressed

**1. Located outside a farm, 4 or more buildings of which at least 3 are dwellings.** The application site is part of a larger field but it is not part of a farm complex. The cluster comprises:

1. No. 61 Dromore Road – residential dwelling
2. No. 67 Dromore Road – residential dwelling
3. No. 24 Edenavaddy Road – residential dwelling
4. Community Hall
5. Large vernacular building – which had some historical residential use. Evidence previously submitted by agent.
6. Rockmount Nursey.

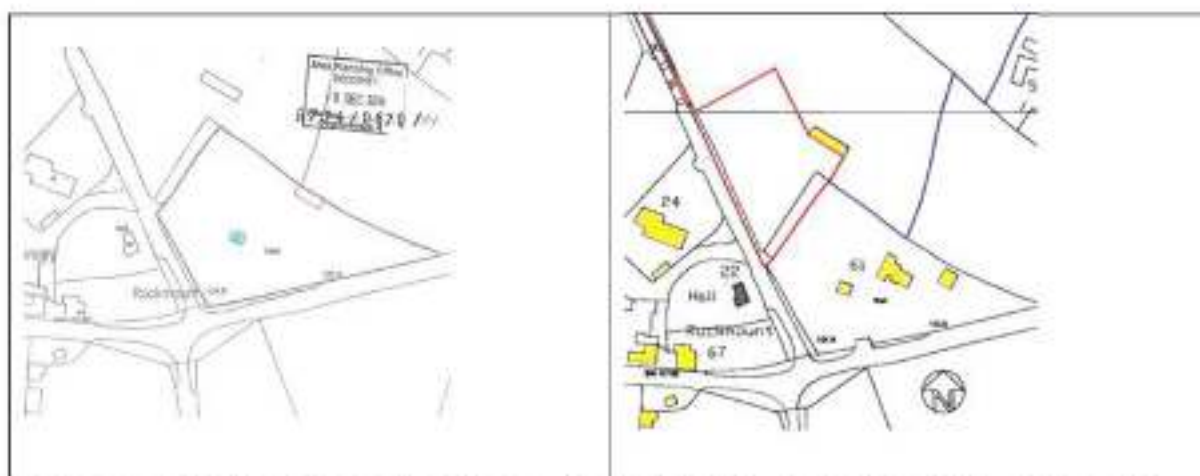
The cluster de facto comprises 3 dwellings, 1 Hall, 1 Nursery and the large vernacular building all situated close to the crossroads. Whilst there is some dispute over the use of the large vernacular building in terms of criterion 1 of CTY2a it cannot be omitted from consideration as part of the landscape assessment in criteria 2 and 4. If we omit the vernacular building from criterion 1 can the application still pass the policy test? Yes.

- Does the cluster lie outside of a farm - yes
- Are there 4 buildings – yes
- Are three of the buildings dwellings - yes

2. **cluster appears as a visual entity** – nowhere does it say in the policy that the visual entity has to be from one static viewpoint. The case officer's report on page 3 actually states "A cluster of development is somewhat evident from aerial photos and on the Location Plan" but then goes on to discount that. That is not a correct assessment. The everyday experience of driving/walking through the crossroads is being ignored. This is a cluster experienced in a transitory way. On approach to the crossroads from three road directions there is an increasing clear sense of development being grouped together.

3. **cluster is associated with a focal point...or is located at a crossroads** – Planning Department subsequently agreed to acknowledge the fact that a community hall is present and that there is a crossroads here.

4. **site has a suitable degree of enclosure**. The high hedges to the Edenavaddy road front and along the laneway are a significant aid to enclosure. The lower level at the front of the site also offers good enclosure also. The approved dwelling at no. 61's has a curtilage that goes right up the application site boundary. The two red lines abut –



The backdrop of the hill is taken on board in approving no. 61 but is ignored in the subject application, that backdrop has not gone any where. The hill is a significant feature in the landscape and offers a degree of enclosure along with the store building.

5. **can be absorbed into the cluster** or visually intrude into the open countryside. As the site lies into the cluster with the backdrop of the stone building and the hill and if the dwelling were sited at the lower ground level to the front it would be well integrated and not extend into the open countryside whatsoever given the existing configuration on both sides of Edenavaddy Road.

6. **would not adversely impact on residential amenity** – Planning Department have agreed it would not.

I ask the Committee to respectfully approve this application as no harm would result.

Una Somerville

28<sup>th</sup> June 2023



## Committee Application

| Development Management Officer Report  |   |
|--|---|
| <b>Case Officer:</b> Annette McAlarney   |   |
| <b>Application ID:</b> LA07/2022/0909/F  | <b>Target Date:</b>   |
| <b>Proposal:</b><br>Cleaning of the river bed of all vegetation , loose stone and debris before a form of bank stabilisation to the affected area using temporary shuttering and poured concrete | <b>Location:</b><br>Wild Forest Lane<br>Newcastle   |
| <b>Applicant Name and Address:</b><br>Marie Ward NMDDC<br>Downshire Civic Centre<br>Ardglass Road<br>Downpatrick<br>BT30 6RA   | <b>Agent Name and Address:</b><br>NMDDC<br>Downshire Civic Centre<br>Ardglass Road<br>Downpatrick<br>BT30 6RA |
| <b>Date of last Neighbour Notification:</b>  | 6 July 2022   |
| <b>Date of Press Advertisement:</b>  | 20 June 2022  |
| <b>ES Requested:</b> No  |   |
| <b>Consultations:</b><br><br>DFI Consult<br>Rivers Consult<br>NIEA Consult<br>SES Consult  |   |
| <b>Representations:</b><br>Nil   |   |
| Letters of Support   | 0.00  |
| Letters of Objection   | 0.00  |
| Petitions  | 0.00  |
| Signatures   | 0.00  |
| Number of Petitions of Objection and signatures  |   |
| <b>Summary of Issues:</b>  |   |

## Site Visit Report

### Site Location Plan:



### Date of Site Visit:

#### Characteristics of the Site and Area

The Site comprises a narrow access lane bounded by hedgerows and a stream. There is significant erosion of the width of the lane with weak verge that restricts vehicular access. The site is located outside the village of Bryansford in the countryside and is surrounded by agricultural fields and associated farm and residential buildings.

#### Description of Proposal

Approx 0.6km into the land there is significant erosion of the width of the lane with weak verge which would restrict vehicular access at this point. Proposal to carry out cleaning of the river bed of all vegetation, loose stone and debris before a form of bank stabilisation to the affected area using temporary shuttering and poured concrete



## Planning Assessment of Policy and Other Material Considerations

SPPS

Ards and North Down Area Plan 2025

PPS 21

PPS 2 Natural Heritage

### PLANNING HISTORY

Nil

### SUPPORTING DOCUMENTS

**PEA**

**CEMP**

### CONSULTATIONS

NIEA No objection subject to conditions

DFI Consulted in error.

SES Outstanding

Rivers Agency No objection

### REPRESENTATIONS

nil

### EVALUATION

PPS 2 Natural Heritage (2013) sets out the Department's planning policies for the conservation, protection, and enhancement of natural heritage, defined as "the diversity of our habitats, species, landscapes, and earth science features". In addition, PPS 2 outlines the criteria that local councils and the Department for Infrastructure (formerly Planning NI) employ when processing planning applications which might affect nature conservation interests and to which developers should have regard when preparing proposals. Whilst there are policies within the document concerning European and Ramsar sites (Policy NH 1), species protected by law (Policy NH 2), and national and local sites of conservation importance (Policies NH 3 and NH 4 respectively), this revised version outlines the importance that is now placed on Northern Ireland Priority Species and Habitats (Policy NH 5) within the planning process.

The PEA found there are five statutory sites for nature conservation within 2 km of the Site. Of these, Shimna River ASSI and Murlough SAC / ASSI are potentially hydrologically connected to the Site via field drains that lead into the Burren River. Prescribed mitigation included the preparation of a CEMP. A CEMP was provided. Provided the CEMP is adhered to, no impacts are predicted to the Shimna River ASSI. Given the location and the scale and nature of the works, there would be no impact transfer pathway to Murlough ASSI/SAC. Consultation has been undertaken with SES in regard tot his designation and their response is awaited. It is not anticipated that SES will raise an issue subject to conditions as suggested by NIEA NED.

- Shimna and Trassey Rivers SLNCI is the only non-statutory designated site within 1 km of the Site. The SLNCI is located c. 0.8 km south of the Site and is potentially hydrologically connected via field drains

that lead into the Burren River. Prescribed mitigation included the preparation of a CEMP. A CEMP was provided. Provided the CEMP is adhered to, no impacts are predicted to the SLNCI.

- There are two parcels of Long-established Woodland present 0.7 km and 1.0 km from the Site. These parcels are well-separated from the Site and no impacts are likely as a result of the Proposed Works.
- The Site comprises an unmetalled lane lined with hedgerows with associated trees and a stream. These habitats are considered to be Priority Habitats. All habitats will be fully retained. Instream works will be required to clean the riverbed; however, this will ultimately improve the condition of the stream. Provided appropriate pollution prevention measures are implemented during construction, the stream will be safeguarded during construction. No impacts to Priority Habitats are likely as a result of the Proposed Works. Conditions attached from NED to this effect.
- No invasive species were noted on Site and are considered likely absent. No further survey was required.
- One tree with Low suitability for roosting bats was present within a hedgerow in the Site. This tree is to be retained, and no further survey for roosting bats was required.
- The Site provides suitable foraging and commuting habitats for bats. No habitat will be lost to facilitate the Proposed Works. A number of recommendations have been made in respect of lighting during construction, and provided these are implemented, no further bat survey is recommended.
- Badger may commute or forage on Site, and hedgerows on and adjacent to the Site offers suitable habitat for sett creation, although no evidence of badger was identified within the Site. A pre-construction survey within 4 – 6 weeks of construction works commencing is recommended and measures to safeguard badger during construction have been prescribed.
- There is suitable habitat for hedgehog within the Site. No habitat will be lost to facilitate the Proposed Works. No specific mitigation is prescribed; however, hedgehog will be safeguarded during construction by measures outlined in respect of badger.
- Habitats within the Site are considered unsuitable for otter holt creation and lay-ups. However, otter may opportunistically use the stream for commuting. No specific mitigation is prescribed; however, otter will be safeguarded during construction by pollution prevention measures and construction safeguards outlined in respect of badger.
- Hedgerows on and adjacent to the Site offer potential nesting habitat for common bird species. No habitat will be lost to facilitate the Proposed Works. However, in the unlikely event that any vegetation clearance is required, this should be carried out outwith the bird breeding season (March to August inclusive), unless first checked by a suitably experienced ecologist. If nests are found work must cease immediately.
- There is no potential habitat for any other protected species (e.g. red squirrel, pine marten, smooth newt, common lizard, invertebrates) within the Site. No further surveys were recommended

NIEA NED consulted on the PEA and CEMP and responded

Natural Heritage Interests From orthophotography and the PEA, the site consists of a hardstanding public laneway, travelling approximately west to east, with a watercourse along the south of the site and a species rich hedgerow with trees forming the southern boundary set on the southern bank. The watercourse is culverted under the laneway at the eastern boundary of the site. A further species rich hedgerow borders the northern side of the laneway, which is adjacent to the site's northern boundary. These linear hedgerow features are well connected to the wider environment. NED are content that all hedgerow vegetation is to be retained. Hedgerows are NI Priority Habitats and are suitable for hosting Priority/protected species. NED are content that a mature ash tree in the southern hedgerow was assessed as 'Low' for Bat Roost Potential and that no further surveys are required due to the tree being retained. The surveying ecologist as stated that the hedgerows and trees within the



site area are suitable foraging and nesting habitats for terrestrial birds. From the CEMP, NED are content that there will be no significant adverse impacts to aquatic Priority Habitats within the site and downstream, provided recommended conditions are met. From the PEA, NED are content that the ecologist has considered the potential significance of impacts on protected/priority species and habitats as a result of the proposal. NED accept that no other Priority/Protected species were observed within the site and within a 25m buffer zone although the site is still considered suitable for hosting opportunistic commuting and foraging species e.g. bats, badgers, otters etc. Should any Priority/Protected species be identified during construction works, all works must cease, and advice sought from the NIEA Wildlife Team. NED are content that no invasive plant species, as listed on schedule 9 of the Wildlife Order 1985, were identified. Subject to the below recommended conditions, NED are content with the application.

NIEA Water Management were consulted and responded

Water Management Unit notes that the proposal includes cleaning of the riverbed and bank stabilisation of the affected area. Water Management Unit's comments are on the basis that no culverting or actual in-river construction works will be carried out as part of the proposal. Water Management Unit has reviewed the CEMP submitted by the agent/applicant for those areas that fall within our remit and are generally content with the principles displayed. Water Management Unit would advise that silt fencing should be used along the entire length of the adjacent watercourse/land drain for the duration of any works. NIEA discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges of potentially contaminated water to the aquatic environment and may be required for site drainage during the construction phase of the development.

**Neighbour Notification Checked**

Yes

### **Summary of Recommendation**

Approval subject to clearance by SES.

### **Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans 001,003 and 004.

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

3. A suitable buffer shall be maintained between the location of refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. (if applicable) and any adjacent watercourses.

Reason: To protect designated sites and site selection features, and the aquatic environment.

