



September 15th, 2022

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 21st September 2022** at **10:00 am** in **Boardroom Monaghan Row Newry** and via **Microsoft Teams**.

Committee Membership 2022-2023

- Councillor D McAteer (Chairperson)
- Councillor D Murphy (Deputy Chairperson)
- Councillor R Burgess
- Councillor P Byrne
- Councillor L Devlin
- Councillor G Hanna
- Councillor V Harte
- Councillor M Larkin
- Councillor A Lewis
- Councillor L McEvoy
- Councillor G O'Hare
- Councillor H Reilly

Agenda

1.0 Apologies and Chairperson's remarks.

2.0 Declarations of Interest.

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

- Item 6 - LA07/2021/1381/F - site visit held on Tuesday 13 September 2022 attended by Councillors Devlin, Harte, Larkin, Murphy, McAteer and O'Hare

4.0 Minutes of Planning Committee Meeting held on Wednesday 24 August 2022. (Attached).

 *Planning Committee Minutes - 24.08.2022..pdf*

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

 *Addendum list -21-09-2022.pdf*

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

6.0 LA07/2021/1381/F - Proposed erection of a rural infill detached dwelling house and additional landscaping - Lands approximately 30m south of no. 59 Bavan Road Drumgath Mayobridge BT34 2HS. (Case Officer report attached).

REFUSAL

- In line with the updated Operating Protocol no further speaking rights are permitted on this application (Barney McKeivitt, agent, will be available to answer any queries Members might have)

- A site meeting was held on 13 September 2022 - _____

 *LA07-2021-1381-F.pdf*

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7.0 LA07/2022/0296/0 - dwelling and garage on a farm under Policy CTY10 of PPS21 - approx. 50m NW of 4 Mountain Road, Guinness, Ballynahinch. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from Gerry Tumelty, agent and Martin Carvill, applicant. **(Submission attached).**

[LA07_2022_0296_O_CO_Report.pdf](#)

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[LA07-2022-0296-0.pdf](#)

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8.0 LA07/2021/0154/F - Application to deepen existing operational quarry for the extraction of gritstone incorporating landscaping, native species planting and full site restoration - Approx. 250m east of 124 Crossgar Road, Saintfield. (Case Officer report attached).

APPROVAL

- Addendum list

[LA07-2021-0154-F_Quarry.pdf](#)

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9.0 LA07/2021/1206/F - Proposed off-site replacement dwelling and detached garage site - 50m south of 12 Mountain Road Ballymadda Road Dromintee Co Armagh. (Case Officer report attached).

REFUSAL

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

[2021 1206 - Mountain View.pdf](#)

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[Item 9 - LA07-2021-1206-F.pdf](#)

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10.0 LA07/2021/1663/F - Dwelling on a farm - Site 125m South South West of 26 Curley Road, Newry, BT34 1NU. (Case Officer report attached).

REFUSAL

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

[LA07-2021-1663-F Curley Rd Newry.pdf](#)

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[Item 10 - LA07-2021-1663-F.pdf](#)

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11.0 LA07/2021/2138/O Proposed new dwelling with detached garage on an infill site Adjacent to and south of no.14 Edentrumly Road Mayobridge Newry Co Down BT34 2SG. (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)**.

[LA07-2021-2138-O.pdf](#)

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[Item 11 - LA07-2021-2138-0.pdf](#)

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12.0 LA07/2022/0155/F - Application is to place 2 x 20ft shipping containers on the beach to the north of Warrenpoint baths from May to September each year from 2022 - 2026 (inclusive) in order to facilitate swimmers for changing. These shipping container units are stand alone and do not require a water supply or electricity. - Warrenpoint Baths Seaview Warrenpoint BT34 3NH. (Case Officer report attached).

APPROVAL (TEMPORARY)

- Addendum list

[LA07-2022-0155-F.pdf](#)

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13.0 LA07/2021/1270/F - Proposed extension to Monkshill Cemetery to include approximately 600 burial plots with circulation road, paths and small skip enclosure - 29 Monkshill Road Newry BT34 2FD. (Case Officer report attached).

APPROVAL

- Addendum list

[LA07_2021_1270_F Monkshill Cemetery Report 1.0.pdf](#)

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14.0 LA07/2020/0767/O - Proposed Residential Housing Development - Lands at Bridle Loanan, NW of Ridgefield Grove and NE of Woodlands, Warrenpoint. (Case Officer report attached).

APPROVAL

- Addendum list

[LA07_2020_0767_O report.pdf](#)

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15.0 LA07/2022/0179/F - New vehicular access onto Ballagh Road to serve dwelling at 65A Ballagh Road - 65A Ballagh Road Newcastle, BT33 0LA. (Case Officer report attached).

REFUSAL

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

[LA07-2022-0179-F Ballagh Rd.pdf](#)

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[Item 15 - LA07-2022-0179-F.pdf](#)

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16.0 LA07/2021/1268/F - Demolition of existing shed to facilitate off site replacement dwelling of former weavers cottage. The original 'weavers cottage' building to be retained with change of use to storage for adjacent existing textile workshop and erection of wastewater treatment system and all associated site works - 86 Killowen Old Road Rostrevor Newry BT34 3AE. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from Brendan Starkey, agent, and Steven Moon, architect, in support of the application.

[LA07-2021-1268-F.pdf](#)

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[Item 16 - LA07.2021.1268.F - Committee Briefing Note.pdf](#)

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17.0 LA07/2022/0044/O - Infill site for 2 dwellings and garages - Between 10 and 14 Kilkeel Road Hilltown. (Case Officer report attached).

REFUSAL

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

[LA07-2022-0044-O Kilkeel Rd Hilltown.pdf](#)

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[Item 17 - LA07-2022-0044-0.pdf](#)

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18.0 LA07/2021/1949/O - Proposed 2 no. detached dwellings and domestic garages on an infill site - Lands between nos. 35 and 37 Rath Road, Clonallon Warrenpoint. (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)**.

[LA07-2021-1949-O Rath rd Wpoint.pdf](#)

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[Item 18 - 2021 1949 O Speaking Notes 2022 Committee Meeting.pdf](#)

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For Noting

19.0 Historic Action Sheet. (Attached).

[Planning HISTORIC TRACKING SHEET - Updated September 2022.pdf](#)

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20.0 Planning Committee Performance Report for August 2022. (Attached).

[August 2022 Planning Committee Performance Report.pdf](#)

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21.0 Current appeals and decisions. (Attached)

[Current Appeals and Decisions August 2022.pdf](#)

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22.0 Verbal update on implementation of new Planning IT System.

NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 24 August 2022 at 10.00am in Boardroom, Monaghan Row, Newry and via Microsoft Teams.

Chairperson: Councillor D McAteer

In attendance: **(Committee Members)**

Councillor R Burgess
 Councillor P Byrne
 Councillor L Devlin
 Councillor Hanna
 Councillor V Harte
 Councillor M Larkin
 Councillor A Lewis
 Councillor D Murphy
 Councillor L McEvoy
 Councillor G O'Hare
 Councillor H Reilly

(Officials)

Mr C Mallon	Director of ERT
Mr A McKay	Chief Planning Officer
Mr P Rooney	Principal Planning Officer
Mr A Hay	Principal Planning Officer
Ms N Largey	Legal Advisor
Ms S Taggart	Democratic Services Manager (Acting)
Ms L Dillon	Democratic Services Officer
Ms L Cummins	Democratic Services Officer (via Teams)
Ms P McKeever	Democratic Services Officer
Ms G McEwen	Senior Environmental Health Officer

P/072/2022: APOLOGIES AND CHAIRPERSON'S REMARKS

There were no apologies.

P/073/2022: DECLARATIONS OF INTEREST

There were no Declarations of Interest.

P/074/2022: 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.

There were no Declarations of Interest.

MINUTES FOR CONFIRMATION**P/075/2022: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 27 JULY 2022**

Read: Minutes of Planning Committee Meeting held on Wednesday 27 July 2022. (Copy circulated)

AGREED: On the proposal of Councillor Reilly, seconded by Councillor O'Hare, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 27 July 2022 as a true and accurate record.

FOR DISCUSSION/DECISION**P/076/2022: ADDENDUM LIST**

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 24 August 2022. (Copy circulated).

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Burgess, it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 24 August 2022:

- **LA07/2018/1565/F** - Erection of residential development comprising of 5 No. dwellings and 2 No. self contained flats and associated site works - Lands immediately North East of No. 15-17 The Square Newtownhamilton BT35 0AA.
APPROVAL
- **LA07/2020/1673/F** - Residential development consisting of 4no. detached dwellings - 43 Upper Damolly Road Newry **APPROVAL**
- **LA07/2021/1689/F** - Demolition of eastern wing of the existing nursing home building and replacement with a new, purpose-built nursing home building with ancillary laundry and plant building. Western wing of existing nursing home building to be retained for ancillary office and pottery use associated with the Mourne Grange care facility - Camphill Community Mourne Grange 169 Newry Road Kilkeel BT34 4EX.
APPROVAL
- **LA07/2021/1554/LBC** - Replacement of selected existing windows (original building) - Dan Rice Hall Drumaness Road Drumaness **CONSENT RECOMMENDED**
- **LA07/2022/0073/A** - 15 new way-finding directional signs to be erected / existing replaced as per attached drawings in Newry city centre core to include 13 finger directional poles and 2 totem poles with maps, 6 existing finger directional sign posts to be removed and 1 existing sign posts to be lowered - Newry City Centre Core area
APPROVAL
- **LA07/2022/0666/F** - New Play Park - 93m South of St Mochais GAC 119 Manse Road Crossgar **APPROVAL**
- **LA07/2022/0668/F** - Play Park - 7 Rann Road Downpatrick **APPROVAL**

**DEVELOPMENT MANAGEMENT -
PLANNING APPLICATIONS FOR DETERMINATION**

P/077/2022: 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:

Refusal

The Chairperson advised Planning Application LA07/2021/0987/F had been removed from the agenda at the request of the Chief Planning Officer, to be considered at a Special Planning Committee Meeting scheduled for Thursday 8 September 2022.

(2) LA07/2019/1009/O

Location:

113 South Promenade Newcastle

Proposal:

Redevelopment of existing residential site - Residential development

Conclusion and Recommendation from Planning Official:

Approval

Power-point Presentation:

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

Speaking rights:

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

Liz Farley, objector and Barry Hillen, agent were in attendance to answer any questions from Members.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2019/1009/O 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: 9
AGAINST: 0
ABSTENTIONS: 1

The proposal was carried.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Murphy it was agreed to issue an approval in respect of Planning Application LA07/2019/1009/O as per the information contained within the Case Officer report and presented to Committee.

(3) LA07/2020/1864/F

Location:

proposed barbers shop / hairdressers

Proposal:

Farm Dwelling

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.

Speaking rights:

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

John Cole, agent and Derek McConville, applicant were in attendance to answer any questions from Members.

Issues raised:

- Mr Rooney said the site was a high profile one within a unique conservation area. He said it would be a challenging site to develop but he agreed with Councillor Hanna it would be a positive conclusion for all if an appropriate design was submitted that met Planning requirements.
- Mr Cole said several amendments had already been made to the design in an attempt to meet Planning policy.
- Mr Rooney said further discussions could take place with the agent, applicant and planning to address design issues.

AGREED: On the proposal of Councillor Devlin seconded by Councillor Reilly, it was unanimously agreed to defer Planning Application LA07/2020/1864/F to allow for further discussions to take place with the agent, applicant and planning department.

(4) LA07/2022/0273/F**Location:**

54 Market Street Downpatrick

Proposal:

Change of use application from existing shop (Use Class A1) to proposed Amusement Arcade

Conclusion and Recommendation from Planning Official:

Approval

The Chairperson advised Planning Application LA07/2022/0273/F had been removed from the agenda at the request of the Chief Planning Officer to consider a late objection received.

(5) LA07/2019/1748/F**Location:**

Site on Upper Burren Road between No's 6 and 10 and extending to the rear of 22 and 26 Milltown Street and 4 Upper Burren Road Burren

Proposal:

Erection of 12 dwellings, with boundary walls, fences, landscaping and associated site 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

Andy Stephens, Matrix Planning presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

In Support

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

Issues Raised:

- Mr Stephens said residents were concerned the applicant would commence works on site without first ensuring the visibility splays were in place and although he acknowledged this would be a civil matter, he said it would be in breach of conditions set out by DfI Roads.
- Ms Largey said it was not unusual for site lines to be on third party lands, it was a pre-commencement condition that had to be achieved and was a civil matter between the applicant and the third-party landowners.
- Ms Largey said it was a requirement in legislation to ensure adjoining landowners were not prejudiced and had the opportunity to participate in the planning process, however, she said that was not an issue with this planning application.
- Mr Rooney acknowledged the adjacent factory was quite close to the boundary, however he said it was not heavy industry.

- Mr Rooney said there was a current application with the Planning Department to extend the factory operating hours to 24 hours per day, 7 days per week.
- Mr Rooney said appropriate noise mitigation measures would be implemented including double glazing and acoustic ventilation to all properties, plus an acoustic barrier at least 1.8m high along the boundary of the development.
- Ms McEwen said from an environmental health viewpoint, the proposed mitigating measures would be adequate to safeguard against noise nuisance disturbance to the occupants of the residential development.
- Ms McEwen said with regard to the planning application to extend factory operating hours, there would be an opportunity to impose further mitigating measures should Environmental Health Department consider it appropriate.
- Ms Largey confirmed council would not have any liability should there be any noise nuisance issues affecting future occupants of the development.
- Mr Rooney said Planning was satisfied the measures proposed by Environmental Health would protect the amenity of the existing houses and the proposed development.
- Mr Stephens said the legal easement referred to by Mr O'Callaghan referred to one house, not twelve houses.
- Mr Stephens said the rear amenity space of site 12 was significantly overlooked by the orientation of the neighbouring properties looking down on to it due to the 8m level difference and he said a greater level of precaution as recommended in Creating Places was needed for the future occupants.
- Mr Rooney said he was satisfied there was sufficient distance between the existing and proposed properties and he said the layout was satisfactory in terms of planning policy.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2019/1748/F as per officer recommendation, Councillor Byrne seconded the proposal.

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

FOR:	11
AGAINST:	0
ABSTENTIONS:	1

The proposal was carried.

AGREED: **On the proposal of Councillor Larkin, seconded by Councillor Byrne it was agreed to issue an approval in respect of Planning Application LA072019/1748/F as per the information contained within the Case Officer report and presented to Committee.**

(6) LA07/2021/1212/F

Location:

Lands immediately adjacent and north of No 61 Shore Road, Strangford.

Proposal:

Proposed Erection of 2nos camping pods and 2nos cabin units, washroom/laundry building, car parking, hard/soft landscaping and all associated site works.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point Presentation:

Mr Anthony 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 support

Andy Stephens, Matrix Planning 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 holiday park could incorporate a variety of accommodation types.
- Mr Stephens read aloud the definition of a holiday park contained within the Glossary of Terms in PPS16.
- Mr Stephens said the proposed development was set back 120m and contained within the side garden of No. 61 Shore Road, Strangford. He said the existing vegetation and rising topography would ensure it would be well integrated into the surrounding landscape.
- Mr Stephens said the scheme had been refined several times and he considered it had all the components to make it a high quality development.
- Mr Stephens said, if the current application was not a tourism provision, the applicant could build a larger development under permitted development.
- Mr McKay said it was the officers' view the proposal was incompatible with the AONB, however he accepted the proposal could not be reduced in size any further.

AGREED:

On the proposal of Councillor Reilly, seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/1212/F contrary to officer recommendation on the basis that it would contribute to the economy of the area and would integrate well into the surrounding landscape.

Planning officers be delegated authority to impose any relevant conditions.

(Break 11.45 – 11.55)

(7) LA07/2022/0074/O**Location:**

Between 24 and 28 Lough Road Crossgar.

Proposal:

Infill site for 2 dwellings with domestic garages.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point Presentation:

Mr Anthony 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 support

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

Issues raised:

- Mr Burgess said the applicant owned the land behind the application site and there would be an easement to allow access to that land should planning approval be granted.

AGREED:

On the proposal of Councillor Hanna seconded by Councillor Larkin it was unanimously agreed to issue an approval in respect of Planning Application LA07/2022/0074/O contrary to officer recommendation on the basis that it conformed to CTY8, the plot frontages were similar in size to neighbouring plots and a sympathetic design would ensure the development would integrate into the surrounding area.

Planning officers be delegated authority to impose any relevant conditions.

(8) LA07/2022/0541/O**Location:**

Approx. 36m SW of 78 Belfast Road, Saintfield.

Proposal:

Dwelling and domestic garage.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point Presentation:

Mr Anthony 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 support

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

Issues raised:

- Mr McKay said Planning had assessed the application under both CTY2A and CTY8 and it had failed to meet both policy requirements.
- Mr Burgess said he did not intend for the application to be assessed under CTY8, rather CTY2A.
- Mr Burgess said the application site was located approximately 100m from the crossroads.
- Ms Largey said all 6 conditions set out in Policy CTY2A must be met in order to comply with planning policy.
- Councillor Larkin said he considered there was substantial development along Lessans Road to the West and along the Belfast Road to the North West up to the site.

- Mr McKay said he did not consider there was a cluster of houses at the crossroads as was required by policy and the PAC had regularly established that a cluster must be located at a focal point.
- Mr Burgess said the proposed site did not have to be at the focal point, but rather the cluster just had to be associated with the focal point.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2022/0541/O contrary to officer recommendation on the basis that there were more than 5 houses, there was an obvious cluster and the proposal would be in keeping with the character of the area. Councillor Larkin seconded the proposal saying he considered it complied with Policy CTY2A.

Councillor Devlin said she had concerns that to issue an approval could set a precedent in the countryside and she asked for a recorded vote.

The proposal was put to a recorded vote, the results of which were as follows (appended to Minutes)

FOR:	9
AGAINST:	3
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Larkin, it was agreed to issue an approval in respect of Planning Application LA07/2022/0541/O on the basis that the application site was in a cluster, the proposal would be in keeping with the character of the area and it complied with Policy CTY2A.**

(9) LA07/2021/1381/F

Location:

Lands approximately 30m south of no. 59 Bavan Road, Drumgath, Mayobridge.

Proposal:

Proposed erection of a rural infill detached dwelling house and additional landscaping.

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

Barney McKeivitt, agent 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 shed on site was part of No. 59 and the shed read as part of the hardstanding, so consequently the gap had been filled.

AGREED:

On the proposal of Councillor Byrne, seconded by Councillor Murphy it was unanimously agreed to defer Planning Application LA07/2021/1381/F for a site visit, so Members could assess the site in more detail.

(10) LA07/2022/0121/O**Location:**

Lands approx. 30m South-West of 108a Longstone Road Annalong.

Proposal:

Farm Dwelling.

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

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

Issues raised:

- Eamon Quinn, the son of the farm owner was not present at the meeting, however, his sister Claire confirmed he was actively involved in the farm business with their father.
- Ms Largey said she agreed with the advice given by the Planning Officer in that Eamon was not part of the farm holding in 2011 when a portion of the land had been sold to him.
- Mr Pat Rooney said there was a requirement to be registered as part of the farm business, and Eamon had done this by registering retrospectively.
- Mr Pat Rooney said the onus was on the applicant to demonstrate the degree of involvement on the farm and control was needed in this regard.
- Ms Largey said it was important submissions were backed up by evidence and Members should be cautious when accepting verbal evidence, however she it was up to the Committee to decide what weight should be attached to the evidence submitted.
- Ms Largey said it was a general principle in case law that reliance on submissions should be backed up by hard evidence.
- Ms Quinn confirmed there was no money exchanged when the site was transferred to her brother Eamon in 2011.
- Mr Declan Rooney, agent said sworn affidavits could be provided by Eamon detailing his involvement in the farm, however he considered the P1 form submitted in 2011 and signed by Eamon evidenced his involvement in the farm.
- Mr Pat Rooney said it was accepted on the P1 form submitted in 2011 that Eamon was part of the farm holding, however there was no evidence supported at the time to support that statement.

- Mr Pat Rooney confirmed the land had been transferred legally to Eamon Quinn in 2017 to enable him to apply for a mortgage.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/0121/O contrary to officer recommendation on the basis that the evidence provided satisfied the conditions of CTY10. Councillor Hanna seconded the proposal saying whilst he accepted the land should have been legally transferred in 2011, he had no doubt that Eamon was the main worker on the farm and he considered the evidence provided was sufficient.

AGREED: **On the proposal of Councillor Larkin, seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2022/0121/O contrary to officer recommendation on the basis that the evidence provided to Planning satisfied the conditions of CTY10.**

Planning Officers be delegated authority to impose any relevant conditions.