4. Construction of bank stabilisation must take place only in periods of low flow. - A suitable barrier, such as a coffer dam, shall be erected around the construction site prior to commencement of the

bank stabilisation works. The barrier shall be adequate to prevent egress of water from the construction site and shall be removed upon completion of all construction activities. - The area within the barrier shall be de-watered prior to use of any wet concrete and all water contained thereafter shall be collected for off-site treatment. At no point shall water be discharged from the site into the designated site during the construction phase.

Reason: To protect designated sites and site selection features, and the aquatic environment.

## Informatives

### BATS

The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence: a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat; b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection; c) Deliberately to disturb such an animal in such a way as to be likely to - i. affect the local distribution or abundance of the species to which it belongs; ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or iii. Impair its ability to hibernate or migrate; d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or e) To damage or destroy a breeding site or resting place of such an animal. If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

OTTER The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence: a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes the otter (*Lutra lutra*); b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection; c) Deliberately to disturb such an animal in such a way as to be likely to - i. affect the local distribution or abundance of the species to which it belongs; ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or iii. Impair its ability to hibernate or migrate; d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or e) To damage or destroy a breeding site or resting place of such an animal. Natural Heritage & Conservation Areas If there is evidence of otter activity on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

BADGER The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly: • kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*); • damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection; • damage or destroy anything which conceals or protects any such structure; • disturb a badger while it is occupying a structure or place which it uses for shelter or protection. Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

**BIRDS** The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly: • kill, injure or take any wild bird; or • take, damage or destroy the nest of any wild bird while that nest is in use or being built; or • at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or • obstruct or prevent any wild bird from using its nest; or • take or destroy an egg of any wild bird; or • disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or • Disturb dependent young of such a bird. Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31<sup>st</sup> August.

Due to the close proximity of the site to a watercourse/land drain, care will need to be taken to ensure that polluting discharges do not occur during the construction phase of this development. The applicant should refer and adhere to the precepts contained in DAERA Standing Advice on Pollution Prevention Guidelines. It is not clear from the information supplied whether or not there is an intention to culvert any section of watercourse/land drain as part of this proposal. The construction of new culverts should be avoided unless no practicable alternative exists. Water Management Unit recommends that the applicant adheres to the advice detailed in DAERA Standing Advice on Culverting (where relevant).

Care should be taken to ensure that only clean surface water is discharged to the nearby water environment. Water Management Unit recommends the applicant refers and (where applicable) adheres to the precepts contained in DAERA Standing Advice on Sustainable Drainage Systems in order to minimise the polluting effects of storm water on the water environment.

NIEA discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges of potentially contaminated water to the aquatic environment and may be required for site drainage during the construction phase of the development. Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications. The applicant should refer to DAERA Standing Advice on Discharges to the Water Environment.

All DAERA Standing Advice is available at: <https://www.daerani.gov.uk/publications/standing-advice-development-may-have-effect-water-environmentincluding-groundwater-and-fisheries>

The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata.

Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.

The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter

**Appointed Officer: A.McAlarney      Date:13 June 2023**



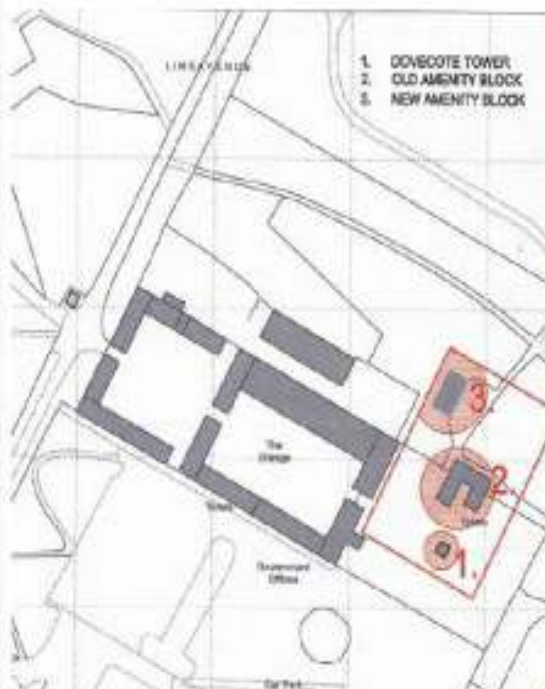


## Committee Application

| Development Management Officer Report  |  |
|--|--|
| <b>Case Officer:</b> Catherine Moane   |  |
| <b>Application ID:</b> LA07/2022/1613/LBC  | <b>Target Date:</b>  |
| <b>Proposal:</b><br>Refurbishment of old and new amenity blocks plus Dovecote tower to include external decorations to walls replacement of timber facias and soffits with new hardwood sections, painting of steel rainwater goods, replacement of windows within the Old Amenity Block, decoration to all external doors. Replacement of existing door in Dovecote Tower, forming of new fan light, replacement of non hydraulic lime plaster to tower base and sanitary refit out to male & female WC's | <b>Location:</b><br>Castlewellan Forest Park<br>Castlewellan                                 |
| <b>Applicant Name and Address:</b><br>Newry Mourne & Down District Council<br>Monaghan Row<br>Newry<br>BT35 8D   | <b>Agent Name and Address:</b><br>Simon Adeyinka<br>51 Clarendon Street<br>Derry<br>BT48 7ER |
| <b>Date of last Neighbour Notification:</b>  | N/A  |
| <b>Date of Press Advertisement:</b>  | 17 October 2022  |
| <b>ES Requested:</b> No  |  |
| <b>Consultations:</b> see HED below  |  |
| <b>Representations:</b> None   |  |
| Letters of Support   |  |
| Letters of Objection   |  |
| Petitions  |  |
| Signatures   |  |
| Number of Petitions of Objection and signatures  |  |
| <b>Summary of Issues:</b>  |  |

## Site Visit Report

**Site Location Plan:** Castlewellan Forest Park, Castlewellan



**Date of Site Visit:** 25<sup>th</sup> November 2022

### Characteristics of the Site and Area

The site accommodates three separate buildings on the site set within Castlewellan Forest Park, including the Dovecote Tower, old amenity block and new amenity block. The roof finish to the Dovecote Tower and the Old Amenity Block are of natural slate while the new amenity block is finished in concrete roof tile. The buildings are constructed of a mix of masonry that includes random rubble stone and plastered brick timber facias/soffits and metal rainwater goods.

### Description of Proposal

Refurbishment of old and new amenity blocks plus Dovecote tower to include external decorations to walls replacement of timber facias and soffits with new hardwood sections, painting of steel rainwater goods, replacement of windows within the Old Amenity Block, decoration to all external doors. Replacement of existing door in Dovecote Tower, forming of new fan light, replacement of non hydraulic lime plaster to tower base and sanitary refit out to male & female WC's

### Planning Assessment of Policy and Other Material Considerations

The application site is located outside the settlements of Castlewellan as designated in the Ards and Down Area Plan 2015. The proposed scheme is within Castlewellan Castle, an 18th century demesne which is designated as a historic park and Local

Landscape Policy Area (LLPA 1 – Map No.3/008b) within the Ards and Down Area Plan 2015. The following plans and policies are relevant to the proposal.

Ards and Down Area Plan (2015) – The site lies beyond the settlement limit and is designated as Local Landscape Policy Area, located within the AONB, and Historic Park and Demesne as defined within the Ards and Down Area Plan 2015.

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

PPS 6: Planning Archaeology and the Built Heritage: sets out the planning policies for the protection and conservation of archaeological remains and features of the built heritage.

#### **Consultations:**

Historic Environment Division (HED) – No objections subject to conditions

#### **Objections & Representations**

The application was advertised in the Mourne observer 26.10.2022, no objections or representations have been received in relation to the proposal.

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

##### **Proposal**

The above application impacts upon HB18/12/006 The Grange, (Grade B1) which is of special architectural and historic interest and is protected by Section 80 of the Planning Act (NI) 2011. It also impacts on the wider setting of other listed buildings in the Forest Park, including The Castle HB18/12/001 (Grade B+), HB18/12/007 & 08, The Gate Lodge & Screen (both Grade B2) and The Walled Garden HB18/12/027 (Grade B+) – these share group value so that as a collective, their significance is greater than the sum of its parts. In addition, they are all located within Castlewellan Demesne, which is on NI's Register of Parks, Gardens and Demesnes of Special Historic Interest and contributes quality and character to their combined setting.

The proposal involves works to the Old amenity block by way of changing the existing steel and replacement of the lime/mortar plaster base of the Dovecote Tower, replacement of timber fascia/soffits, redecoration of walls using breathable masonry paint, redecoration of timber doors/frames and redecoration of steel rainwater goods. Interiors of the old and new amenity blocks, laundry room, sluice room are to be refurbished to

include new shower and WC cubicles, new basins, new floor tiling, new lighting and new wall cladding.

## **PPS 6 – Planning Archaeology and the Built Environment**

### **HED Historic Buildings**

The proposal has been assessed under the following policies:

- Strategic Planning Policy Statement for Northern Ireland: Planning for Sustainable Development, specifically paragraphs 6.12 & 6.13; and
- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage, specifically:
  - Policy BH 8 (Extension or Alteration of a Listed Building); and
  - Policy BH 11 (Development affecting the Setting of a Listed Building)

### *Policy BH 8 Extension or Alteration of a Listed Building*

The Department will normally only grant consent to proposals for the extension or alteration of a listed building where all the following criteria are met:

- (a) the essential character of the building and its setting are retained and its features of special interest remain intact and unimpaired;
- (b) the works proposed make use of traditional and/or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
- (c) the architectural details (e.g. doors, gutters, windows) match or are in keeping with the building.

### **Dovecote**

This building is included in the extent of listing for The Grange (HB18/12/006). The proposals as illustrated and specified on Drawing No. P1(0)016 Dovecote Tower Plan & Elevations are considered appropriate, subject to conditions.

### **Old Amenity Block**

This building is not included in the extent of listing although it appears to retain historic fabric, evidenced by thicker walls to the northernmost long block, which matches the footprint of a building shown on the 1st and 2nd Edition OS Maps. For this reason, it is likely to be protected as a curtilage structure, under the listing of the Grange. Following amended drawings HED Historic Buildings has no objections subject to conditions.

### **New Amenity Block**

This building is unlisted and is considered to be a late C20th addition to the Demesne. The proposal is considered no greater demonstrable harm on the setting of the listed buildings.



## Conclusion

The application is in accordance with the SPPS which states that the planning system has a key role in the stewardship of our archaeological and built heritage with the aim being to manage change in a positive way whilst facilitating development that will contribute to the on-going preservation, conservation and enhancement of these assets. The proposed works taking place will help improve the upkeep of the buildings identified.

Therefore, taking into account planning policy, positive consultee response from HED who have no objections, the works are deemed to be acceptable and consent is recommended.

**Recommendation:** Consent

**Neighbour Notification Checked**

N/A

## Summary of Recommendation – Consent Granted

### Conditions:

1. The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.  
Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011.
2. The development hereby permitted shall take place in strict accordance with the following approved plans: **PI(0)01, PI(0)03A, PI(0)07B, PI(0)08B, PI(0)09C, PI(0)10, PI(0)13, PI(0)14, PI(0)15C, PI(0)16, PI(0)17, PI(0)18.**  
Reason: To define the consent and for the avoidance of doubt.
3. All new external and internal works and finishes and works of making good to the retained fabric, shall match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Council, in conjunction with HED. Detailed finishes schedules and samples are required for approval on any changes proposed.  
Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.
4. No powered tools (for example, air-driven tools; electric angle grinders and so forth) shall be used to cut back masonry joints prior to repointing; where these are

considered unavoidable, methods must be agreed and approved in writing by the council in conjunction with HED prior to commencement.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

5. Final coat of paint to all external joinery shall be brush-applied on site (i.e. not factory finished).

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

6. Prior to removal of existing fanlight at Dovecote, a sample of the proposed replacement glass shall be submitted and approved in writing by the Council in conjunction with HED.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

7. Vents in slate roof shall be natural slate, not dark grey uPVC replicas.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

#### Informatives

1. Guidance on making changes to Listed Buildings: Making a better application for listed building consent - <https://www.communitiesni.gov.uk/publications/guidance-making-changes-listed-buildings-making-betterapplication-listed-building-consent>

2. Consultation Guide <https://www.communitiesni.gov.uk/sites/default/files/publications/communities/consulting-hed-developmentmanagement-applications-consultation-guide.pdf>

3. Technical Notes - <https://www.communities-ni.gov.uk/articles/repair-andmaintenance-guidance>

4. British Standard - BS 7913:2013 Guide to the conservation of historic buildings

5. HED Setting Guidance, Feb 2018 <https://www.communitiesni.gov.uk/publications/guidance-setting-and-historic-environment>

6. Discussions with Building Control should be initiated at an early stage; changes may be required in relation to fire, sound, thermal insulation, etc that would affect the historic fabric of the building. If such requirements are not considered in this application, further revisions may be required that may not comply with PPS6.

7. It is a common misconception that only the exterior, the front or only a portion of a building is listed. The building is listed in its entirety, internally and externally (as are all listed buildings, irrespective of grade) and any alterations will require listed building consent, an application made through your local council. This includes any change to materials, details and arrangement (internal / external or setting). All listed buildings are afforded the same protection, irrespective of grade.