P/078/2022: **HISTORIC ACTION SHEET**

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

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

P/079/2022: **PLANNING COMMITTEE PERFORMANCE REPORT – JUNE 2022**

Read: Planning Committee Performance Report – June 2022. **(Copy circulated)**

AGREED: **It was unanimously agreed to note the Planning Committee Performance Report**

P/080/2022: **CURRENT APPEALS AND DECISIONS**

Read: Current Appeals and Decisions. **(Copy circulated)**

AGREED: **It was unanimously agreed to note the Current Appeals and Decisions.**

LOCAL DEVELOPMENT PLAN (CLOSED SESSION)

AGREED: **On the proposal of Councillor Burgess, seconded by Councillor Lewis, it was agreed to exclude the public and press from the meeting during discussion on the following items:**

P/081/2022 **LDP: Progress Report - Quarterly Update**

Read: Report dated 24 August 2022 by Mr A McKay, Chief Planning Officer regarding the Local Development Plan: Progress Quarterly Update

On the proposal of Councillor Hanna, seconded by Councillor Devlin, it was agreed to come out of closed session.

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

P/081/2022: LDP: Progress Report - Quarterly Update

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Devlin, it was agreed to note the quarterly update provided in the report dated 24 August 2022 from Mr A McKay, Chief Planning Officer regarding the Local Development Plan.

The meeting concluded at 1.15pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 21 September 2022.

Signed: _____ Chairperson

Signed: _____ Chief Executive

Item 5 – Addendum List

Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 21 September 2022

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:

- **LA07/2021/0154/F** - Application to deepen existing operational quarry for the extraction of gritstone incorporating landscaping, native species planting and full site restoration - Approx. 250m east of 124 Crossgar Road, Saintfield **APPROVAL**
- **LA07/2022/0155/F** - Application is to place 2 x 20ft shipping containers on the beach to the north of Warrenpoint baths from May to September each year from 2022 - 2026 (inclusive) in order to facilitate swimmers for changing. These shipping container units are stand alone and do not require a water supply or electricity. - Warrenpoint Baths Seaview Warrenpoint BT34 3NH **APPROVAL (TEMPORARY)**
- **LA07/2021/1270/F** - Proposed extension to Monkshill Cemetery to include approximately 600 burial plots with circulation road, paths and small skip enclosure - 29 Monkshill Road Newry BT34 2FD **APPROVAL**
- **LA07/2020/0767/O** - Proposed Residential Housing Development - Lands at Bridle Loanan, NW of Ridgefield Grove and NE of Woodlands, Warrenpoint. **APPROVAL**

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



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2021/1381/F

Date Received:

30.07.2021

Proposal:

Proposed erection of a rural infill detached dwelling house and additional landscaping

Location:

Lands approximately 30m south of no. 59 Bavan Road
Drumgath
Mayobridge
Co. Down BT34 2HT

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 is unusual in shape and comprises a gravelled piece of land adjacent a large shed. A mechanics business appears to be running from the shed. The shed was subject to an enforcement case - LA07/2021/0416/CA – which has since been closed. During the day of the site visit (27.09.2021), a number of vehicles and machinery were within the application site. The site abuts two properties to the north and south and agricultural land to the east. Access to the site is from the eastern side of Bavan Road. The site is at a higher level than the road but similar level to the adjacent dwellings north and south of the site. A low concrete wall runs along the northern boundary of the application site while the southern boundary is defined by a hedgerow. The rear boundary is defined by a post and wire fence.

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



Aerial image of application site



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:

LA07/2021/0416/CA - Lands Approx. 30m South 59 Bavan Road Mayobridge Down BT34 2HT - Alleged unauthorised mechanic's building – Enforcement case closed, 11.01.2022

P/1979/1326 – Drumgath Rathfriland – Erection of a bungalow – Permission granted (Now No. 59 Bavan Road)

Consultations:

DfI Roads – Latest response 17th February 2022 offered no objections subject to conditions

Water – Recommended approval

Rivers – No objections

Objections & Representations:

Neighbour notifications: 24.08.2021. Due to an amended scheme, neighbours were re-notified 11.04.2022.

Advertisement: 18.08.2021

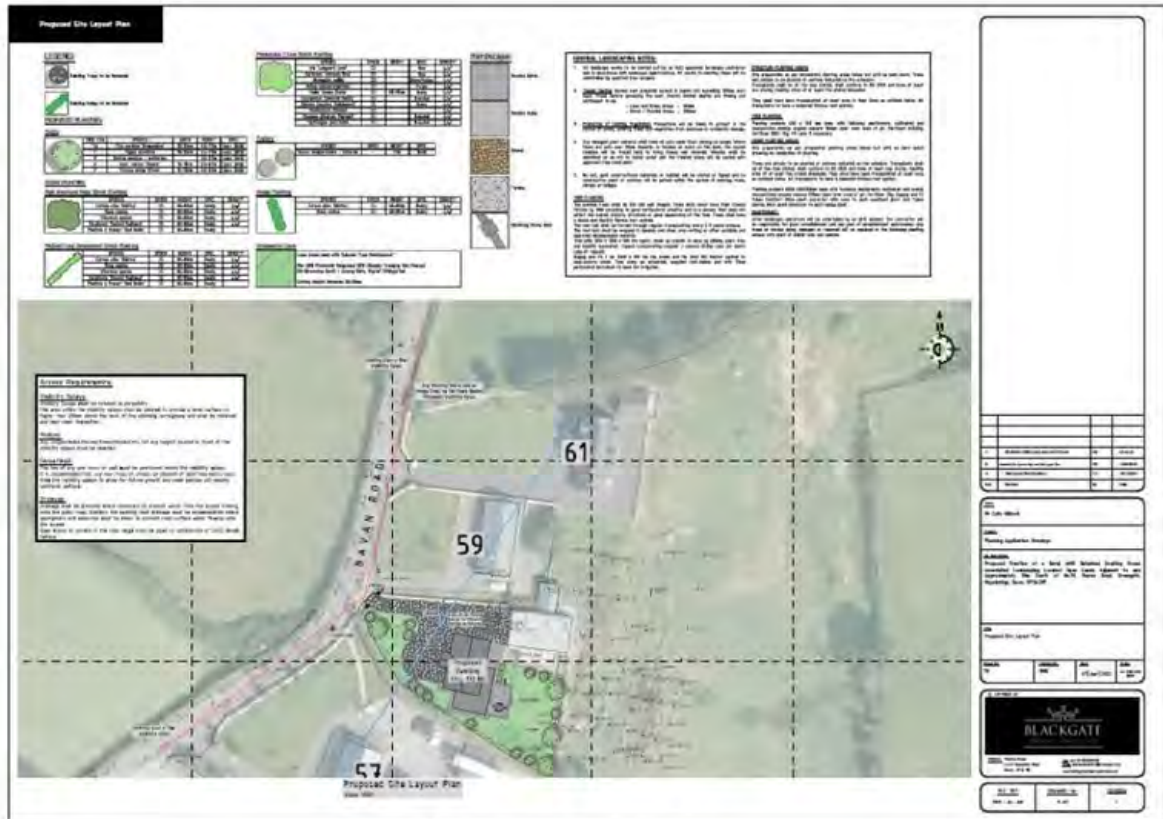
No representations or objections have been received to date (06.07.22).

Assessment**Proposal**

The proposal is a full application for the erection of 1 proposed infill dwelling on lands in between Nos. 59 and 57 Bavan Road, Mayobridge.

The proposed dwelling is 1 ½ storey in nature with a ridge height of 6.4m from FFL. There is a single storey flat roofed proposed on the side and rear of the proposed dwelling. The finishes include; smooth rendered plaster finish and granite stone finish where shown, blue black roof slates and aluminium standing seam roof covering, black/grey cast aluminium windows and black cast aluminium RWG. Access to the

dwelling is off Bavan Road. The dwelling is to be sited SW of the existing shed. Landscape planting is proposed along the site boundaries. The proposal is shown below.



Proposed site layout



Proposed elevations

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):

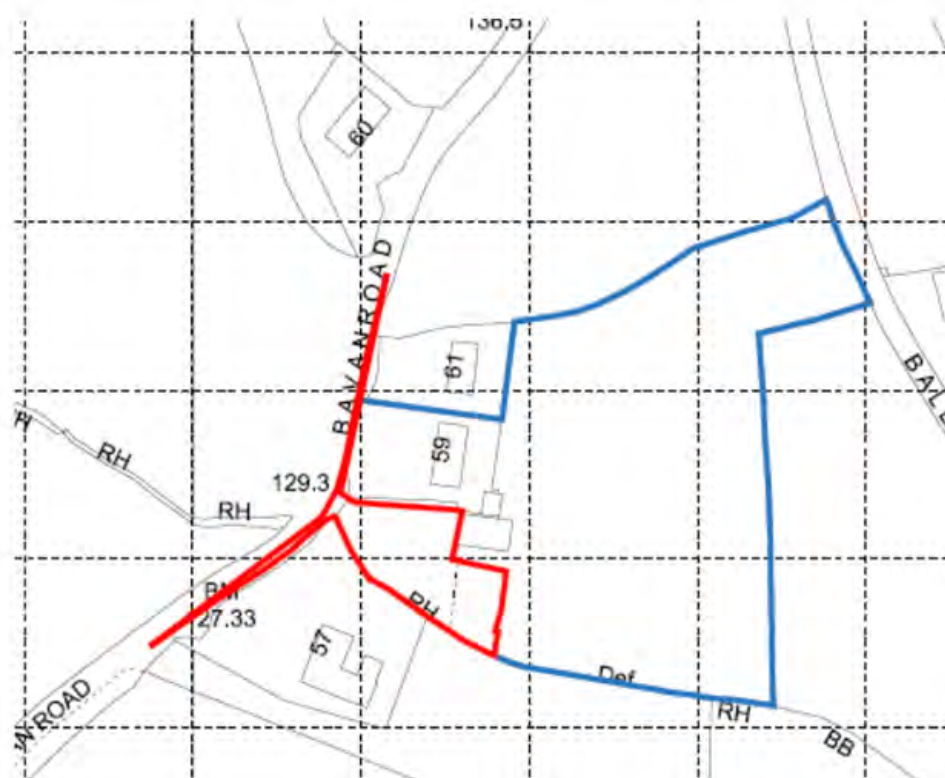
- a. Identify whether there is a substantial and continuously built up frontage.
- b. Establish whether there is a small gap site.
- c. Determine whether the proposal would respect the existing development pattern in terms of size, scale, siting and plot size.
- d. Assess the proposal against other planning 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 Bavan Road in between Nos. 57 and 59 south and north of the site respectively. No. 57 south of the site has frontage to the road. North of the site, No. 59 also has frontage to the road. North of No. 59, No. 61 also has frontage to Bavan Road. As such, I am satisfied that there is a substantial and continuously built up frontage.

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



The red line boundary is irregular in shape as it does not include the existing shed on the plot. The view of the application site is from Bavan Road is shown below.



It is evident that there is an existing building 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. 57 and 59 Bavan Road and on the site in question and there is no gap here to be developed. The red line boundary has been contrived to create a narrow "gap site" which, on ground, does not exist.

The Planning Department advised the agent of the concerns outlined above 24th March 2022 in that the Department considered the proposal contrary to Policy CTY 8 as the application site is not considered a gap site due to the presence of this building.

In response, amended drawings and a rebuttal were submitted 7th April 2022. Within the rebuttal, the agent advised that “the red line area of the gap site does not encapsulate the existing building.” The agent went on to advise that “the presence of the existing building does not exclude it from being classified as a building for the purposes of Policy CTY8.”

The siting of the proposed dwelling was repositioned further to the southern boundary. The amended siting is shown below.



Original site layout



Amended site layout

The rebuttal document stated, "we consider the proposed siting of the proposed new building to be upon what is classified as the gap site (i.e. an area between the existing buildings of No.57 and No. 59)".

However, as outlined above, there is an existing garage on the "gap site" classified by the agent above i.e "an area between the existing buildings of No.57 and No. 59"

The rebuttal document goes on to state that "the policy does not refer to the actual gap site having any development to the rear, the conjunctive assessment of the wording of the sentence refers to the policy definition of a substantial and built-up frontage and includes a line of 3 or more buildings along a road frontage without accompanying development to the rear."

The Department query the relevance of this to this application as the Department are not disputing the built-up frontage. Although there is a continuous and built up frontage of 3 or more buildings along Bavan Road, the application site does not represent a small gap site as there is an existing building within the gap. The existing shed on site has frontage to this road and forms part of the continuous built up frontage.

The relationship of the shed and site is such that this represents accompanying development to the rear.

As outlined earlier, the agent advised that the red line application boundary does not include the existing building and questioned why the existing building was not being classified as a building for the purposes of Policy CTY 8. Notwithstanding the fact that the Department do not consider the application site to constitute a gap site for the purposes of CTY 8, consideration will be given to the agent's query.

This query is relevant to the third step 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 is shown below.



The agent also submitted 2 plot analysis drawings (original and amended) in support of the application.



Original plot analysis



Amended plot analysis

It is evident from the aerial image above and the plot analysis drawings submitted, that the development of the application site with a new dwelling would not respect the existing development in terms of plot size given the existing building on the lands.

On this basis, the proposal is considered contrary to Policies CTY 1 and CTY 8 of PPS 21 as the Department do not consider the application site to constitute a gap site as per Policy CTY 8 given the existing shed on the site. Moreover, the development of the application site with a new building would not respect the existing development in terms of plot size. As such, there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

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 proposed dwelling would appear crammed into the site and it would appear at odds with the established pattern of development at this location. For the reasons given, it would not respect the existing development pattern along the frontage, so it cannot be considered a valid exception under Policy CTY8.

Although the principle of development on this site is not acceptable, the proposal is also subject to integration policies – CTY 13 and 14.

Policies CTY 13 and 14

Policy CTY 13 identifies seven cases where a new building in the countryside will be unacceptable for integration and design reasons:

The proposed dwelling given the 6.4m high ridge height and simple design and form would not be a prominent feature in the landscape. The site is very restricted which leads to other issues in terms of impact on character but in terms of prominence the proposed dwelling could be accommodated at the site. The site is bounded along the north and southern boundaries by a low concrete wall and a mature hedgerow. The rear boundary is defined by a post and wire fence. Proposed landscaping is part of the application and includes the planting of trees and a hedgerow to the rear of the site. It is considered that there are acceptable boundaries at the site so as to accommodate a dwelling. The site offers a suitable degree of enclosure for the building to integrate into the landscape. The site will not rely on planting or the use of new landscaping in order to integrate into the existing landscape. Ancillary works are

not considered to be detrimental to the landscape. The design of the building is considered acceptable and respects the single storey dwellings north and south of the site. The dwelling respects the design guidance outlined in Building on Tradition. There are 3 dwellings along this stretch of Bavan Road. As there is an existing building on the site at present, no gap existing. Given the crammed nature of the proposal, it is considered that a dwelling on the site will result in a suburban style build-up of development at this location when read with existing buildings. As mentioned above, the proposed dwelling would appear crammed into the site and it would appear at odds with the established pattern of development at this location and as such the proposal would not respect the traditional pattern of settlement exhibited in that area. As previously note, the application site sits between Nos. 57 and 59 Bavan Road. In between these two dwellings there is an existing shed. Therefore there is no gap site as the site is essentially already developed.

Impact on Amenity

The two closest neighbouring dwellings are Nos. 57 and 59 to the south and north respectively.

The proposed dwelling has a ridge height of 6.4m from FFL and is approx. 2m from the common boundary between No. 57. The relationship between the site and the neighbouring dwelling is shown below.



The common boundary is defined by a hedgerow as shown above. There are no upper floor windows looking towards No. 57 to the south therefore I have no concerns of unacceptable overlooking resulting from the new development.

The 3m distance between the proposed dwelling and the common boundary highlights the limited space and cramped nature of the proposal. This has been discussed in more detail above. Regardless of this, given the 6.4m high ridge height, strong mature boundary and distance between No. 57 and the common boundary, I am satisfied that there will be no loss of light or overshadowing to an unacceptable level caused by the new dwelling.

No. 59 is north of the proposed dwelling. There is a proposed separation distance of approx. 8m from the new dwelling and the common boundary. Again, no upper floor windows are proposed on the side elevation facing No. 59. Given this, I am satisfied that the proposed dwelling will not harm the amenity of the neighbouring dwelling to an unacceptable level.

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.

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 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 not respect the traditional pattern of settlement exhibited in that area;

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Case Officer Signature: Eadaoin Farrell
Date:06.07.2022
Appointed Officer Signature: M Keane
Date: 18-07-22



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

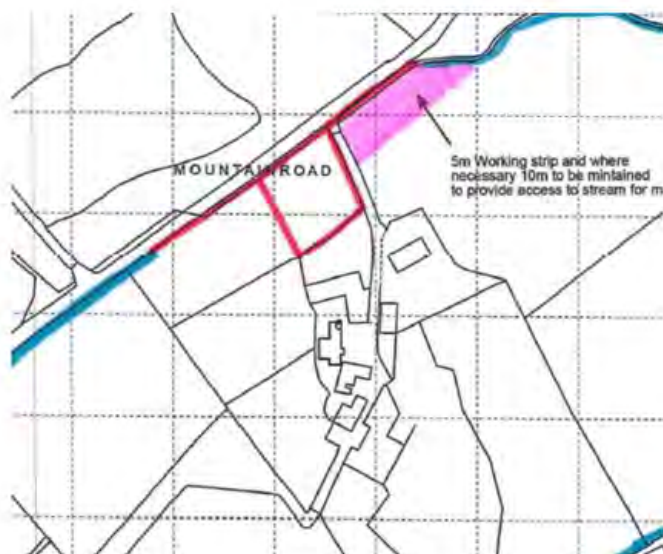
**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0296/O

Date Received: 18/02/2022

Proposal: Dwelling and Garage on a Farm under Policy CTY10 of PPS21

Location: Approx. 50m North West of 4 Mountain Road, Guinness, Ballynahinch



Site Characteristics & Area Characteristics:

Characteristics of site: The lands outlined in red form a square shaped site located to the north west of the address known as 4 Mountain Road. The site is located in an open roadside field, with a farm grouping and two dwellings to the rear of the site. Having inspected the site, it is noted that the levels on site vary, a larger rock outcrop is located to the SW portion of the site. In terms of boundary treatments, the roadside boundary consists of a ditch with post and wire fencing. The southern boundary consist of a dry stone wall with mature trees to the rear. The eastern boundary consists of a maintained hedgerow, there is no defined boundary to the west. There is no direct access to the site at present.

Characteristics of area: The application site is located outside any settlement development limits as designated within the Ards and Down Area Plan 2015. The area is of typical rural character and predominately agricultural use, located within a designated Area of Outstanding Natural Beauty. There is an undesignated watercourse that flows along the North-western boundary of this site.



Views onto site from north East (Fig 1)



Site History:

Direct views facing onto site (Fig 2)

R/1993/0194 – Dwelling. Adjacent To 6 Mountain Road Guinness Ballynahinch. Permission Granted.

R/1993/0614 - Adjacent To 6 Mountain Road Guinness Ballynahinch. Permission Granted.

Planning Policies & Material Considerations:

Ards and Down Area Plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

PPS 2 - Natural Heritage

NH 6 - Areas of Outstanding Natural Beauty

PPS 3 - Access, Movement and Parking

AMP 2 - Access to Public Roads

PPS 21 - Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 10 - Dwellings on Farms

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 - Rural Character

CTY 16 - Development Relying on Non-Mains Sewerage

PPS 15 – Planning and Flood Risk

Building on Tradition, a Sustainable Design Guide for the Northern Ireland Countryside

Consultations:

DAERA – The Business ID number has been in existence for more than 6 years and subsidies have been claimed in each of the last 6 years.

NI Water - Generic response

DfI Roads - No objections subject to access being constructed in accordance with the RS1.

DfI Rivers - No objections subject to a working strip of appropriate width is retained to enable riparian landowners to fulfil their statutory obligations/responsibilities

Objections & Representations:

2 Neighbours within close proximity of the site were notified on 08/03/2022. This application was advertised in the local press on 09/03/2022. To date no objections or representations have been received.

Consideration and Assessment:

The proposed development is seeking outline planning permission for a farm dwelling and garage.

Ards and Down Area Plan 2015

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 Ards and Down 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 in open countryside. 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 PPS21.

PPS 21 - Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for farm dwellings, which are considered acceptable if in accordance with policy CTY10. Policy CTY 1 requires that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations. Policy CTY 10, which relates to dwellings on farms, requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm to help minimise impact on the character and appearance of the landscape. Compliance with Policy CTY 10 does not provide an exemption from compliance with other policies as recently established by PAC Commissioner McShane - Appeal 2021/A0074. Policy CTY 10 refers to the need for a proposal to meet the tests of Policies CTY 13 and CTY 14.

Policy CTY 10 Criterion (a) requires the farm business to be currently active and to have been established for at least 6 years. DAERA advised in a consultation response dated 16/03/2022 that the associated farm has been in existence for 6 years, and the farm business has claimed the Single farm payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment Schemes within each of the last 6 years. This information provides the Council with the main means to determine if farm is currently active and established. Based on this information the application meets the policy requirements of CTY10(a).