**Case Officer Signature: C Moane**

**Date: 21st April 2023**

**Appointed Officer: A.McAlarney**

**Date: 02 May 2023**

## Development Management Consideration

Details of Discussion:

Letter(s) of objection/support considered: Yes/No

Group decision:

D.M. Group Signatures

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date

\_\_\_\_\_



**Comhairle Ceantair an Iúir Mhúrn agus an Dúin****Newry, Mourne and Down District Council****Planning Committee****Operating Protocol****194****INTRODUCTION**

1. The following protocol has been developed for use by the Planning Committee ("the Committee"). It should be read alongside relevant provisions of the Council's Standing Orders and the Code of Conduct for Councillors and is not intended to replace either document. The key aims of the protocol are to ensure that the Committee makes decisions in a sound, lawful and transparent way and in a timely and efficient manner.

**REMIT OF THE COMMITTEE**

2. The primary roles of the Committee will include:
  - (a) Consideration of applications for planning permission and consents in accordance with the Council's Scheme of Delegation.
  - (b) Exercising the Council's powers and duties in relation to planning policies and plan strategies.
  - (c) Responding to consultations in relation to regionally significant or major applications to be determined by the Department of Environment or relevant Department.
  - (d) Responding to consultations issued by the Department for Infrastructure or relevant Department, or any other Department, in relation to planning matters.

### **FREQUENCY & TIME OF MEETINGS**

3. It is recommended the Committee shall meet every fourth week, though there should be flexibility for additional meetings if required.
4. Dates and times will be advertised at least 5 days in advance on the Council website and at the Council's main offices at Downpatrick and Newry.

### **SCHEME OF DELEGATION**

5. As required by Section 31 of the Planning Act (NI) 2011 the Council will operate a scheme of delegation for planning, outlining delegation both to the Committee and Officers (this can be found on the Council's website and at the Council's main offices at Downpatrick and Newry). The overall objective is to ensure that arrangements for decision-making on applications for local developments are effective whilst ensuring that proposals that raise strong local views or issues for the district can be dealt with by elected members. Delegating determination of some planning applications to Officers is also seen as a critical factor affecting the overall performance of the development management process as it helps ensure that decisions are taken at the most appropriate level, procedures are clear and transparent, costs are minimised and members have more time to concentrate on complex applications.
6. The following applications cannot be delegated and therefore must be presented to the Planning Committee for determination:
  - Applications which fall within the Major category of development;
  - An application for planning permission where the application is made by the Council or an elected member of the Council;
  - The application relates to land in which the Council has an interest or estate.

7. The Scheme of Delegation delegates all local development applications to Officers for determination, whether for approval or refusal, with the following exceptions:
  - Applications which are a significant departure from the Local Development Plan and which are recommended for approval;
  - Applications attracting six or more material planning objections from different addresses where the officer's recommendation is for approval;
  - Applications attracting material planning objection from a statutory consultee, where the officer's recommendation is for approval;
  - An application which the Chief Planning Officer considers should be brought before and decided by the Planning Committee;
  - Applications which are submitted by members of staff directly involved in the consideration of planning applications and officers of the Council at the level of Head of Service or above.
8. Enforcement activities are also delegated to The Chief Planning Officer. The Committee will receive regular reports on enforcement matters.

#### **REFERRAL OF DELEGATED APPLICATIONS TO THE PLANNING COMMITTEE**

9. The Scheme of Delegation provides that where a member of Council has requested that an application which would ordinarily be delegated is referred to Committee, the Chief Planning Officer, in consultation with the Chair or Deputy Chair and two other members of the Committee (which in total will reflect the three main political groupings on the Committee) will determine whether to do so. In all cases a valid and credible planning reason must be given for such a referral. That referral should set out why it is necessary for Committee to determine the application rather than officers.
10. A weekly list of recommended decisions will issue via email to all members of Council on the first working day following the week in which the recommendations were formulated. The weekly list will also be published on the Council website.

11. A Member has 5 working days from the date of the email notification sent under paragraph 10 above, in which to submit a request. That request must be submitted via email.
12. The Chief Planning Officer will liaise with a Call in Panel constituted of Committee members to determine whether the reasons which have been set out in the request constitute valid and credible planning reasons so as to merit referral to Committee. The Call in Panel will comprise the Chairperson or Deputy Chairperson of the Committee together with two other members of the Committee. The overall makeup of the Panel will reflect the three main political groupings represented on the Committee. The membership of the Call in Panel will be rotated every six months. Where a Panel member is unable to attend a meeting, a substitute member shall attend. At all times the makeup of the group shall comprise membership from the three main political groupings represented on the Committee.
13. The Call in Panel shall meet every fourth week. There shall be flexibility for additional meetings if required.
14. All members will be advised by email notification as to which applications have been called in to Committee.
15. The above provisions will not apply to applications where there are associated live enforcement issues or where all necessary information pertaining to the application, having been reasonably requested and, without reasonable justification, has not been provided within the timescale stipulated in the written request.

#### **FORMAT OF MEETINGS**

16. Committee Meetings (dates, times and papers) will be published on the Council's website at least 5 days in advance.
17. Case Officer Reports will also be available on the Northern Ireland Planning Portal.
18. Committee papers will typically include the following:
  - a) Minutes of the previous meeting for approval;



For decision/discussion

- b) Details of non-delegated applications (including those brought back following deferral) for consideration by the Committee;
- c) Details of applications of regional significance with an impact upon the Council area in respect of which the Council is a statutory consultee or where it may wish to make representations;
- d) Correspondence received from statutory consultees

For noting

- e) Details of proposed pre-determination hearings;
- f) Details of delegated applications for noting only by the Committee;
- g) Details of appeals (notified and concluded).

19. Members, staff directly involved in the consideration of planning applications and Officers of the Council at the level of Head of Service or above must pass to the Planning Case Officer any representation(s) received in respect of a planning application for inclusion in the planning file.
20. A quorum, as outlined in the Council's Standing Orders, is required for the Committee to convene; the quorum being half (six) of the members of the Committee.
21. Members will be required to declare an interest in any item on the agenda at the beginning of the meeting and must then leave the table when the matter in which they have declared an interest is being discussed. Once a decision had been made in respect of that item, the Member will then be invited to return to the table before consideration of the next item commences.  
The Democratic Services Officer will record when members enter and leave the room during the course of the Meeting.
22. The Committee will discuss each application that has been presented, for a maximum of 20 minutes (with extension at the Chairperson's discretion), before taking a vote on one of the following options:

- a) Approve the application with conditions as recommended;
  - b) Approve the application with amendments to the recommended conditions;
  - c) Approve the application contrary to Officer recommendations;
  - d) Refuse the application for the reasons recommended;
  - e) Refuse the application with additional, fewer or amended reasons;
  - f) Refuse the application contrary to Officer recommendations;
  - g) Defer the application with a direction for additional information or clarification; or for a Members' site visit.
- 23.** The Committee can defer consideration of an application to a subsequent meeting for further information, further negotiations or a site visit. Deferrals have an adverse effect on processing times, and the applicant can lodge an appeal after a period of time if the Council has not made a decision. The Committee will therefore generally only defer an application once. The Member proposing deferral must provide clear relevant planning related reasons as to why a deferral is necessary.
- If a Committee Member has not been present for the initial discussion/debate in relation to a deferred application, or did not attend a site visit or pre-determination hearing, the member will be strongly advised against continuing to participate in the discussion on, or vote on, that application when it is subsequently presented to Committee, given the potential for a legal challenge to the decision.
- 24.** The Chairperson has a casting vote.
- 25.** Members should be present in Committee for the duration of the entire item under consideration, including the Officer's introduction and update. If this is not the case, legal advice will be given advising the member on withdrawing from the debate or voting on that item given the potential for a legal challenge to the decision on this basis.

26. Following issue of the agenda Committee Members may request the attendance of statutory consultees and this request must be submitted through the Chief Planning Officer at least one week in advance of the Committee Meeting.

### **PUBLIC REPRESENTATIONS**

27. Meetings of the Committee will be open to the public, however, seating within the Committee Chamber will be limited according to the venue capacity and associated fire and safety regulations.
28. Seating for the applicant and/or their agent and objectors will be reserved but only for the time during which the relevant application is being considered. Otherwise seating will be on first come first served basis.
29. If a member of the public wishes to speak at Committee they must contact Democratic Services by telephone or by email ([democratic.services@nmandd.org](mailto:democratic.services@nmandd.org)) at least 5 working days before the date of the meeting at which the application will be considered. Only those who have made written submissions in respect of a planning application and registered a request to speak in respect of the application shall be permitted to make oral representations before the Committee.
30. The purpose of written and oral representations to Committee is to highlight the key points already made by or on behalf of the person throughout the processing of an application. If a person wishes to rely upon information it is important that is provided to officers as early as possible in the process. A deputation shall not be permitted to raise any new matters or produce information which was not before officers at the time the recommendation was made unless they can demonstrate to the satisfaction of the Committee that the matter could not have been raised before that time, or that it's not being raised before that time was a consequence of exceptional circumstances.

31. Each deputation or individual requesting to appear before the Committee shall submit a prepared statement extending to no more than 2 A4 pages (at least Font Size: 11 if the submission is typed) at least 5 working days in advance of the date of the meeting at which the application will be considered. Each deputation or individual requesting to appear before the Committee who wishes to make use of a visual presentation (Powerpoint presentation) shall submit the presentation at least 5 working days in advance of the date of the meeting at which the application will be considered.
32. Deputations will not be permitted to circulate papers to members at the Committee Meeting.
33. All Committee papers will be available online. However, access to some documentation may be restricted by virtue of the Council's publication policy. Information which is determined to be exempt by virtue of Schedule 6 of the Local Government (Northern Ireland) Act 2014 may be published where the Council considers that the public interest in disclosing same outweighs the public interest in maintaining the exemption.
34. Documentation should not be provided directly to a Council Member. However, if documentation is provided directly to any member of the Council in relation to a particular application it must be copied to Democratic Services Section and to the Chief Planning Officer.
35. Deputations shall be heard in the following order:
  - a) Objectors and/or their representatives;
  - b) Applicant and/or their representatives and/or those supporting the application
36. The Council will not notify applicants or those who have made representations in respect of a particular planning application that a request to address the Committee has been received. Applicants and those who have made



representations in respect of a particular application that appears on the Committee agenda may contact Democratic Services in advance of the relevant meeting to ascertain whether there have been any such applications.

37. Only one deputation on behalf of those objecting to the application will be permitted to address the Committee. Only one deputation on behalf of the applicant and/or those supporting the application will be permitted to address the Committee. Additionally Elected Members from the DEA specific to the planning application may make the representations in accordance with this Protocol.
38. Deputations, unless otherwise agreed in advance by the Committee, shall consist of no more than 3 persons. Where there are 3 or more persons or groups wishing to address the Committee they will be required to arrange a single deputation to express their representations.
39. If more than 3 persons have registered a request to speak in support of or in objection to an application, the Council will notify, in so far as reasonably practicable, those persons that they may not be guaranteed an opportunity to address the Committee. They will be invited to attend Council offices an hour before the Committee is due to start so that they can agree a deputation of speakers. If agreement cannot be reached the places on the deputation shall be allocated by planning officers so as to ensure that the deputation is representative of the range of issues raised by those who have made representations.
40. The applicants or their representatives, right to address committee shall be prioritised over other persons/groups wishing to speak in support of an application.
41. Deputations shall be confined to the making of a 5 minute address either by each member of the deputation or, should they so wish, by their nominated spokesperson or legal advisor.

42. Each deputation shall be permitted a maximum of 5 minutes to address the Committee. Where more than one person wishes to speak, the 5 minutes will be shared between the members of the deputation.
43. All members of a deputation must continue to be seated and remain silent whilst other deputations are being made to the Committee.
44. Cross-examination, discussion or any type of debate between persons making representation to Committee shall not be permitted.
45. Once all deputations have been made, by invitation of the Committee Chairperson, the parties shall be permitted an opportunity to rebut any factual inaccuracies which may have arisen from the oral representations of another deputation but it will only be permitted in respect of a factual inaccuracy which they have not had a previous opportunity to comment upon. This will be strictly limited to responding to any such issue and the party will not be permitted to rehearse representations which have already been made.
46. The Committee may, upon advice from officers, exclude any deputation from being present during the whole or part of the time due to the confidential nature of the information being presented; or for such other reasons as may be deemed appropriate having regard to Schedule 6 of the Local Government Act (Northern Ireland) 2014.
47. The Committee may seek clarification from those who have spoken on any issues raised by them but must not enter into a debate.
48. Officers can address any issues raised during the course of representations from any deputation and the Committee may seek clarification from officers.
49. The Chairperson will ensure that those making representation to the Committee adhere to the time limits set out in this protocol. These time limits will have been communicated to those making representations in advance of the meeting.

50. The Chairperson may at any time during the hearing of deputations, if they think it necessary to secure order, suspend the meeting and direct the removal of any individual from the meeting, or order that the meeting be cleared of all deputations.
51. After presentations members can ask questions of the deputations but should refrain from making statements at that time. The Chairperson will require members engaging in debate or making statements to desist, until such time as all relevant information has been received.
52. The Chairperson may bring the questioning of any person appearing before the Committee to a close provided s/he is satisfied that all relevant issues have been addressed. The Chairperson may also prevent duplication of questions being put.
53. If a member of the Committee moves that the question be put to a vote and the Chairperson is of the opinion that the application before the Committee has been sufficiently discussed, s/he shall put the motion to the vote.
54. If an application is deferred, when the application is brought back before Committee those deputations who have already addressed the Committee including Members in accordance with paras. 54-57 below, shall not be permitted any further speaking rights. The Chair may however depart from this provision in exceptional circumstances.