The farmland has been checked for any development opportunities. The Council carried out land registry checks on several sites of interest and are content there has been no development opportunities have been sold off from the farm holding within 10 years of this application. This was based on the submitted farm maps which accompanies this application. The application meets policy requirements of CTY10(b).

Criterion CTY10(c) requires that new building is visually linked or sites to cluster with an established group of buildings on the farm and where practical, and access should be obtained through 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).

As specified on the P1C, the farm is registered to 4 Mountain Road, which is located directly south-east of the site. From a site visit it was evident that there was a small holding of buildings associated with this farm. Paragraph 5.41 of PPS 21 states that 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 site outlined for the dwelling and garage is sited immediately north of a small farm complex, consisting of a number of pitched roof agricultural buildings. Whilst it is considered that a dwelling can visually link with a group of buildings on the farm the element of clustering is absent. Current access to the farm complex is via an existing laneway.

The submitted site location plan does not include the existing access, a new access is being proposed. In a supporting statement, it was stated that the new access would reduce the health and safety risks associated with the day to day running of the farm, however no verifiable evidence was submitted to demonstrate this. The application fails to meet this criterion of CTY10(c).

Policy CTY 13 requires that a new building in the countryside be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application there are no detailed drawings submitted. Topography within the site rises significantly from north-east to the south-west and rises beyond the site to the south.

When traveling from the south-west (see Fig 3) views of a dwelling and garage will be prominent, given it will sit in an open field highly exposed and in an elevated position. Buildings when observed from this approach, would fail to provide a suitable backdrop appearing as skyline development, amounting to a prominent feature in the landscape. Furthermore, when considering this critical viewpoint, the dwelling fails to provide a suitable level of enclosure given its siting in a larger field, failing to achieve appropriate integration. Case officers note that the level of ancillary works required to development this site for a dwelling and garage would fail to

respect the existing contours and landform, resulting in considerable levels of cut and fill.

Furthermore, travelling from the north-east and although the view is short, notwithstanding that it is visually linked with an established group of buildings on the farm, the lack of clustering accentuates the degree of separation and from this perspective would result in ribbon development.



Critical views points from south-west – site highly exposed and lacks suitable backdrop (Fig. 3)

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of the area. As discussed above, the planning department are of the opinion that dwelling and garage on the subject site would be unduly prominent on the landscape, and the impact of ancillary works required would damage rural character. It would also create a ribbon of development when taken with existing development.

CTY 16 ensures that new developments will not create or add to a pollution problem. A septic tank is proposed. Details of its location would be required at reserved matters stage. This proposal at this stage is not contrary to CTY 16.

PPS 2 - Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) policy NH 6- requires that new development within a designated AONB must be of an appropriate design, size and scale for the locality. The potential siting of a dwelling and garage within the lands in red are not considered sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

PPS 3 Access, Movement and Parking

The proposal must accord with AMP2 of PPS3. DfI Roads were formally consulted and responded on 26/03/2022 with no objections to this proposal, subject to the access being constructed in accordance with RS1. In view of this officers consider access arrangements to be acceptable.

PPS 15 – Planning and Flood Risk

There is an undesignated watercourse that flows along the North-western boundary of this site. DfI Rivers have confirmed that the site is not located within the flood plain.

FLD 3 - Under 6.32 of the policy it is essential that a working strip of minimum width 5m is retained. The agent submitted a revised site location plan, and in a response dated 22/04/2022 DfI Rivers confirmed that the applicant has demonstrated that they are leaving a minimum working strip of 5m along the watercourse to facilitate future maintenance. DfI Rivers are satisfied with this proposal in relation to FLD2 of PPS15.

The planning agent for the application was advised at an early stage in the processing of the application that the proposal was unacceptable for the above reasons. The Planning Department suggested to the applicant a choice of alternative siting's that would comply with policy. However this was not acted upon by the applicant who instead proceed with the unacceptable siting.

A supporting planning statement was subsequently submitted by the agent justifying the choice of site and why the alternative sites as identified by the Planning Dept have been discounted.

The Planning Department whilst having regard to the content of this supporting statement remain firmly of the opinion that the site as chosen is contrary to policy and has therefore been recommended for refusal for the following reasons.

Refusal Reasons:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are

no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to the SPPS, Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed development does not make use of an existing lane and no verifiable evidence has been provided as to why the existing access lane cannot be used.
3. The proposal is contrary to the SPPS, Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed development, is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape and is considered to be a prominent feature in the landscape as it fails to blend in with the existing landform. The proposed buildings would rely primarily on the use of new landscaping for integration and ancillary works do not integrate with their surroundings.
4. The proposal is contrary to the SPPS, Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed development would result in a suburban style of development and result in the creation of ribbon development when viewed with existing development. Ancillary works by way of the creation of a new access to the site would also damage rural character.
5. The proposal is contrary to the SPPS and PPS 2 Natural Heritage Policy NH 6 Areas of Outstanding Natural Beauty 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: S. Maguire	Date: 03/08/2022
Appointed Officer: A.McAlarney	Date: 03 August 2022

Planning Committee Schedule of 21st September 2022

Planning reference: **LA07/2022/0296/O**

Proposal: **Farm Dwelling & Garage**

Applicant: **Mr Martin Carvill**

Location **4 Mountain Road**

Recommendation: **Refusal**

Reasons

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are 8 no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the SPPS, Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed development does not make use of an existing lane and no verifiable evidence has been provided as to why the existing access lane cannot be used.
3. The proposal is contrary to the SPPS, Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed development, is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape and is considered to be a prominent feature in the landscape as it fails to blend in with the existing landform. The proposed buildings would rely primarily on the use of new landscaping for integration and ancillary works do not integrate with their surroundings.
4. The proposal is contrary to the SPPS, Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed development would result in a suburban style of development and result in the creation of ribbon development when viewed with existing development. Ancillary works by way of the creation of a new access to the site would also damage rural character.
5. The proposal is contrary to the SPPS and PPS 2 Natural Heritage Policy NH 6 Areas of Outstanding Natural Beauty 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.

Site Description

Characteristics of site: The site located to the north west of 4 Mountain Road. The site is located in an existing agricultural field with a farm grouping and two dwellings to the rear of the site. In terms of boundary treatments, the roadside boundary consists of a ditch with post and wire fencing. The southern boundary consist of a dry stone wall with mature trees to the rear. The eastern boundary consists of a maintained hedgerow, there is no defined boundary to the west. The area is predominately in agricultural use, the site lies within a designated Area of Outstanding Natural Beauty.

Planning Policies & Considerations As stated in the officers Report

Planning History None Relevant

Assessment of reason for Refusal

1 A dwelling on a farm under Policy CTY10 is an exception to Policy CTY1 of PPS21 and the response from DAERA states the current business has existed for over 6 years and subsidies have been claimed thus the farm business is active as required by the policy and as such the holding is entitled to dwelling one every 10 years so this policy is complied with.

2 The application site as applied for proposes to use a new access of Mountain Road rather than use the existing access which services the main farm yard and the 2 existing dwellings. The response from Dfi Roads Service finds the proposed access on to Mountain Road acceptable while the policy states that *"where practicable, access to the dwelling should be obtained from an existing lane."* In this instance the vehicle movements associated with the existing lane way would indicate health and safety issues would be magnified while the proposal would cause no increase in this area of health and safety. Access directly on to the propose site would be acceptable.

3 Contrary to this reason for refusal it has to be argued that the proposed site is able to provide a suitable degree of integration and as the applicant intends to reduce the ground level of the site the new dwelling will be bounded to the East by the existing hedge line of the laneway and to the south by existing mature trees that exist in front of the existing farm buildings and due to the reduction in the ground level of the site the proposal will nestle on the reduced ground level with a sloping bank which will be planted with hawthorn hedging at the higher level thus providing natural screening similar to that proposed along the road frontage. Contrary to the officers interoperations the site will rely only on limited landscaping as shown in the officers photographs.

4 The officers has indicated that the proposed site would lead to suburban style development and cause a ribbon this has to be refuted as the development site is not long side any buildings rather it is in front of mature vegetation and existing building so it is difficult to see how a ribbon could be created as there are no building either side of the site. As it is the developer's intention to set the building to the rear of the site with garden and parking to the front of the proposal, it will be similar to most dwellings viewed as one travels along a country road.

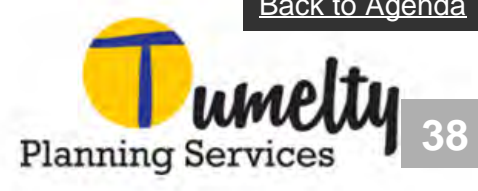
5 The officer's deliberation that the site as applied for is unsympathetic to the special character of the AONB Policy NH-6 has to be refuted as the new development will be single story in nature, will be of modest size and scale while its location will be clustered with existing built form. The chosen site makes use of the existing backdrop of vegetation and buildings and offers a sympathetic position rather than the site suggested by the officer located in the field to the west of the farm building located to the rear of the Post & wire fence line which provides no integration and would have an access laneway and access point which in the writers opinion would be detrimental to Policy NH-6, would cause a ribbon, create an access point more detrimental than the current proposal

Conclusion

The site as chosen complies with the requirements of a dwelling on a farm under Policy CTY10 as it clusters with existing development is safe and convenient to the occupiers as it avails of a separate access adjacent to the farm access which is already serving the farm and two dwellings, the owners intention to construct a modest single storey dwelling located to the rear of the site as applied for which avails of existing vegetation and an established backdrop.

It is considered that this is the best location on the holding after having considered alternative including the site offered by the officer in discussions.

The site as applied for offers the best location of a dwelling to cluster with the farm complex in this situation and the applicant contends that the chosen site remains the preferred option as stated in the rebuttal of the refusal reasons.





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2021/0154/F

Date Received: 30/08/2022

Proposal: Application to deepen existing operational quarry for the extraction of gritstone incorporating landscaping, native species planting and full site restoration

Location: Approx. 250m east of 124 Crossgar Road, Saintfield



Site Characteristics & Area Characteristics:

The lands outlined in red form an irregular shaped site located at an established quarry known as Lisowen Quarry, CES Quarry Products. The subject site is approx. 8.1 hectares in size. The application site is located in an area of undulating topography associated with the glacial history of the area (drumlinoid). Prior to development, levels at and around the site are between 80-70mOD with lower levels towards 60mOD to the north and east of the site. The overall quarry void is currently excavated to different levels from a perimeter level of approx. 70mOD down to a low point of approx. 25mOD. The site contains an existing operational hard rock quarry

and associated plant (outside the red line). The site in its entirety covers an area of approx. 37 hectares, with quarry operations currently occupying 23 hectares of this. It is proposal seeks to deepen the permitted quarry floor to enable the creation of a further 6 benches. The subject site is located within an area of rolling drumlins, and long and medium views of the quarry are quite limited. Views from the A7 Crossgar Road are considered highly limited, given the landform and existing natural screening surrounding the site. Whilst the main entrance to the quarry is apparent, one's awareness of the presence of a quarry of this scale is not readily apparent. Critical views from the Carsonstown are minimal again due to the landform and corridor of planting which runs along the eastern boundary of the quarry.

Characteristics of area

The application site is located outside any settlement development limits as designated within the Ards and Down Area Plan 2015. The area is of typical rural character and predominately agricultural use. The local development pattern consists mainly of clustered farm groups with occasional one-off dwellings. The main access is taken from A7 Crossgar Road which is a Protected Route. The site rests on the main arterial route between Saintfield and Crossgar.



Site History:

Quarrying has taken place on this site since 1948. There have been a series of planning approvals as the site and plant have been extended:

LA07/2020/1537/PAN - Deepen existing operational quarry for the extraction of grit stone, incorporating landscaping, native species planting and full site restoration. 123 Crossgar Road, Saintfield. Proposal of Application Notice Is Acceptable.

LA07/2018/0069/F - Proposed Office Block in lieu of existing. 40m NW of 2 School Road, Saintfield BT24 7JH. Permission granted.

R/2011/0296/F - Proposed office and store. 124 Crossgar Road Saintfield. Permission granted.

R/2006/1219/F - Installation and operation of a mobile crushing and screening plant and retention of CDE washing plant. Lisowen Quarry, Crossgar Road, Saintfield. Co Down. Permission granted.

R/2001/0298/F- Extension to existing quarry. Lisowen Quarry, Crossgar Road, Saintfield, Co Down. Permission granted.

R/1994/0464 - Proposed batching and concrete mixing plant; proposed concrete apron for making and curing blocks; proposed primary crusher and proposed office block etc. Lisowen Quarry Saintfield. Permission granted.

R/1992/6051 – Proposed extension to existing quarry Lisowen Saintfield. Preapplication enquiry Non-committal.

R/1993/0021 - Extension To Existing Quarry For Purpose Of Extracting Rock. Crossgar Road Tld Of Lisowen Saintfield. Permission Granted.

R/1974/0171 – Extraction of Rock. Lisowen Saintfield. Permission granted.

Planning Policies & Material Considerations:

Ards and Down Area Plan 2015

The Strategic Planning Policy Statement for Northern Ireland (SPPS)

PPS2 – Natural Heritage

PPS3 – Access, Movement & Parking

PPS 6 – Planning, Archaeology and the Built Heritage

PPS 21 - Sustainable Development in the Countryside

DCAN15 – Vehicular Access Standards

PPS6 – Planning, Archaeology and the Built Heritage

A Planning Strategy for Rural Northern Ireland

Consultations:

DfI Roads - No objections to this proposal. These comments are on the basis that the traffic figures submitted are considered accurate and true. These comments are also on the basis that this is an exception to the Protected Routes Policy

NI Water Strategic applications - Existing site already connected to Public Water supply via a metered connection. Applicant proposes to discharge foul to septic tank Applicant proposes to recycle surface water in the processing plant. This site is also subject to discharge consent under Ref 10168/03.

DETI Geological Survey – No objections.

Health & Safety Executive - The current quarry operation is approximately 200m from occupied dwellings not in the quarry ownership and around 150m of occupied dwellings owned by the quarry company. The quarry bench approximately 25m below the current surrounding ground level and the application is to deepen the quarry by 75m. The topography and the location of this development does not cause HSENI any concerns with regard to fly rock. HSENI has no objections to this development.

Shared Environmental Service – No effects on European sites.

Environmental Health – No objections subject to conditions regarding, noise levels from blasting and other operations and notifying residents within a 300m radius of the quarry of blasting.

Northern Ireland Environment Agent (NIEA) –

Natural Environment Division - has considered the impacts of the proposal on the site and, on the basis of the information provided, is content with the proposal subject to conditions.

Regulation Unit - having considered the impacts of the proposal on the groundwater environment and on the basis of the information provided are content with conditions.

Water Management Unit - having considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal strictly subject to conditions.

Rivers Agency –While not being responsible for the preparation of this Hydrological & Hydrogeological Risk Assessment accepts its logic and has no reason to disagree with its conclusions.

Objections & Representations:

6 Neighbours within close proximity of the site were notified on 11/03/2021. This application was advertised in the local press on 10/02/2021. To date no objections or representations have been received.

Consideration and Assessment:

Summary of proposal

The submitted application is seeking permission to deepen the existing quarry footprint with restoration to agricultural lands following the completion of extraction. All of the extraction will take place within the existing quarry footprint (by deepening) the eastern area of the quarry to depth of -50m OD. As no lateral extension is proposed, the current reservation strips will be maintained, furthermore no soil or overburden stripping is required. It will yield some 400,000 tonnes of aggregate per year.



As the current application is a major application as defined by the Planning (Development Management) Regulations (Northern Ireland) 2015, it was preceded by a Proposal of Application Notice and a period of Pre-application Community Consultation as required by legislation – see report in Pre-Application Community Consultation Report. The current proposal is for the winning and working of gritstone by drilling and blasting at a rate of 400,000 tonnes per year for extraction and processing. This gritstone will be predominately sold as a high-quality road surfacing aggregate. A restoration concept of the site at the end of the quarry's operational life has been provided, which seeks to naturally flood the quarry to create a lake, plant addition trees to aid the restoration process.

As the development is within Category 19 – Quarries and open-cast mining where the surface of the site exceed 25 hectares – of Schedule 1 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017, an Environmental Statement is required. Given that the site area is of this is site is approx. 8.1ha, accordingly an Environmental Statement was not required.

Ards and Down Area Plan 2015

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 Ards and Down Area Plan 2015 as the new Council has not yet adopted a local development plan. The site is outside settlement limits in a rural area.

With regard to mineral development, the Plan states that quarries further crush the material to produce finer aggregate which can be used in a range of secondary processes. Such processes include ready-use concrete, tarmacadam production and the manufacture of concrete blocks. It notes that there is consistent demand for aggregates over a relatively long period. The Plan aims to balance the need for extraction against the need to protect and conserve the environment. Specific policy for mineral extraction is found in the SPPS and the PSRNI.

Strategic Planning Policy Statement for Northern Ireland.

The SPPS sets out core planning principles to be employed in the quest to achieve sustainable development. Of particular relevance to this application are supporting sustainable economic growth and preserving and improving the natural environment. Sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Minerals are an important natural resource and their responsible exploitation is supported by Government. The minerals industry makes an essential contribution to the economy and to our quality of life, providing primary minerals for construction, such as sand, gravel and crushed rock, and other uses, and is also a valued provider of jobs and employment, particularly in rural areas. This development will facilitate the extraction

of minerals from the site for around 20 more years and the land will then be restored to a lake and revegetate the site to promote sustainable ecological development.

It will yield some 400,000 tonnes of aggregate per year for the local construction and road building/maintenance industry with associated economic benefits (it presently provides around 20 full time employees and a further 20 sub-contractors. It is considered that the works can be undertaken without long-term harm to the natural environment. All of the extraction will take place within the existing quarry footprint (by deepening) the eastern area of the quarry to depth of -50m OD. As no lateral extension is proposed, the current reservation strips will be maintained, furthermore no soil or overburden stripping is required.

Having regard to the planning history of the site, the Environmental Information provided and the advice of consultees, this is considered a sustainable development in principle.

As there is no significant change to the policy requirements for mineral development following the publication of the SPPS and it is arguably less prescriptive, the retained policy in the Planning Strategy for Rural Northern Ireland will be given substantial weight in determining the application in accordance with paragraph 1.12 of the SPPS.

A Planning Strategy for Rural Northern Ireland

Policy MIN 1 relates to environmental protection. A number of areas have been considered:

- The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Services on behalf of the Council. 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 quarry is located within a mosaic of improved and semi-improved grassland with hedgerows and areas of scrub. After the lifetime of the quarry, the site will be restored, with the quarry floor creating a lake. Given that the application is for an active operational quarry, NED consider it unlikely that protected/priority species will be active in the area, given the disturbance from existing permitted activities associated with the quarry. The vegetation bounding the site has limited connections into the wider environment.
- The application was accompanied with a Hydrological and Hydrogeological Risk Assessment. NIEA notes that the proposal will not generate waste from