### **REPRESENTATIONS BY MEMBERS**

55. Members who wish to address the Committee, must notify Democratic Services 5 working days prior to the Committee meeting. The Member shall have previously requested the application be referred to the Committee in accordance with Paragraph 7 of this Protocol.

56. The Member shall also be subject to the provisions of paragraphs 29-31 of this Protocol in relation to their nature and content of their representations to Committee.
57. Members who wish to address the Committee will be permitted to do so for a maximum of 2 minutes. This 2 minutes shall be shared among all Members wishing to address the Committee, regardless of the number of Members to speak.
58. Those members who sit on the Committee and wish to support or oppose an application are free to do so but cannot take part in the decision-making process. It is important that the public see that they are not acting in their capacity as a Committee member. When that application is being discussed the member must leave their seat and sit with the other parties who are making representations. Once a decision has been made on that application the member can return to their seat as part of the Committee.

#### **DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

59. The power to decide an application lies with the Committee and it is entitled to come to a decision contrary to Officers' recommendations.
60. Any such decision may be subject to legal challenge and Members must therefore ensure that the rationale for the decision is fully explained and based on proper planning considerations.
61. The Chief Planning Officer or other Senior Planning Officer and/or the Council's Legal Advisor will always be given the opportunity to explain the implications of the Committee's decision prior to a vote being taken on any such proposal.
62. The reasons for the decision contrary to the Officer's recommendation must be formally recorded in the minutes and a copy placed on the planning application file/electronic record.



### **DECISIONS CONTRARY TO PLANNING POLICY**

- 63.** In general, planning decisions should be taken in accordance with the relevant Development Plan and any other associated planning policy documents. If a Committee Member proposes, seconds or supports a decision contrary to the local Development Plan they will need to clearly identify and understand the planning reasons for doing so, and clearly demonstrate how these reasons justify departure from the relevant Development Plan. The reasons for any decisions which are made contrary to the relevant Development Plan must be formally recorded in the Minutes and a copy placed on the planning application file/electronic record.

### **PRE- DETERMINATION HEARINGS**

- 64.** The Committee must hold pre-determination hearings for those major developments which have been subject to notification in accordance with Regulation 7 of the Planning (Development Management) Regulations (NI) 2015 (i.e. referred to the Department but returned to the Council for determination) prior to the application being determined.
- 65.** If the case officer recommends approval in the circumstances set out within The Planning (Notification of Applications) Direction 2015, the application will be reported to Committee as a minded to approve report. If Committee is minded to agree with the officer recommendation, the application must be notified to the Department who may decide to 'call in' the application. If the Department do not 'call in' the application, Committee must hold a pre-determination hearing and all those persons who submitted representations to the application should be afforded an opportunity to appear before the Committee, subject to the provisions of this Protocol. No decision is taken at a pre-determination hearing.

66. The Committee may also hold a pre-determination hearing, at its own discretion, where the Committee considers it necessary to do so.
67. A pre-determination hearing will take place after the expiry of the period for making representations on the application but before the Committee meeting which is due to determine the application.
68. After the pre-determination hearing, officers will prepare a report taking into account the representations made and present that to a subsequent Committee which then proceed to determine the application. In exceptional circumstances the Committee may depart from that procedure and hold the pre-determination meeting and substantive decision making meeting on the same date.

#### **LOCAL DEVELOPMENT PLAN**

69. The Local Development Plan will be prepared by the Development Plan Team and considered and agreed by Council's Strategy Policy and Resources Committee in conjunction with the Planning Committee. It will then require approval by resolution of the Council.
70. The Strategy Policy and Resources Committee, in conjunction with the Planning Committee, shall ensure that the Local Development Plan is monitored annually, particularly in terms of the availability of housing and economic development land.
71. The Strategy, Policy and Resources Committee, in conjunction with the Planning Committee, shall review the Local Development Plan every five years.

#### **SITE VISITS**

72. Site visits may be arranged subject to Committee agreement. They should normally only be arranged where the impact of the proposed development is

difficult to visualise from the plans and other available material and the expected benefit outweighs the delay and additional costs that will be incurred.

73. No one, other than Members of the Committee and Officers plus any other statutory consultees, may participate in a site visit.
74. Members will not carry out their own unaccompanied site visits as there may be issues around permission to access the land, they will not have all of the relevant information from the relevant Planning Officer and, if a Councillor is seen with an applicant or objector, it might lead to allegations of bias.
75. A nominated officer shall attend the site visit and will record the date of the visit, attendees and any other relevant information. This record will be placed on the planning application file/electronic record.
76. The Chairperson, or Deputy Chairperson in the Chairperson's absence, with the assistance of Council Officers present, will ensure that the site visit is conducted in accordance with this Protocol and the Code of Conduct for Councillors and will ensure that the merits of the application are not discussed.
77. The Planning Officer will remind Members, at the outset of the site visit, of the proposal and the main issues.


#### **CALL-IN OF DECISIONS OF COMMITTEE**

78. In addition to other rights of legal challenge and appeal, the decisions of the Planning Committee are subject to challenge by way of the Call-in process within Council's Standing Orders. Publication of the decisions of Planning Committee will be by way of a register of decisions, which will be circulated to Elected members as soon as practicable following each Planning Committee meeting.

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|  |  |
|--|--|
| <b>Address</b><br>Ball Alley<br>Alley Road<br>Crosmaglen<br>Co.Armagh          | <b>HB Ref No</b> HB16/17/026   |
| <b>Extent of Listing</b><br>Ball court. Alley surface. Boundary gate and fence |  |
| <b>Date of Construction</b><br>1920 - 1939                                     |  |
| <b>Townland</b><br>Moybane   |  |
| <b>Current Building Use</b><br>Recreational Club                               |  |
| <b>Principal Former Use</b><br>Recreational Club                               |  |

|                                    |           |                          |            |                  |            |
|------------------------------------|-----------|--------------------------|------------|------------------|------------|
| <b>Conservation Area</b>           | No        | <b>Survey 1</b>          | Not_Listed | <b>OS Map No</b> | 280/8NW    |
| <b>Industrial Archaeology</b>      | No        | <b>NIEA Evaluation</b>   | B2         | <b>IG Ref</b>    | H9223 1363 |
| <b>Vernacular</b>                  | No        | <b>Date of Listing</b>   |            | <b>IHR No</b>    |            |
| <b>Thatched</b>                    | No        | <b>Date of Delisting</b> |            |                  |            |
| <b>Monument</b>                    | No        |                          |            | <b>SMR No</b>    |            |
| <b>Area of Townscape Character</b> | No        |                          |            |                  |            |
| <b>Local Landscape Policy Area</b> | No        |                          |            | <b>HGI Ref</b>   |            |
| <b>Historic Gardens Inventory</b>  | No        |                          |            |                  |            |
| <b>Vacant</b>                      | No        |                          |            |                  |            |
| <b>Derelict</b>                    | Partially |                          |            |                  |            |

**Owner Category**

### Building Information

#### Exterior Description and Setting

Freestanding, largely reinforced concrete, handball court or "alley" constructed in 1926 and extended in 1942. Three walled with an open aspect to the NE the alley comprises a high, rubblestone rear wall, extended and raised in reinforced concrete with 4 piers at the uppermost level, and raked side walls, also reinforced concrete, buttressed externally by 3 piers. The rubblestone element is likely a remnant from the gable of the recreation hall that was formerly on the site which, in turn, may have utilized stone from the earlier chapel. The alley conforms to the standard large-alley size 60 by 30 feet and while smaller alleys were introduced in Ireland in 1969, measuring 40 by 20 feet, both sizes are still used in the game today.

The ball alley is located on Alley Road, close the junction with the Dundalk Road, on the grounds of the former Moybane Roman Catholic Chapel. The grassed site is delineated from the road verge by a



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concrete two-rail fence and arched metal gateway, a vertical timber boarded fence above a stone wall forms the boundary to the SW and hedgerow the remaining boundaries.

A detached one-room structure is located behind the main hitting wall (SW) - single skin - sand cement render finish - with dual-pitched corrugated metal roof. On the NW elevation, a single square-headed door opening and metal framed casement window. A square window opening on the SE elevation incorporating a metal casement window with top hung and side hung opening lights.

A simple bench is set in front of the hedgerow on the NE boundary.

A plaque mounted on the road facing elevation is inscribed 1926 1992 MOYBANE HANDBALL ALLEY  
Built 1926. Extended 1942 Restored 1992 Opened 28th June 1992 by Father Donal Sweeney

### Interior Overview

Interior layout largely unchanged. Roofless - interior open to the elements.

### Architects

### Historical Information

Moybane (also spelled Mobane and Mowbane) handball alley bears a plaque dating its construction to 1926, which also notes that it was extended in 1942 and restored in 1992. The ball alley retains in its western elevation the remains of an attached recreation hall built between 1907 and 1933 and ruinous by 1945. It is likely that this recreation hall contained fabric from Moybane chapel, built c1810 and in ruins by 1904.

'Moybane RC Chapel' is shown captioned on the first edition OS map of 1835. The exact construction date of the chapel is unknown, however, several statistical surveys of Creggan parish mention the chapel by name in the period 1836 to 1840. Rev Simon Nelson notes that in 1840 all the RC chapels in Creggan parish, including Moybane, were 'capacious buildings' and 'well slated, being built within the last thirty years'. Shaw Mason reports that there were five RC chapels in Creggan parish in 1814, and it appears likely that Moybane was one of these, giving a possible date of construction for the church of c1810. In 1837, the Townland Valuation records the chapel as 67½ feet long by 23½ feet wide and 11 feet in height. The quality mark given is 1B, indicating that the church was slated and 'slightly decayed but in good repair'.

Moybane chapel is believed to have closed for worship after the completion of Crossmaglen RC church (HB16/17/011) in the late 1830s, however, the chapel remained in valuation records for some decades and is noted in Griffith's Valuation of 1864 as the 'old RC chapel', being shown intact on the 2nd edition OS map of 1862. It was not until 1904 that the chapel was recorded as a 'ruin' and its value deleted, no identifiable remains being depicted on the third edition OS map (1907).

Although it is believed locally that the ball alley contains the gable wall of the former chapel, the picture revealed by valuation records is more complex. Valuation books for the 1930s contain a record of a recreation hall overlapping the site of the former church in 1933. This hall, which was constructed after 1907 (3rd edition OS map) and, most likely, before 1926, had the ball alley 'at gable' and was in 'rather poor repair' in 1933, being used as a store for agricultural produce. Dimensions were 36 x 26½ feet, 11 feet high and the building had rubble masonry walls with a corrugated iron roof. Interior details are given as: a wood floor, dado and ceiling, plastered walls, and fixed form seating around the walls. The recreation hall was deleted from valuation records in 1946, and, given its short lifespan, does not appear on any historic map editions. However, the wall that it shared with the ball alley co-incides with the position of the former western gable of the chapel and it appears highly likely that the recreation hall was built using at least the foundations of the former church gable and, no doubt, any upstanding fabric or available fallen stone. This fabric therefore survives in the external western elevation of the ball alley.

The remains of the old chapel may well have been used informally for the sport from the mid-19th century. Although there appears to have been little left of the old chapel by the third edition map of 1907, we can conjecture that, following the construction of the recreation hall, the building of the ball alley in 1926 formalised a long tradition of using this site for handball. The evolution of the ball alley from 1926 to the present is not entirely clear but a plausible scenario that fits the known facts is that the gable wall of the recreation hall was built up to a level height perhaps with wing walls attached, using available

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fabric from the old chapel and rendered on one side to provide a playing surface. Subsequently the court was extended to one side (to conform with the standard court size) and vertically (this is perhaps the 'extension' that took place in 1942) using concrete.

Between 1907 and 1933, a new dance hall (still present) was built of concrete block on the other side of the crossroads, holding dances on Sundays and holidays for up to 300 people – this building also functioned as a cinema before 1933, but 'pictures did not pay and were given up'. Together with the recreation hall, ball alley and a small grocer's shop, Moybane village was a centre for meeting and entertainment during the 1920s, 30s and into the 1940s. However, by 1939 the dance hall and recreation hall were facing competition from a new recreation hall at Cullaville. Nonetheless the ball alley was extended in 1942, indicating its continued use. By 1945 the recreation hall was in ruins (and was struck out of the records in 1946, although the ball alley endured), while the dance hall, which was damaged by RAF occupation during the war, became an agricultural outbuilding in 1955.

The handball court is first shown on the fourth edition OS map of 1956, captioned 'Ball Alley'. Moybane ball alley is shown as approximately 60 x 30 feet, conforming to the standard, Irish court size at this time. Field inspection suggests that the rear and wing walls have been increased in height during the life of the court and that the wing walls were also extended in length after 1982 (depicted as shorter on 1982 large-scale map).

A new recreation hall (still present, although now truncated in length) was constructed to the rear of the court between 1956 (4th edition OS map) and 1982 (Large-scale OS map). According to the information plaque on the ball alley, the court was restored in 1992.