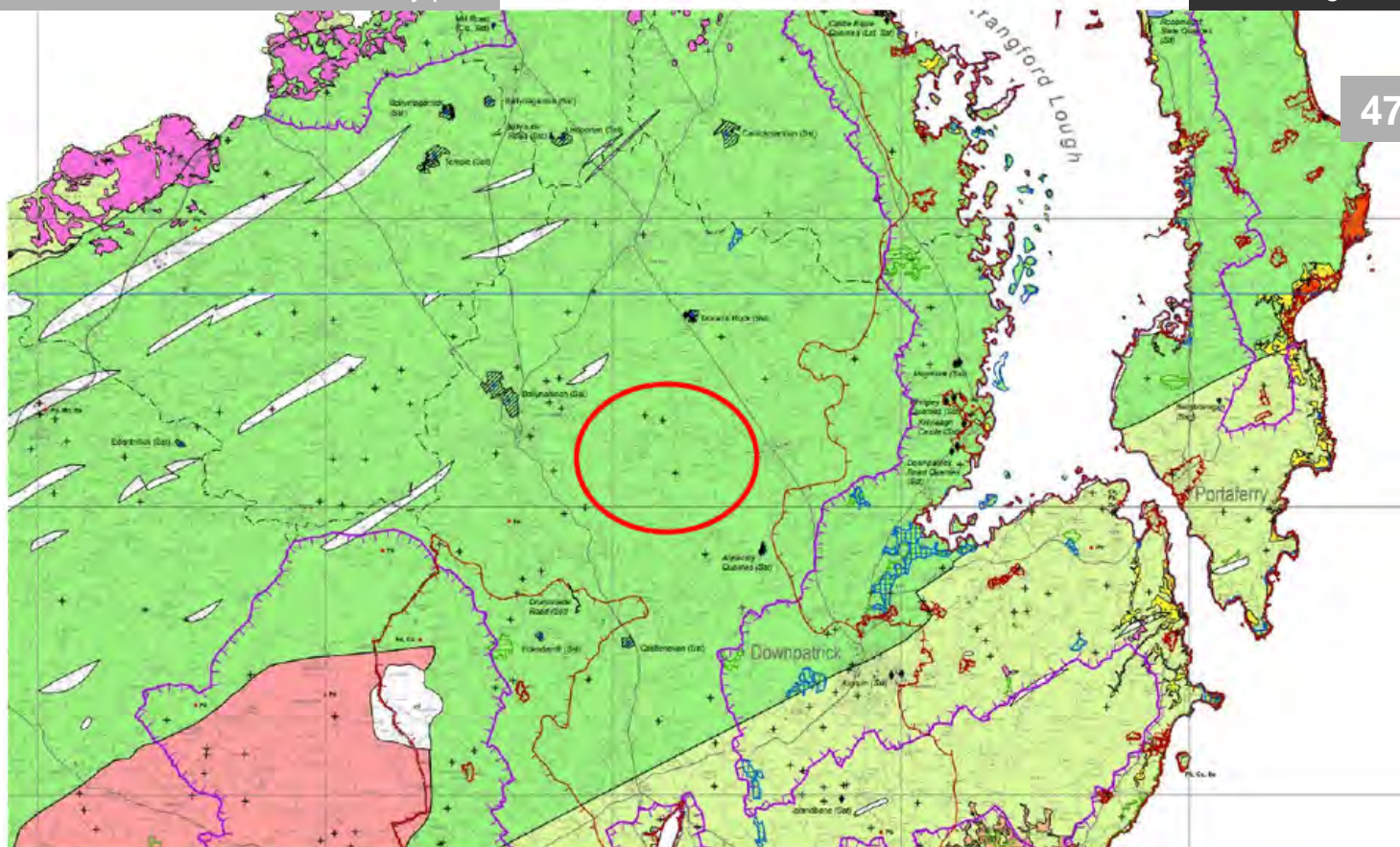
the activities and is in relation to deepening the existing quarry. The site holds a waste exemption for making aggregate from inert wastes, (NIEA ref WMEX38/59). The existing quarry workings are dewatered. The maximum depth of extraction will be -50mOD, this will be conditioned. The Land and Groundwater Team, RU are satisfied with the hydrogeological risk assessment undertaken, providing that a monitoring plan is in place and available for inspection by the planning authority on request.

- A Hydrological and Hydrogeological Risk Assessment was undertaken and Rivers Agency has no objections from a Drainage or Flood Risk perspective. There are no watercourses or natural open water areas in immediate proximity to the quarry void perimeter. The nearest significant drains and ditches flow away from the quarry and do not extend up to the quarry. As such no flow from these features is considered to enter the quarry. Based upon regional mapping, the existing quarry area and proposed area of deepening is located within a single surface water catchment, with the nearest mapped minor watercourse to the north, which receives any excess water from the quarry under a consented discharge. As such water captured within the existing and proposed deepened quarry void area will have always been and will continue to be from the same catchment and will be retained within this catchment through local pumping of excess water to the surface water drainage network. As a precautionary measure DfI Rivers recommended a number of planning informatives.
- A Waste Management Plan has been provided stating that extractive operations will continue to be undertaken using the same method as currently used. Furthermore, as the application is within the confines of a working quarry, no soil, or overburden stripping is required therefore no waste from these activities will be generated. In summary, the protection and conservation of the environment will not be compromised by the proposal.
- There are no designated archaeological sites located within the immediate vicinity of the subject site. Given no lateral extension is proposed, the proposal is considered to meet the requirements of policy BH4 of PPS6.

In summary, the protection and conservation of the environment will not be compromised by the proposal.

Policy MIN 2 deals with the visual implications of mineral extraction. This is often the most significant issue with mineral workings.

The site does not fall within any designated areas for special protection, the geology of the district is such that the site sits on an area of bedrock with potential for high specification aggregate – one of few such suitable sites in Down. The site is included on the Northern Ireland Mineral Resources Map, an extract of which is shown below.



Northern Ireland Mineral Resources Map

Minerals can only be extracted from where they are found. Policy MIN2 states that mineral workings should take advantage of existing landforms and features to minimise their visual impact in the landscape. The proposal is located in the Down Drumlins and Hollywood Hills Landscape as outlined within the NI Regional Landscape Character Assessment. Here it is noted that the area is an attractive landscape of rolling drumlins with trees and hedges. The NI Regional Landscape Character Assessment makes reference to substantial hard rock quarries in this area, exploiting the resource of rock beneath County Down. It also identified that the majority of these quarries are well screened in the drumlin landscape, and that the opening of new quarries could alter the largely rural nature of the landscape.

The subject site is located within an area of rolling drumlins, and long and medium views of the quarry are quite limited. Views from the A7 Crossgar Road are considered highly limited, given the landform and existing natural screening surrounding the site. Whilst the main entrance to the quarry is apparent, one's awareness of a presence of a quarry of this scale is not readily apparent. Critical views from the Carsonstown are minimal again due to the landform and corridor of planting which runs along the eastern boundary of the quarry. As no lateral extension is proposed, the current reservation strips will be maintained, furthermore no soil or overburden stripping is required, resulting in negligible visual impact from the surrounding landscape. The proposal is considered to meet the requirements of policies MIN 2.

Policy MIN 3 addresses potential areas of constraint regarding mineral developments. Examples of this may include designated, listed or otherwise protected locations for their scenic value or archaeological or historic interest. The criterion states that 'within these Areas of Constraint there will be a presumption against the granting of planning permission for the extraction and/or processing of minerals.'

The subject site is not located within any Natural Heritage designation such as an AoNB or an Area of Scientific Interest (ASSI). The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Services on behalf of the Council. There are no designated archaeological sites located within the immediate vicinity of the subject site. Given no lateral extension is proposed, the proposal is considered to meet the requirements of policy BH4 of PPS6.

Policy MIN 6 considers the safety and amenity of the occupants of nearby dwellings. It is acknowledged that mineral developments can be bad neighbours of housing. The proposed hours of operation will remain unchanged and will operate as follows: Weekdays: 0600 to 1800, Saturdays: 0600 to 1400, No working on Sundays and No working on Public Holidays.

The current quarry operation is approximately 200m from occupied dwellings not in the quarry ownership and around 150m of occupied dwellings owned by the quarry company. In order to ensure appropriate bench heights are maintained, the application area steps back a further 20m from the quarry boundary than the previous R/93/0021 and R/2001/0298/F approvals. The supporting statement put forward a case that these properties will be afforded greater protection than currently experienced. Furthermore, the impacts of noise, dust and vibrations will minimise as the quarry floor deepens. The applicant will adhere to strict protocols and by maintaining good design and up-to-date equipment, it will ensure that no additional impacts will be experienced by neighbouring developments. Health & Safety Executive were formally consulted and a site visit was carried out on 8th April 2021. The quarry bench is approximately 25m below the current surrounding ground level and the application is to deepen the quarry by 75m. The topography and the location of this development does not cause HSENI any concerns with regard to flyrock. HSENI has no objections to this development.

Environmental Health have no objection to this application in principle.

Environmental health would expect those conditions in relation to noise and vibration attached to the existing permissions for this quarry are included in this application if it were approved. If not already included as a condition Environmental Health would expect the following conditions be applied to any permission granted: 1. The peak velocity of 12mm/s and an air overpressure of 128dB is not exceeded in any occupied property outside the ownership or control of the operator. 2. Residents

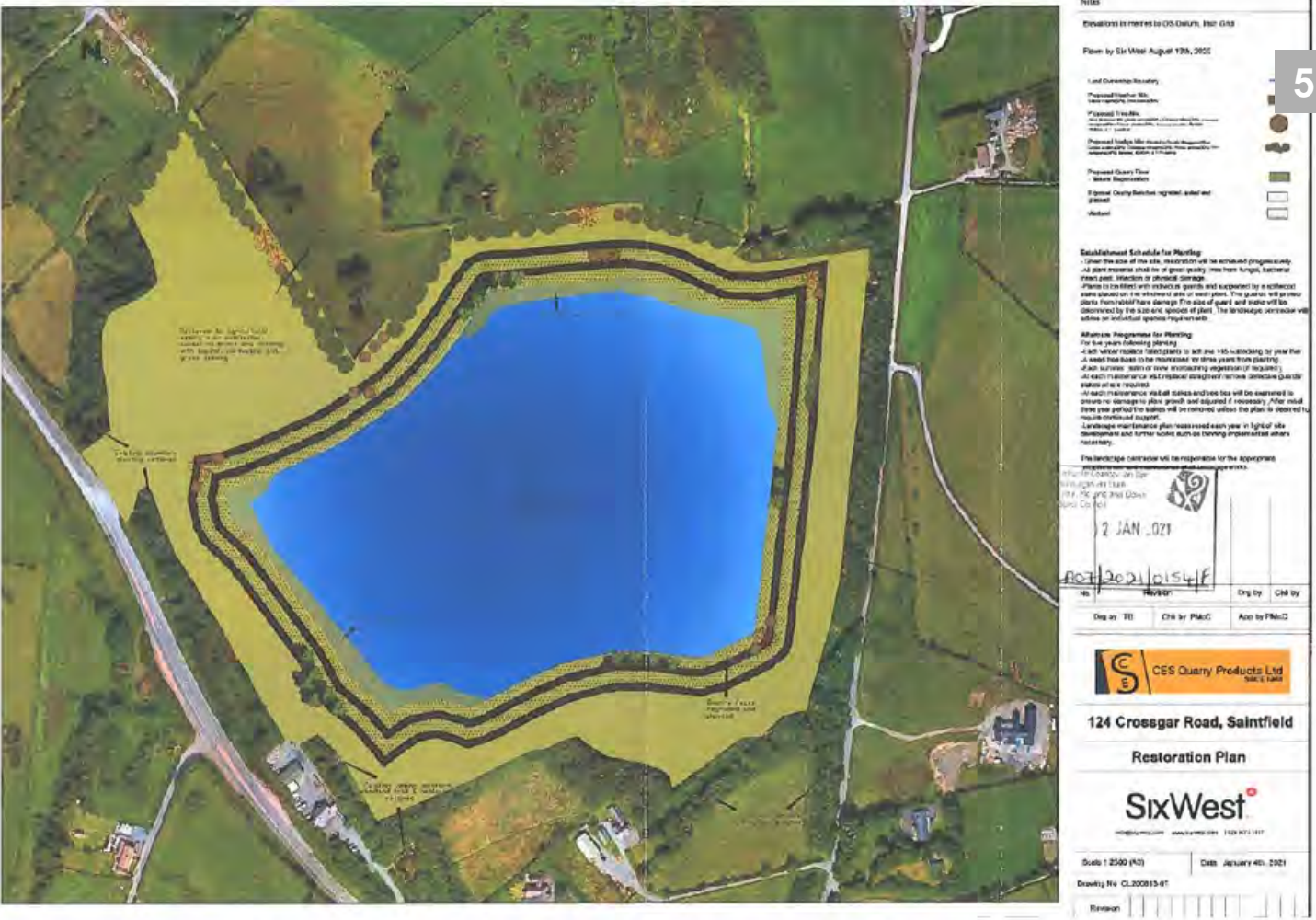
within a 300m radius of the quarry will be notified of when blasting will happen. It is not contrary to policy MIN 6.