The game of handball has a long history in Ireland, dating at least to the early 18th century, and, many believe, to the medieval period. Although handball can be played informally against any available wall, and a one-wall game does exist and has become increasingly popular in modern times, a court or alley having at least three sides has been used for at least 250 years. The first evidence for purpose-built ball alleys or 'ball yards' dates from the mid-18th century when several are recorded in Dublin, and there was a surge in their construction in the first half of the 19th century including the building of a ball alley in Armagh. The popularity of handball endured through the social dislocation of the famine, and it was 'a favourite pastime' in Ulster in the 1870s.

While most Gaelic sports were brought under the control of the GAA in the late 19th century, handball activity remained largely unregulated for some decades, other than the standardisation of court size in 1885. Large sums of money were typically wagered on the outcome of matches, with cash prizes offered to the winning individuals. However, an Irish amateur handball union was established in 1912 following highly publicised world title matches between Irish American and Irish champions in the 1890s and 1900s and the game began to be formalised. The first championships sponsored by the GAA took place in 1923, followed by the inauguration of the Irish Handball Association in 1924. All-Ireland championships, based ultimately on competition between counties rather than individuals, were then an annual event from 1925 onwards. It was at this time that the Moybane handball court was constructed, perhaps with support from the all-Ireland bodies that existed to promote the game and utilising the gable of the former chapel/recreation hall that may have been informally used for the sport.

Handball is played in at least six other countries as well as Ireland, particularly among the diaspora in the US and Canada, where the court size is generally smaller (40x20 feet – the smaller court size has been more common for new courts built since 1969 in Ireland, both court sizes being used in separate championships). The modern competitive game of handball is now generally played in indoor courts, and outdoor handball courts, although many are still in use, are declining in numbers. Armagh had eight handball courts in 1982 but only four outdoor courts are recorded in a recent online survey ([www.irishhandballalley.ie](http://www.irishhandballalley.ie)), a court at St Joseph's High School in Crossmaglen having been recently demolished (2019).

### References:

### Primary Sources:

1. Mason, William Shaw (1814) A Statistical Account or Parochial Survey of Ireland, Volume I

## Second Survey Database District Council Consultation Report

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Dublin: Hibernia Press Office

2. PRONI OS/6/2/30/1 First Edition Six Inch OS map (1835)
3. PRONI VAL/1A/2/30 Townland Valuation, Parish of Creggan
4. Nelson, Rev Simon (1840) History of the Parish of Creggan in counties Armagh and Louth 1611-1840. Belfast: Public Record Office of Northern Ireland
5. PRONI OS/6/2/30/2 Second Edition Six Inch OS map (1862)
6. Griffith's Valuation townland of Moybane ([www.askaboutireland.ie](http://www.askaboutireland.ie)) (1864)
7. PRONI VAL/12/B/12/7A-D (1859-1929) Annual Revision Lists, ED Moybane
8. PRONI OS/6/2/30/3 Third Edition Six Inch OS map (1907)
9. PRONI VAL/3/C/2/14 (1935-1957) First General Revaluation, Rural District of Newry, Vol 3
10. PRONI VAL/3/D/2/6/Y/5 (1933-57) Valuers RV Binder, ED Moybane
11. PRONI OS/6/2/30/4 Fourth Edition Six Inch OS map (1956)
12. Large scale OS maps 1907, 1982 (<https://shop.centremapslive.co.uk/>)

### Secondary Sources:

13. Corry, Eoghan (2006) An illustrated history of the GAA Dublin: Gill & Macmillan
14. Doherty, Ray (1970) Handball Dublin: Irish Handball Association
15. Kelly, James (2014) Sport in Ireland, 1600-1840 Dublin: Four Courts Press
16. McElligott, Tom (1984) The Story of Handball: the game, the players, the history. Dublin: Wolfhound Press
17. Irish Handball Alley blog [www.irishhandballalley.ie](http://www.irishhandballalley.ie)

### Criteria for Listing

NB: In March 2011, revised criteria were published as Annex C of Planning Policy Statement 6. These added extra criteria with the aim of improving clarity in regard to the Department's explanation of historic interest. For records evaluated in advance of this, therefore, not all of these criteria would have been considered. The criteria used prior to 2011 are published on the Department's website under 'listing criteria'.

### Architectural Interest

### Historical Interest

### Evaluation

Handball is an ancient Irish sport, appearing in written records, in the statutes of Galway, in 1527 and growing exceptionally in popularity in the 1800's. This handball alley is an important reminder of the strong position the sport once held in many parts of Ireland and its construction in 1926 coincides with the significant developments in the sport in 1920's when the GAA took steps to promote, formalise and develop the sport, sponsoring the first championships in 1923, establishing a handball council in 1924 and the first all-Ireland Handball congress in 1925.

Interest is added to the building by the changes which reflect the historic development of the site from Roman Catholic church to recreation hall and ball alley and later to enlarged alley. The changes reflect cultural change as well as developments within the game. The building retains visible evidence of this past with the incorporation of the stone gable within the back wall of the alley.

### Replacements and Alterations

Appropriate

### If inappropriate, Why?

Court extended in 1942 and restored in 1992.

### General Comments

Evaluation Meeting - 24th Feb 2023 Present - P Smith / G Allmond / F McCorry / L Jenkinson / B. Laverty / N. Donnelly / N. Woods

### Monitoring Notes – since Date of Survey

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District Council Consultation Report**

**HB16/17/026**

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|                       |            |
|-----------------------|------------|
| <b>Date of Survey</b> | 09/02/2023 |
|-----------------------|------------|

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Coordinates: 292193E m333,800 313605N m372,775

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# **Location Map Ball Alley Alley Rod Crosmaglen Co.Armagh**


**Title:** HB16/17/026  
**Scale:** 1:1250  
**Date Printed:** 25 April 2023  
**Drawn By:** JMcL



## Second Survey Database District Council Consultation Report

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|  |  |
|--|--|
| <b>Address</b><br>Water fountain and walling<br>Adj to 61 Annaghmare Rd<br>Crossmaglen<br>BT35 9BG | <b>HB Ref No</b><br>HB16/18/028  |
| <b>Extent of Listing</b><br>Pump and low stone wall forming<br>partial enclosure to the rear       |  |
| <b>Date of Construction</b><br>1920 - 1939   |  |
| <b>Townland</b><br>Annaghmare  |  |
| <b>Current Building Use</b><br>Fountain  |  |
| <b>Principal Former Use</b><br>Fountain  |  |

|                                    |     |                          |            |                  |            |
|------------------------------------|-----|--------------------------|------------|------------------|------------|
| <b>Conservation Area</b>           | No  | <b>Survey 1</b>          | Not_Listed | <b>OS Map No</b> | 274/11     |
| <b>Industrial Archaeology</b>      | No  | <b>NIEA Evaluation</b>   | B2         | <b>IG Ref</b>    | H9038 1894 |
| <b>Vernacular</b>                  | No  | <b>Date of Listing</b>   |            | <b>IHR No</b>    |            |
| <b>Thatched</b>                    | No  | <b>Date of Delisting</b> |            |                  |            |
| <b>Monument</b>                    | No  |                          |            | <b>SMR No</b>    |            |
| <b>Area of Townscape Character</b> | No  |                          |            |                  |            |
| <b>Local Landscape Policy Area</b> | No  |                          |            | <b>HGI Ref</b>   |            |
| <b>Historic Gardens Inventory</b>  | No  |                          |            |                  |            |
| <b>Vacant</b>                      | Yes |                          |            |                  |            |
| <b>Derelict</b>                    | Yes |                          |            |                  |            |

**Owner Category**

### Building Information

#### Exterior Description and Setting

Freestanding cast-iron water hydrant installed c. 1930, comprising moulded pedestal supporting, fluted shaft stamped with maker's mark, banded neck and spout, surmounted by a fluted cap with acorn finial. It retains its bucket stand and pull handle.

The water fountain is located alongside Annaghmare Road close to the junction with Killybane Road and nearby the former Annaghmare school. It is mounted on a tarmac bay within the verge, sideways on to the road, facing NW, and is part enclosed to the rear by a low, semi-circular, rubblestone-wall topped by a hip-ended saddle coping.

#### Interior Overview

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N/A

### Architects

#### Historical Information

The water fountain in Annaghmare Road dates from c1930 and is first shown on the fourth edition OS map of 1956 (denoted by P for pump). The fountain is not shown on the previous edition of 1906-7.

Although water fountains are commonly referred to as pumps, they do not in fact use a pumping mechanism for their operation but instead depend on pressurised mains water, the pressure enabling the water to rise up to the spout unaided. The fountain at Annaghmare could only have been fitted after the installation of the mains water supply and can therefore most likely be dated to the period after 1920 (Hamond). Most known water fountains in Northern Ireland are in urban or village areas, and the rural fountain at Annaghmare is relatively rare in its location. The fountain was installed on the roadside for public access but may have been positioned to allow the nearby Annaghmare school to take advantage of it. It is also possible that the fountain was installed on the site of an earlier pump (although this is not recorded on historic maps, there is evidence on the first edition OS map (1835) of a former well and 'pipes' fed by Annaghmore Lough in the close vicinity of the location of the fountain).

The water fountain at Annaghmare is of a standard design produced by the Kilmarnock company Glenfield & Kennedy (name embossed on pillar of fountain). The patented 'self-closing' design of the company ensured that once the knob at the side of the fountain was released the flow of water would stop. The knob is connected to an internal counterweighted bevel gear mechanism which turns the water on and off (Hamond). The metal bracket at the base of the fountain enables buckets to be filled free-handed.

Glenfield & Kennedy was almost exclusively the manufacturer for water fountains that were installed in the north of Ireland, some designs featuring a spout in the shape of a lion's head (see for example, pumps in Beragh (HB11/07/033-037) and Sixmilecross (HB11/20/013-016)). The Annaghmare fountain is almost identical to designs featured in the company's 1935 catalogue of water works fittings (the only apparent difference being the positioning of the company name) and is similar to fountains also made by the same company in Larne (HB06/03/032-34), Ballygawley (HB13/09/017), Killylea (HB15/11/088), Strangford (HB18/08/140), Ballygalley (HB06/03/035 – Glenfield Ltd), Newtownhamilton (HB16/18/016 – Kennedy Ltd) and Groomsport (HB23/01/030A-D) which were installed at a broadly similar date.

The manufacturer, Glenfield & Kennedy, was formed from the merger of two Kilmarnock-based companies. The Kennedy Patent Water Meter Co Ltd was formed in 1863 to market Thomas Kennedy's innovative water meter and was located on a site in Kilmarnock that was later shared with the Glenfield Co Ltd who supplied castings and undertook foundry work. The two companies collaborated closely and in 1899 merged to form Glenfield & Kennedy Ltd. The company became an important hydraulic engineering concern in Britain and a major exporter to the rest of the world. Various models of the Glenfield & Kennedy self-closing drinking fountain were supplied in large numbers from at least the 1880s to the 1940s to the colonies (especially India where the company had offices in Bombay and Calcutta), to Europe and to domestic customers in Britain and Ireland.

#### References:

#### Primary Sources:

1. The Sanitary World, 13th September 1884
2. PRONI OS/6/2/27/3 Third Edition Six Inch OS map (1906-7)
3. PRONI OS/6/2/27/4 Fourth Edition Six Inch OS map (1956)
4. Found Objects: Glenfield and Kennedy Ltd, Catalogue of Water Works Fittings (1935) - Found Objects: Glenfield & Kennedy Ltd. - Water Works Fittings Catalogue 1935 (foundobjects.blogspot.com)

#### Secondary Sources:

5. Hamond, Fred (1997) Water Pumps in Northern Ireland: A Preliminary Survey (unpublished)



## Second Survey Database District Council Consultation Report

HB16/18/028

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report commissioned by DoENI)

6. Historic Environment Division (undated) A thematic survey of historic water pumps

### Criteria for Listing

NB: In March 2011, revised criteria were published as Annex C of Planning Policy Statement 6. These added extra criteria with the aim of improving clarity in regard to the Department's explanation of historic interest. For records evaluated in advance of this, therefore, not all of these criteria would have been considered. The criteria used prior to 2011 are published on the Department's website under 'listing criteria'.

#### **Architectural Interest**

A. Style  
B. Proportion  
E. Spatial Organisation

#### **Historical Interest**

R. Age  
S. Authenticity  
Y. Social, Cultural or Economic Importance  
Z. Rarity  
X. Local Interest

### **Evaluation**

An attractive roadside feature of a type which is becoming increasingly rare within the Northern Irish landscape. Likely located to be close to the road junction and Annaghmare school, the hydrant is a fine example of a mass-produced cast-iron item which incorporates simple artistic details.

Although we usually refer simply to 'water pumps' there are two distinct types – pumps and fountains. Pumps raise water from an underground well by a suction action and fountains issue water under pressure from a pressurised water system by turning a knob. This is a good example within a rural context of the later innovation, when fountains were connected to public pressurised water mains. The water supply was controlled by a valve operated by a small rotating knob.

This pump is of particular importance as a reminder of the mechanisms installed for the provision of clean drinking water in the relatively short period when mains water supply was replacing well supply but had not become available to every household

The makers stamp shows this example was manufactured by the Glenfield & Kennedy Ltd., Hydraulic Engineers in Kilmarnock, Scotland, a company that was formed out of merger of two companies in 1899 and specialised in the production of waterworks fittings.

### **Replacements and Alterations**

None

### **If inappropriate, Why?**

### **General Comments**

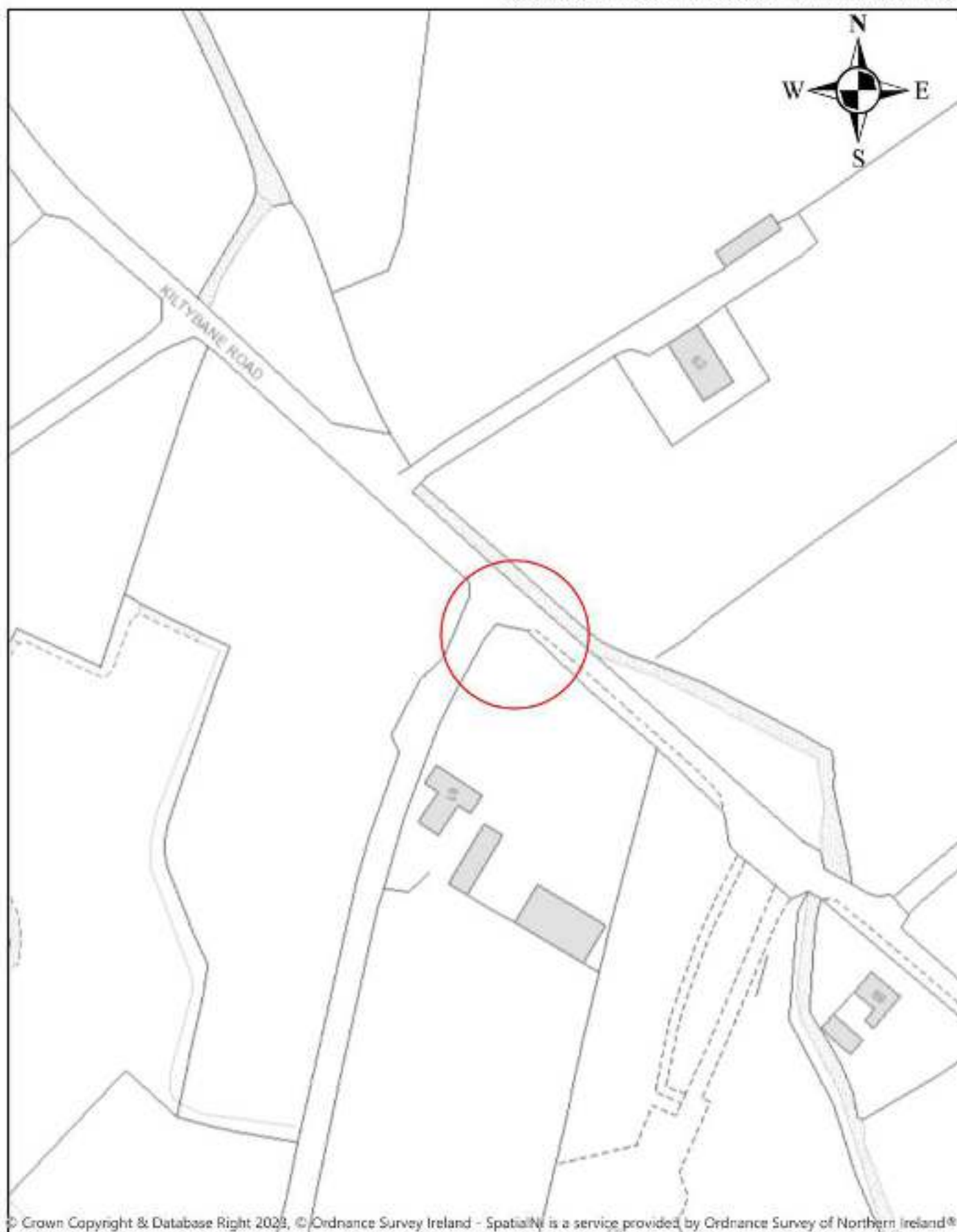
### **Monitoring Notes – since Date of Survey**

**Date of Survey** 10/02/2023



Coordinates: 290380E m333,800 318940N m372,775

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**Location Map Water  
fountain & walling  
Adj to 61 Annaghmare Rd**

**Title:** HB16/18/028

**Scale:** 1:1250

**Date Printed:** 25 April 2023

**Drawn By:** JMcL



## Second Survey Database District Council Consultation Report

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|   |  |
|---|--|
| <b>Address</b><br>House & Outbuildings<br>50 Ballard Road<br>Armagh<br>BT35 9UN | <b>HB Ref No</b> HB16/19/028   |
| <b>Extent of Listing</b><br>House, walling and outbuildings                     |  |
| <b>Date of Construction</b><br>1820 - 1839                                      |  |
| <b>Townland</b><br>Ballard  |  |
| <b>Current Building Use</b><br>House  |  |
| <b>Principal Former Use</b><br>House  |  |

|                                    |     |                          |            |                  |            |
|------------------------------------|-----|--------------------------|------------|------------------|------------|
| <b>Conservation Area</b>           | No  | <b>Survey 1</b>          | Not_Listed | <b>OS Map No</b> | 265/16SW   |
| <b>Industrial Archaeology</b>      | No  | <b>NIEA Evaluation</b>   | B2         | <b>IG Ref</b>    | H0194 2297 |
| <b>Vernacular</b>                  | Yes | <b>Date of Listing</b>   |            | <b>IHR No</b>    |            |
| <b>Thatched</b>                    | No  | <b>Date of Delisting</b> |            | <b>SMR No</b>    |            |
| <b>Monument</b>                    | No  |                          |            | <b>HGI Ref</b>   |            |
| <b>Area of Townscape Character</b> | No  |                          |            |                  |            |
| <b>Local Landscape Policy Area</b> |     |                          |            |                  |            |
| <b>Historic Gardens Inventory</b>  | No  |                          |            |                  |            |
| <b>Vacant</b>                      | Yes |                          |            |                  |            |
| <b>Derelict</b>                    | No  |                          |            |                  |            |

**Owner Category**

### Building Information

#### Exterior Description and Setting

Detached four-bay single storey direct entry vernacular house, pre-dating 1835 1st ed OS map; extended after c1850. The house is flanked by gable-fronted detached single storey pitched and barrel vaulted roofed out-buildings to east and west – initially added to the west circa 1871 with further additions added between 1907 and 1957. Both linked by rubble stone boundary wall with gated access to defined enclosed forecourt.

Principal dwelling has pitched natural slate roof with stone ridge tiles, cement raised verges to east and west gables, rubble stone gabled chimneys and centrally located remains of brick chimney. No rainwater goods. Limewashed render over rubblestone walling.

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Principal elevation to north is four-bay with 3no square-headed window openings, stone sills with two over two sliding sash timber-framed windows. Projecting windbreak porch having natural slate roof with vertical timber sheeted door.

Rear, south elevation is partially retaining and has a single, centrally located two over two top hung metal framed window.

East elevation is blank and partially retained new concrete access to rear of site.

West elevation is not visible.

Single storey detached outbuilding to west with pitched natural slate roof, no rainwater goods. Front elevation faces east and is single bay; exposed rubble stone walling with centrally positioned three quarter length timber sheeted hinged door. Attached to right, small, barrel vaulted outbuilding with corrugated sheeting on roof and rubble stone gable wall forming boundary wall with Ballard Road.

Detached two bay single-storey barrel vaulted outbuilding to east, the northern gable forms boundary wall with Ballard Road. Corrugated sheeting to roof, no rainwater goods, with concrete blockwork to eaves course, exposed rubble stone walls. 2no. Single, metal sheeted doors to front, (west) elevation. East elevation is exposed rubble wall and is retaining concrete access road to farm sheds beyond.

### Setting:

The complex is located immediately to the south of Ballard Road set within steeply rising ground. Low level rubblestone walls, flanked with barrel vaulted gables of outbuildings with pillared gate access define the forecourt enclosure.

|          |                               |
|----------|-------------------------------|
| Roofing: | Natural slate, corrugated tin |
| Walling: | Random rubblestone, render    |
| Windows: | Timber and metal frame        |
| RWG :    | none                          |

### Interior Overview

No access gained to interior. Interior not visited.

### Architects

### Historical Information

The dwelling house at 50 Ballard Road largely predates the first edition OS map of 1835, but map evidence suggests it was extended by a bay c1885. A range of outbuildings was added to the west of the dwelling house c1871 and further outbuildings between 1907 and 1957.

The dwelling house is shown on the first and second edition OS maps of 1835 and 1860, the map outline on these editions being slightly shorter in length than the building is today. Due to its simple, vernacular character, the dwelling house did not reach the valuation threshold for inclusion in the Townland Valuation of the 1830s and therefore first enters valuation records in the Griffith's Valuation of 1862. James Hanlon leased the dwelling, valued at 10s, from local landlord Joseph Nicholson. In 1871, the valuation was raised to £1. This rise is consistent with the addition to the site of two conjoined outbuildings to the right of the dwelling house, which first appear on the 3rd edition OS map (1906-7). This map edition also shows a possible extension in length to the dwelling house itself.

The house remained in the Hanlon family (also spelled O'Hanlon and O'Hanlon in later records) during the early 20th century censuses. In 1901 Irish speaking farmer Patrick O'Hanlon was resident with his five children ranging in age from 9 to 25 and his 7 year old granddaughter. Patrick's two eldest daughters were working as 'factory hands'. The census building return shows that the house was slated at this time and had three windows to the front elevation, as it does today. Outbuildings included a cow house, piggery, fowl house and barn. By 1911 Patrick's eldest son John was married and lived in the house with his father and mother and his own children, his siblings having moved out.



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John O'Hanlon is recorded as resident during the First General Revaluation in 1933 and was now the outright owner of the house and outbuildings. A plan is given for the single storey house which was of rubble masonry with a small porch to the front elevation, as it is today, the right-hand bays (26x15½x10 feet) being slated and the left hand bay (15x15½x10 feet) being roofed in felt at that time. The left-hand bay has since been slated to match the remainder of the roof. The interior accommodation consisted of a kitchen and two bedrooms.

A further lean-to outbuilding is shown running along the rear of the existing right-hand outbuilding by the 4th edition OS map (1956-7). This is shown more clearly on the large-scale map of 1957. The 1950s map edition also shows a linear outbuilding to the left of the dwelling house and these two buildings remain present on the site today.

### References:

### Primary Sources:

1. PRONI OS/6/2/28/1 First Edition Six Inch OS map (1835)
2. PRONI OS/6/2/28/2 Second Edition Six Inch OS map (1862)
3. Griffith's Valuation ([www.askaboutireland.ie](http://www.askaboutireland.ie))
4. PRONI VAL/12/B/15/6A-J (1866-1929) Annual Revision Lists, ED Camlough
5. PRONI VAL/12/B/15/18D (1909-1929) Annual Revision Lists, ED Latbriget
6. PRONI OS/6/2/28/3 Third Edition Six Inch OS map (1906-7)
7. PRONI VAL/3/C/2/14 (1935-1957) First General Revaluation, Rural District of Newry, Vol 3
8. PRONI VAL/3/D/2/6/V/1 (1933-57) Valuers RV Binder, ED Latbriget
9. PRONI OS/6/2/28/4 Fourth Edition Six Inch OS map (1956-7)
10. Large scale maps (<https://shop.centremapslive.co.uk>)
11. Census of Ireland (National Archives: Census of Ireland) (1901, 1911)

### Criteria for Listing

NB: In March 2011, revised criteria were published as Annex C of Planning Policy Statement 6. These added extra criteria with the aim of improving clarity in regard to the Department's explanation of historic interest. For records evaluated in advance of this, therefore, not all of these criteria would have been considered. The criteria used prior to 2011 are published on the Department's website under 'listing criteria'.

### Architectural Interest

- I. Quality and survival of Interior
- A. Style
- B. Proportion
- D. Plan Form
- J. Setting

### Historical Interest

- R. Age
- S. Authenticity
- Z. Rarity
- X. Local Interest

### Evaluation

A roadside vernacular farmyard complex containing a four bay single storey vernacular house of direct-entry type which though no longer in domestic use, retains its historic farmyard setting. The principal dwelling retains a strong vernacular quality with protruding windbreak, irregularly placed openings and pitched slated roof which likely replaced thatch. The surviving outbuildings to either side complement the dwelling and altogether form a pleasing complex further enriched by the local rubble stone wall, gate piers and paired gates delineating the complex. The survival of house, walling and attendant outbuildings provide an insight into the way of life of farmers with small holdings in earlier times and of vernacular house types in rural Armagh.

The principal dwelling house pre-dates 1835 with low level rubblestone walling to roadside, flanked with barrel vaulted gables of outbuildings and gate piers defining the forecourt enclosure. A good example of a relatively untouched vernacular complex on a roadside setting.

### Replacements and Alterations



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District Council Consultation Report**

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**If inappropriate, Why?**

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**General Comments**

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**Monitoring Notes – since Date of Survey**

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**Date of Survey**    02/02/2023

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Coordinates: 301958E m333,800 322945N m372,775

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**Location Map House &  
Outbuildings 50 Ballard Rd  
Armagh BT35 9UN**

**Title:** HB16 19 028

**Scale:** 1:2000

**Date Printed:** 25 April 2023


**Drawn By:** JMcL



## Second Survey Database District Council Consultation Report

HB16/20/009

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|   |  |
|---|--|
| <b>Address</b><br>Lurgana House<br>4 Lurgana Road<br>Lurgana<br>Co.Armagh<br>BT60 2JW | <b>HB Ref No</b> HB16/20/009<br> |
| <b>Extent of Listing</b><br>House, outbuildings, walls and piers                      |  |
| <b>Date of Construction</b><br>1820 - 1839  |  |
| <b>Townland</b><br>LURGANA  |  |
| <b>Current Building Use</b><br>House  |  |
| <b>Principal Former Use</b><br>House  |  |

|                                    |    |                          |            |                  |            |
|------------------------------------|----|--------------------------|------------|------------------|------------|
| <b>Conservation Area</b>           | No | <b>Survey 1</b>          | Not_Listed | <b>OS Map No</b> | 251/10     |
| <b>Industrial Archaeology</b>      | No | <b>NIEA Evaluation</b>   | B1         | <b>IG Ref</b>    | H9797 3109 |
| <b>Vernacular</b>                  | No | <b>Date of Listing</b>   |            | <b>IHR No</b>    |            |
| <b>Thatched</b>                    | No | <b>Date of Delisting</b> |            |                  |            |
| <b>Monument</b>                    | No |                          |            | <b>SMR No</b>    |            |
| <b>Area of Townscape Character</b> | No |                          |            |                  |            |
| <b>Local Landscape Policy Area</b> | No |                          |            | <b>HGI Ref</b>   |            |
| <b>Historic Gardens Inventory</b>  | No |                          |            |                  |            |
| <b>Vacant</b>                      | No |                          |            |                  |            |
| <b>Derelict</b>                    | No |                          |            |                  |            |

**Owner Category**

### Building Information

#### Exterior Description and Setting

A substantial two-storey Italianate-style villa on an asymmetrical plan in its own extensive grounds, built c.1857 onto a two-storey Georgian mill house, which in turn was built onto a single-storey original house of mid to late 18th century.

Located at the N end of Lurgana Road near its junction with Ballymoyer Road, approximately 1 mile SW of Whitecross, which is in turn approximately 8 miles NW of Newry. Lurgana house is surrounded by mature trees and garden with a large, enclosed farmyard on S side with extensive rubblestone outbuildings that largely predate 1834-5.

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The substantial two-storey block was built onto the N side of the two-storey Georgian mill house. The latter was constructed onto the N end of the partly-surviving single-storey original house to the South.

The mid-19th century two-storey block is faced in stucco and has three formal facades, all with wide eaves on large block modillions. Each façade is elaborately stuccoed with channelled rustication and vermiculated quoins on ground floor and plain quoins to the upper floor. Natural slate roof with stuccoed chimney stacks.

### Front elevation (N)

Entrance elevation has three bays. The advanced section on right side has a large tripartite window on ground floor level and paired sliding sash windows in elaborate lugged surrounds with segmental arched heads on first floor. A tall, flat-roofed porch projects from the re-entrant angle with a recessed doorcase with brackets under a squat segmental fanlight. Tall arched window opening in E side of porch.

Left side has similar tripartite windows on the ground floor and paired sliding sash windows in elaborate lugged surrounds on first floor level.

Several stuccoed chimneys.

### Side elevation (E)

Main two-storey block on right side has 4 window openings aligned on both ground and first floor levels, all with 4/4 timber sliding sash windows. Ground floor windows have moulded surrounds, and first floor have elaborate lugged surrounds with segmental arched heads. Stuccoed chimney to centre of ridge.

Two-storey hipped roof block on left side is set back from main block, ruled and lined rendered, plain eaves. Round arched window opening with multipane window at quarter-landing level, and smaller window opening to right at first floor level with a 3/3 sliding sash window. Rear (S) face of block has a window opening at half-landing level. Tall, stuccoed chimney at valley.

Lower Georgian block on left side has a single window opening with multi-pane window at ground floor level. No window openings to first floor level. Two chimneys on ridge, one on left side is brick and one on right is rendered.

Single storey section of original house extant on left side with pitched roof and no openings apparent.

Two-storey range of rendered outbuildings abuts S side of single-storey section.

### Rear Elevation (S)

The rear elevation of the main two-storey block is partially abutted by the lower Georgian wing on left side. The right side is abutted by the stairwell return which has one window opening at half landing level on the S side.

The rear façade of the Georgian block is abutted by the single storey block, which in turn is abutted by the row of taller outbuildings.

### Side elevation (W) (described using Brett's photograph in Buildings of County Armagh, p196)

Two window openings on left side with long 4/4 timber sliding sash windows with moulded surrounds.

Two shorter window openings aligned above with 4/4 timber sliding sash windows with segmental arched heads and elaborate lugged surrounds.

Advanced section to right side with single-storey flat-roofed bay window to ground floor level with 6/6 timber sliding sash window to centre and 2/2 timber sliding sash to splay. Stepped cornice to bay. Paired narrow 4/4 timber sliding sash windows above bay, with segmental arched heads and elaborate lugged surrounds.

Lower two-storey plain Georgian section to right side with sliding sash windows on ground floor level, aligned with same above. Two chimneys on ridge, one on right side is brick and one on left is rendered.

Single storey original section to right side with single window opening with tripartite multi-pane window to centre with segmental arched head.

### Setting:

Entrance to NE side of house from Lurgana Road through a pair of modest square-plan stone gate posts with small pyramidal capping stones and wrought iron gates. Low stone walling to boundary with Lurgana Road.

The outbuildings are of various sizes and appear mostly of rubblestone construction, some rendered facades and infill brick with a mixture of natural slate roofs and corrugated iron roofs.

Entrance to E side of house and Northern ranges of outbuildings from Lurgana Road to S, through



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squared rubblestone piers.

Entrance (now disused) to farmyard and Southern ranges of outbuildings on Lurgana Road to S, broken wrought iron gates.

### Materials – House:

Walls – stucco

Roof – natural slate

Windows – timber, sliding sash

Rainwater goods – unknown

### Materials – outbuildings:

Walls – mixture of rubblestone, render and brick

Roof – natural slate and corrugated iron

Windows – unknown

Rainwater goods – unknown

### Interior Overview

Interior not visited.

### Architects

### Historical Information

Lurgana House is a substantial multi-period house dating from the mid-19th century with outbuildings that largely predate the first edition OS map of 1834-5. The complex has retained part of a pre-existing dwelling house, a single-storey bay of an original house (possibly mid to late 18th century in date) and a later two-storey Georgian wing, as a return to the Victorian dwelling.

The house and outbuildings have undergone several phases of development. There has been a remarkable level of survival of outbuildings and parts of the original dwelling. The site of Lurgana House is shown on Rocque's 1760 map of County Armagh with two structures and a garden depicted in an area captioned 'Luriganought'. Although buildings are shown in a somewhat stylised way on Rocque's map, the bounded garden area and building orientations correspond recognisably to the walled garden and building layout shown on the first edition OS map of 1834-5. Lurgana House is also shown, although it is not named, in Taylor & Skinner's volume of maps of the roads of Ireland (surveyed 1777 and corrected 1783, p.286), as one of two buildings (the other is Ballymoyer House) roughly ¾ mile apart that are captioned 'Sinnot Esqr', on a route from Newtownhamilton to Newry.

The history of Lurgana House is closely entwined with the history of its neighbour, Ballymoyer House (previously known as 'Ballymoyer Lodge'), and the family that built it, the Synnots. Their ancestor was Colonel David Synnot, of Anglo-Norman Catholic descent, who was Governor of Wexford when it was captured by Cromwell in 1649. Synnot was betrayed by a subordinate and is thought to have drowned while attempting to flee. His estates were subsequently confiscated, and his son Tobias or Timothy, who had been rescued from the siege of Wexford as a baby, was sent to the north of Ireland and raised as a Protestant. Timothy's grandson Richard Synnot (d.1727) was a registrar of the Diocese of Armagh and secured a lease of the eight townlands of Ballymoyer or Ballymyre parish, including Lurgana townland, from the archbishop in 1693. Richard's grandson Sir Walter Synnot (1742-1821), a magistrate, High Sheriff of County Armagh (1783, knighted same year) and a 'power magnate' of the area became resident in the parish in 1778, when he built Ballymoyer Lodge (later known as Ballymoyer or Ballymyre House), a short distance to the west of Lurgana House.

It is possible that Lurgana House was first constructed as a house for the Synnots' agent, prior to the Synnots' residence in the parish, i.e. in the mid 18th century. Lurgana House, which was formerly known as 'Ballymoyer Cottage', or simply 'Ballymoyer', is known to have been occupied by the Synnots' land agent from at least the late 18th century.

The first known residents of Lurgana House are the Reid family, notably John Reid, who was Sir Walter

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Synnot's land agent during the 1780s. During the period leading up to the United Irish Rebellion, Sir Walter Synnot was Captain of the Ballymoyer and Tullyvallen Volunteers. When Synnot became Lieutenant Colonel of the Southern Battalion of the Armagh Regiment of Volunteers in the 1780s, his agent, John Reid took charge of the Ballymoyer Volunteers and by 1786 he was being styled 'Captain Reid'. In 1797, at the time of the United Irish rebellion, Captain John Reid of 'Ballymoyer' and his neighbour Sir Walter Synnot, wrote to Dublin Castle alarmed at the disturbed state of the district, some of which letters have survived. Synnot describes walling up the lower windows of his house because it was 'very difficult to defend as our windows to the floor are all level with the lawn, and a volley fired in must kill every person in the room'. It can be assumed that his neighbour at Lurgana also had to take precautions against potential attacks.

In a survey of Ireland by William Shaw Mason in 1816, there is a reference to Lurgana (then known as Ballymoyer cottage) as a 'very neat lodge' leased by William Reid Esq, a local magistrate, who is described as a 'most spirited improver [who] has of late planted a number of trees around his farm, which in a few years cannot fail of adding greatly to the general effect of the landscape'. William Reid was a resident magistrate at the time of the murder of George McFarland near Newtownhamilton during a period of agrarian disturbances. Some of Reid's correspondence on this matter has survived and is discussed in McMahon and McKeown's 1979 paper on Agrarian disturbances around Crossmaglen.

The first edition OS map of 1834-5, which depicts the house, uncaptioned, shows a range of buildings to the north of the site that were later demolished. However, most of the remaining outbuildings have survived to the present day. The Townland Valuation of 1837 records Lurgana as a long single-storey house of dimensions 71x21x12 feet, with a double-storey addition (35.6x20.6x16 feet). The latter dimensions correspond roughly to the two storey Georgian wing that survives on the site today, which appears to have been a later addition to the original single-storey dwelling house. Brett identifies the single-storey block as the one remaining bay of the original dwelling house (the remainder of the single-storey dwelling house appears to have been replaced by a two-storey outbuilding after 1834-5 – see plan, buildings 7 and 11). The quality mark given to the main house indicates that it was slated and built of stone and/or brick, was not new, and was 'slightly decayed', but in good repair, while the quality mark given to the two-storey block suggests it was of a later date. Two further, single-storey, additions to the house are also recorded, which most likely refer to the buildings to the north of the site that were lost in the later rebuild, as well as several, mostly slated, outbuildings including a hen house, stables, barn, harness room, engine house and turf house (the latter was 84.6 feet in length and thatched). William Reid Esq was resident and is also noted to be the proprietor of the nearby corn mill and kiln and three associated thatched dwellings for the miller, kilnman and ploughman. Lurgana House was of a slightly lower valuation than the neighbouring Ballymoyer House, but the mill and outbuildings meant that the valuation of Reid's holding was higher.

Shortly after the death of Sir Walter Synnot's son and heir, Marcus Synnot (1771-1855), both Ballymoyer House and Lurgana House were remodelled by the Synnot family. At Lurgana House, a range of buildings to the north of the site was removed and a substantial Italianate villa on an asymmetrical plan was added. Part of the existing dwelling house, the Georgian two-storey block and the single-storey block, remained as a return to the new house. Ballymoyer House also had a Victorian villa built onto the northeast façade, and the original Georgian dwelling house was similarly retained as a return to the new house. The two new houses, Ballymoyer (Ballymyre) House and Lurgana House, are first shown, captioned, on the second edition OS map of 1860 and the map also shows outbuilding 26 as a new addition to the site. It has been suggested that the architect for the two new houses, may have been William Joseph Barre who designed the rebuild of the neighbouring parish church in 1863-65. However, there is no concrete evidence to support this, and Brett assesses the architecture of Lurgana as not representative of Barre's work.

The house and lands at Lurgana were leased by Marcus (1816-1874), heir and resident at Ballymoyer House, to his brother Parker George Synnot (1824-1901) who is recorded as resident in Lurgana House at the time of Griffith's Valuation in the 1860s. Parker George Synnot was the tenant of Lurgana House which was valued at £55 and also of the nearby corn mill and kiln and flax mill, valued at £50. Dimensions are given for the new house and existing return and outbuildings. Several family members lived in and around the area. The family seat, Ballymoyer House, was valued at £100 and another nearby house occupied by an older brother (Mark Seton Synnot), Ballintate House, was valued at £45. A sister of Marcus and Parker, Mary Marcia Synnot (1814-1869), also resided at Lurgana for at least part of her life, until her death in 1869. Her will gives fascinating details of her possessions and hints at her

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relationships with the wider Synnot family.

Parker George Synnot, was a magistrate, Deputy Lieutenant of County Armagh and a prominent member of the Orange Order, having been first Grand Treasurer of the County Armagh Grand Orange Lodge, holding that office from c1850 to 1872. He was Deputy Grand Master from 1872 to 1886 and Grand Master of Armagh Lodge from 1886 until his death in 1901. Consequently, Lurgana was on occasion the scene of a 'field' following Battle of the Boyne commemorations.

Parker Synnot gave fiery speeches on occasion in opposition to Home Rule in the 1880s and 90s and it may have been his political prominence which led to an arson incident that happened at his flax mills. The Belfast Newsletter reported in 1887 that Parker Synnot's corn mill and flax scutching mill had been subject to a malicious burning and he was awarded £950 in compensation. The corn mill was restored to working order subsequently, but the flax scutching mill disappears from valuation records at this time. Lurgana House is recorded in the census of 1901. Parker Synnot having died a few days previously, Georgina Thorpe Synnot, his English widow, was living in the house with her two sons and a daughter, and four servants, a parlour maid, housemaid, cook and kitchen maid. The house had ten rooms and was designated first class. The outbuilding return records 25 outbuildings.

Following Parker Synnot's death in 1901, Lurgana House was offered for sale at public auction. The house was described as a 'first-class residence with all necessary out-offices, also corn and threshing mills (water power), good gardens, turf bog etc'. The house was then purchased by one of Parker Synnot's former tenants, John King, a substantial farmer who lived within the townland of Lurgana (the 1901 census records him resident in a house of 10 rooms) and was an associate of Synnot's, perhaps his agent, having been the executor of his will.

In the 1911 census return, John King was resident at Lurgana with eight of his nine surviving children. His close link to the Synnot family is demonstrated by the fact that one of his sons had been named George Synnot King. The Kings ran a slightly more modest establishment than the Synnots with only one domestic servant.

The 1906 large scale map shows a much extended or rebuilt outbuilding 14 and outbuilding 16 as additions to the site, and also shows a porch on the eastern elevation of the old single-storey house, presumably the original entrance to the dwelling.

Lurgana House was again recorded by the Valuation Office in 1933, the accommodation comprising, seven bedrooms and a WC upstairs with four receptions, a kitchen and pantry on the ground floor. There was also a cellar, wash house and stores. The valuer rated it as a 'very good house...in good position'. However, the accommodation was thought to be 'excessive'. Dimensions are given for the house and outbuildings. The dwelling house was of rubble masonry faced in stucco and roofing materials included slate, lead and glass. The outbuildings were generally of rubble masonry and slated, with some brick, wood and felt, and corrugated iron used.

The Ballymoyer estate was presented to the National Trust in 1937 and Ballymoyer House was demolished by the remaining Synnot family c1938, while Lurgana House continued in the ownership of the King family. The 1979 large scale map shows that outbuildings 13 and possibly 22 were demolished after 1955 and replaced with a large barn. Otherwise, and except where stated above, the majority of the larger outbuildings on the site appear to be pre-1834-5 in origin and are generally in a relatively good state of preservation although outbuilding 26 is now a ruin.

Lurgana House remains in the ownership of the King family today (2023) and is one of the few surviving structures from the Synnots' once extensive estates. The house has been recognised as architecturally important in two recent publications, the Pevsner guide to South Ulster, which describes it as an 'attractive Italianate house [of] two storeys with wide eaves on chunky modillions and three fronts, all elaborately stuccoed with channelling and vermiculated quoins on the ground floor'. The house also appears in Charles Brett's Buildings of South Armagh. Brett notes that the original windows survive and that the interior has very tall rooms, 'the big windows make them light and airy'. His overall assessment is that Lurgana is 'a considerably more interesting and attractive house than appears from a glimpse of it through the trees from the road'.

References:



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### Primary Sources:

1. Mason, William Shaw (1816) A Statistical Account or Parochial Survey of Ireland, Volume II Dublin: Hibernia Press Office
2. PRONI OS/6/2/21/1 First edition Six Inch OS map (1834-5)
3. Day, A and McWilliams, P (eds) Ordnance Survey Memoirs of Ireland: Vol 1 Parishes of County Armagh 1835-8 Belfast: Institute of Irish Studies, Queen's University, 1990
4. PRONI VAL/1A/2/21 Valuation map Barony of Upper Fews (1837)
5. PRONI VAL/1B/239 Townland Valuation, Barony Upper Fews, Parish Ballymyre (1837)
6. PRONI OS/6/2/21/2 Second edition Six Inch OS map (1860)
7. PRONI VAL/2/B/2/13 Griffith's Valuation Parish of Ballymyre (1862)
8. PRONI VAL/12/B/15/2A-D Annual Revisions ED Ballymyre (1865-1929)
9. PRONI Will of Mary Marcia Synnot, died 15th August 1869
10. Londonderry Sentinel, 18th July 1872
11. South Wales Echo, 21st September 1885
12. Flag of Ireland, 26th December 1885
13. Belfast Newsletter 20th December 1887
14. Armagh Standard 18th July 1890
15. PRONI Will of Parker George Synnot, died 29th March 1901
16. Northern Whig, 5th April 1901
17. Newry Reporter 24th September 1901
18. Weekly Irish Times, 2nd December 1905; Belfast Newsletter 5th December 1905
19. PRONI OS/6/2/21/3 Third edition Six Inch OS map (1906)
20. PRONI VAL/12/A/3/84 Annual Revisions Valuers' Notebook (1906)
21. PRONI OS/6/2/21/4 Fourth edition Six Inch OS map (1955)
22. PRONI VAL/3/C/2/12 Rural District of Newry Vol 1, ED Belleek (1936-7)
23. PRONI VAL/3/D/2/6/C/6 First NI General Revaluation, Valuers' Binder, ED Belleek (1933-57)
24. Census of Ireland, 1901 and 1911, online

### Secondary Sources:

25. Brett, C E B (1999) Buildings of County Armagh. Belfast: Ulster Architectural Heritage Society
26. Burke, Sir Bernard (1871) A Genealogical and Heraldic History of the Landed Gentry of Great Britain and Ireland. London: Harrison, Pall Mall
27. Muiri, Reamonn (1982) 'The Killing of Thomas Birch, United Irishman' Seachas Ardmhacha: Journal of the Armagh Diocesan Historical Society, 1982, Vol 10, No 2, pp.267-319
28. Mulligan, Kevin V (2013) Pevsner Architectural Guide – The Buildings of Ireland – South Ulster. New Haven and London: Yale University Press
29. Paterson, T G F (1942) 'The County Armagh Volunteers of 1778-1793: List of Companies' Ulster Journal of Archaeology, Third Series, Vol 5, pp31-61
30. Paterson, T G F (1943) 'The County Armagh Volunteers of 1778-1793: List of Companies' Ulster Journal of Archaeology, Third Series, Vol 6, pp69-105
31. McMahon, K and McKeown, T (1979) 'Agrarian disturbances around Crossmaglen. 1835-1855, Part I' Seachas Ardmhacha: Journal of the Armagh Diocesan Historical Society, Vol 9, No 2, pp.302-332

### Criteria for Listing

NB: In March 2011, revised criteria were published as Annex C of Planning Policy Statement 6. These added extra criteria with the aim of improving clarity in regard to the Department's explanation of historic interest. For records evaluated in advance of this, therefore, not all of these criteria would have been considered. The criteria used prior to 2011 are published on the Department's website under 'listing criteria'.

#### Architectural Interest

C. Ornamentation  
H+. Alterations enhancing the building  
J. Setting

#### Historical Interest

R. Age  
S. Authenticity  
X. Local Interest



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B. Proportion  
A. Style

### Evaluation

A substantial two-storey multi-period house containing Italianate-style dwelling on an asymmetrical plan in its own extensive, landscaped grounds, built c.1857 onto a two-storey Georgian mill house, which in turn was built onto a partly surviving single-storey original house of mid to late 18th century. The house is located at the N end of Lurgana Road near its junction with Ballymoyer Road, approximately 1 mile SW of Whitecross, Co Armagh. The complex has a farmyard on S side with extensive rubblestone outbuildings that largely predate 1834-5. The history of Lurgana House is closely entwined with the family that built it, the Synnoits, this being one of the few surviving structures from their once extensive estates. The house is significant in the area, with the building complex displaying the evolution and narrative of the house over time, illustrating its historic development as a palimpsest of the agrarian development in the area. In particular, the Victorian block retains much historic detailing to the exterior, with wide eaves on large block modillions, channelled rustication, vermiculated quoins and lugged window surrounds. The survival of detail of the earlier wings add to the importance of the overall complex. Lurgana House has been recognised as architecturally important in two publications, the Pevsner guide to 'South Ulster', and Charles Brett's 'Buildings of County Armagh'. It is a good example of a large country house and is of local interest.

### Replacements and Alterations

Appropriate

### If inappropriate, Why?

The evolution of the house over time is legible, illustrating its historic development - this adds to the special interest

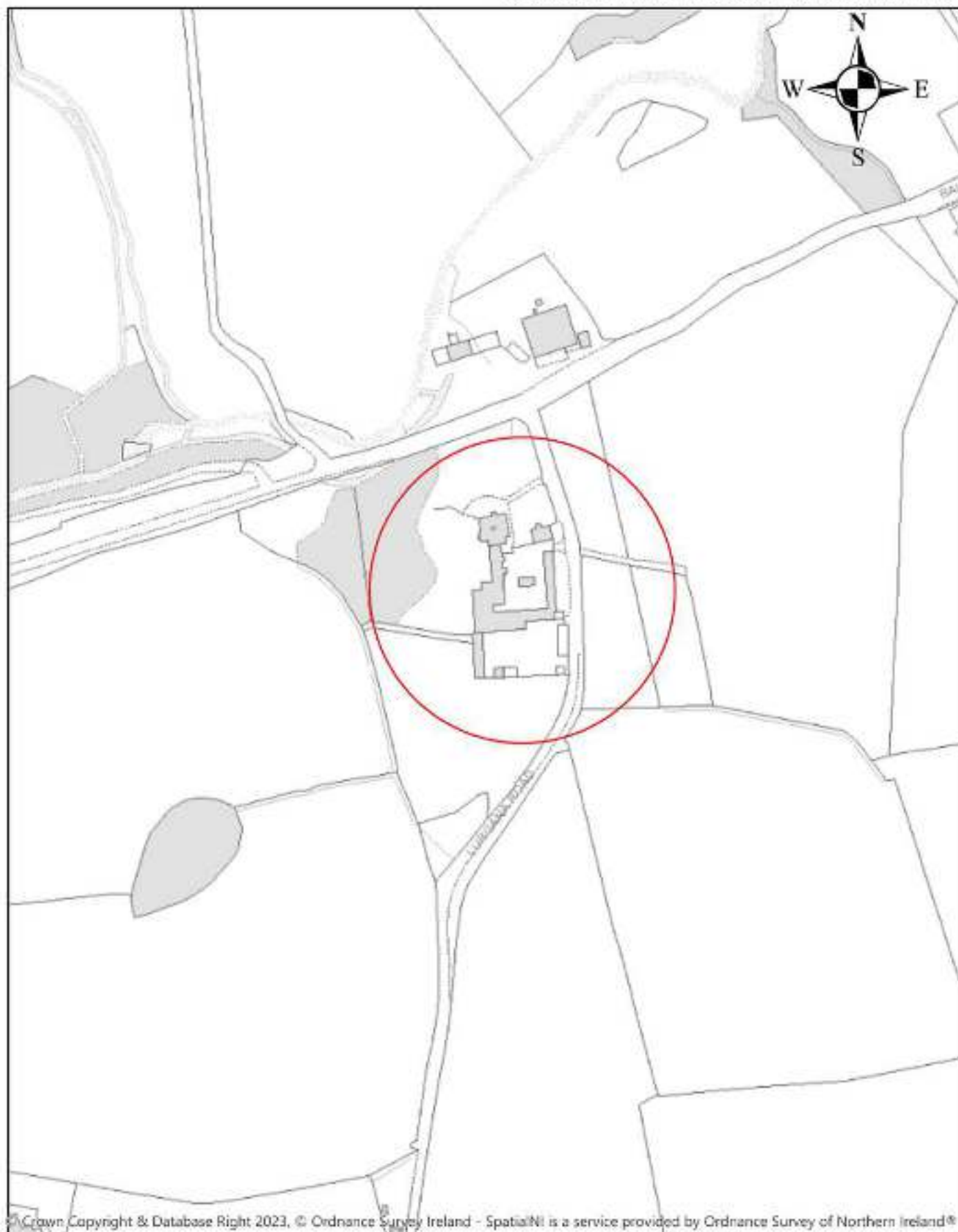
### General Comments

### Monitoring Notes – since Date of Survey

### Date of Survey

Coordinates: 297973E m333,800 331039N m372,775

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## Location Map Lurgana

House 4 Lurgana Rd  
Lurgana Co.Armagh BT60

Title: HB16 20 009

Scale: 1:3000

Date Printed: 24 April 2023

Drawn By: JMcL