Policy MIN 7 requires consideration of the traffic implications of mineral development. Linked to this is Policy AMP2 of PPS3 which requires that the access does not prejudice road safety or significantly inconvenience the flow of traffic. The P1 Form indicates that the operation will not generate any additional vehicle movements as output will continue at the current rate and no changes are required to the existing approved access. The proposal seeks to make use of existing access arrangements via the A7 Crossgar Road, it noted that this stretch of road has been upgraded in recent years and provides suitable access to the strategic road network for lorries. DfI Roads are content with the proposal without conditions and the Council is therefore satisfied that the development will not prejudice the safety and convenience of road users

Policy MIN 8 requires mineral workings to be restored at the earliest opportunity. This policy highlights that restoration of mineral sites has improved in recent years, however places importance on the need for operators to have a vision of what the site will look like when the mineral reserves on the site are exhausted.

It is noted that the site in its entirety covers an area of approx. 37 hectares, with quarry operations currently occupying 23 hectares of this. The supporting Statement points forward the case that the applicant CES Quarry Products have throughout the years demonstrated their commitment to the restoration process through enhancing the surrounding environment. To date CES have planted over 5000 trees and maintained some 25 acres of meadow and woodland. Boundary areas have been landscaped and planted with native species, creating extensive wildlife reserves. From a site visit, the planting and restoration of surrounding lands was apparent.

In approx. 20 years, once operations on site cease all plant and machinery will be removed and the entire site will be restored with due consideration given to the local environment. To aid the restoration process, previously stripped overburden and topsoil's will be recycled. The excavated crater will be allowed to naturally flood the quarry to create a lake, plant addition trees to aid the restoration process. A plan of the proposed restoration scheme has been provided and the carrying out of these works will be conditioned.



PPS 2 - Natural Heritage

Policy NH1 – European and Ramsar Sites – International

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). In a response dated 02/06/2021 SES stated that having considered the nature, scale, timing, duration and location of the project it is concluded that, the proposal will not have an adverse effect on site integrity of any European site.

NH 2- Species Protected by Law

NH2 states that planning permission will only be granted for a development proposal that is not likely to harm a European protected species. The presence of species protected by legislation is a material consideration when a planning authority is considering a development proposal that if carried out, would be likely to result in harm to the species or its habitats.

The quarry is located within a mosaic of improved and semi-improved grassland with hedgerows and areas of scrub. After the lifetime of the quarry, the site will be restored, with the quarry floor creating a lake. Given that the application is for an active operational quarry, NED consider it unlikely that protected/priority species will be active in the area, given the disturbance from existing permitted activities

associated with the quarry. The vegetation bounding the site has limited connections into the wider environment.

PPS 3 - Access, Movement and Parking

The P1 Form indicates that the operation will not generate any additional vehicle movements as output will continue at the current rate and no changes are required to the existing approved access. The proposal seeks to make use of existing access arrangements via the A7 Crossgar Road, it noted that this stretch of road has been upgraded in recent years and provides suitable access to the strategic road network for lorries. DfI Roads are content with the proposal without conditions and the Council is therefore satisfied that the development will not prejudice the safety and convenience of road users.

PPS 15 – Planning and Flood Risk

A Hydrological and Hydrogeological Risk Assessment was undertaken and Rivers Agency has no objections from a Drainage or Flood Risk perspective. There are no watercourses or natural open water areas in immediate proximity to the quarry void perimeter. The nearest significant drains and ditches flow away from the quarry and do not extend up to the quarry. As such no flow from these features is considered to enter the quarry. Based upon regional mapping, the existing quarry area and proposed area of deepening is located within a single surface water catchment, with the nearest mapped minor watercourse to the north, which receives any excess water from the quarry under a consented discharge. As such water captured within the existing and proposed deepened quarry void area will have always been and will continue to be from the same catchment and will be retained within this catchment through local pumping of excess water to the surface water drainage network. As a precautionary measure DfI Rivers recommended a number of planning informatives.

Recommendation:

Having had regard to the development plan and all other material considerations, the proposal is considered a sustainable development that will not cause demonstrable harm to interests of acknowledged importance. It should therefore be approved subject to the conditions identified below.

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: CL2008 13-01, CL2008 13-02, CL2008 13-03, CL2008 13-04, CL2008 13-05, CL2008 13-06, CL2008 13-07, CL2008 13-08, CL2008 13-08.

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

3. No quarrying activities including extraction shall be carried out on the site between 1900 and 0700 hours on Monday to Friday, 0000 to 0700 hours and 1300 hours to midnight on Saturdays, and at no time on Sundays.

Reason: In the interests of the amenity of nearby residents.

4. No extraction shall take place within 5 metres of any land which is outside the red line boundary of the site.

Reason: In the interests of public safety.

5. The rate of extraction shall not exceed a five year average of 400,000 tonnes per year.

Reason: In the interests of amenity.

6. No extraction shall take place below the following levels:

- -50mOD as shown on the approved drawings.

Reason: To limit the extent of the development.

7. Each blasting charge shall be so balanced that a peak particle velocity of 12 mm/second and an air over pressure of 128 dB is not exceeded at any occupied dwelling which is outside the ownership or control of the operator.

Reason: To safeguard the amenity of residents in the area.

8. The operator shall, when requested in writing by the Planning Authority, monitor levels of ground vibration and air over pressure at specified locations during blasting operations. The results of this monitoring together with any other details relating to the blast design, charge sizes shall be made available to the Planning Authority. In the event that the levels specified in Condition 7 are exceeded at any blast then no further blasting shall be permitted until the Planning Authority is satisfied that these standards will be met in future blasting operations.

Reason: To safeguard the amenity of residents in the area.

9. All blasts which are within 150 metres of occupied dwellings shall be monitored by the operator. The positioning of the vibrograph shall be agreed

with the Planning Authority, and the results of all monitoring, together with details of blast design, charge sizes etc., shall be made available to the Planning Authority on request.

Reason: To safeguard the amenity of residents in the area.

10. No blasting shall take place within 100 metres of any occupied dwelling which is outside the ownership or control of the operator

Reason: To safeguard the amenity of residents in the area.

11. Residents within a 300m radius of the quarry shall be notified by the Quarry operator prior to blasting occurring.

Reason: To safeguard the amenity of residents in the area.

12. The groundwater monitoring plan shall be implemented as detailed in "P751-1 ADDITIONAL HYDROGEOLOGICAL/HYDROLOGICAL RISK ASSESSMENT 1 SEPTEMBER 2021" section 7 Impact Assessment and Monitoring Requirements. All monitoring records shall be maintained and made available to the Planning Authority if and when requested.

Reason: Protection of groundwater environment.

13. Upon completion of the extraction hereby approved, or in the event of operations ceasing in advance of the exhaustion of approved reserves for a continuous period of 6 months and within 3 months of a written request from the Planning Authority, a site restoration plan shall be submitted to the Planning Authority for its approval, in writing. This plan shall include the following:-

- i. the identification of all items of plant, machinery, scrap metal, stockpiles and waste material to be removed;
- ii. the identification of all areas to be levelled or graded;
- iii. the position of all quarry faces, together with details of measures to be used to ensure that all final faces are left in a safe and stable condition;
- iv. the identification of areas which are liable to flood, together with details of proposed measures to ensure public safety;
- v. details of any additional landscaping measures to be implemented;
- vi. a timescale for the implementation of the restoration scheme; and
- vii. arrangements for the future management of any public amenity areas created.

The site restoration plan shall be implemented as finally approved and within the approved timescale.

Reason: To facilitate restoration of the site.

14. Before extraction commences, oil, petrol, diesel oil, and lubricant storage facilities shall be surrounded by an impervious bund or enclosure able to contain a minimum of 110% of the volume of the largest tank. All filling and distribution valves, vents, and sight glasses associated with storage tanks shall be located within the bunded area. There shall be no bund drain valves as this would be in breach of the Control of Pollution (Oil Storage) Regulations (Northern Ireland) 2010.

Reason: To minimise the risk of accidental pollution.

15. No scrap metal, disused vehicles, or other waste materials shall be stored within the site.

Reason: In the interests of visual amenity.

16. During the lifetime of the application

- the removal of any hedgerow vegetation or trees and removal or infilling of natural features such as earth banks and ditches shall be minimal.
- Any unavoidable hedgerow or tree removal shall be carried out outside of the bird breeding season, which runs from 01 March to 31 August.
- All works shall remain within the project footprint as shown on the original drawings.
- Habitat restoration work should incorporate native species.

Reason: To minimise potential impacts on breeding/nesting birds.

17. Should excavation be scheduled to commence during the breeding bird season (1st March – 31st August inclusive), effective existing quarry face should be checked for the presence of nesting or roosting Peregrines.

Reason: To minimise potential impacts on breeding/nesting birds.

Case Officer: S. Maguire	Date: 06/09/2022
Appointed Officer: A.McAlarney	Date: 06 September 2022



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2021/1206/F

Date Received: 25.06.2021

Proposal: Proposed Off-site replacement dwelling and detached garage

Location: site 50M South of 12 Mountain View, Ballynamadda Road, Dromintee, Co. Armagh

Site Characteristics & Area Characteristics:

The application site is located south of Mountain View - a row of semi-detached dwellings – and along Ballynamadda Road, Drumintee. The application site includes an old building in a state of disrepair and an area of agricultural land to the south of this. The site is bounded to the road by concrete pillars and wiring.

A portion of the application site is located within the settlement limit of Drumintee as designated in the Banbridge/ Newry and Mourne Area Plan 2015 (DR 01 Settlement Development Limit), whilst the portion of land to the south of the existing building lies outside this settlement limit. Lands outlined in blue are in ownership of the applicant.

The site is designated as an Area of Outstanding Natural Beauty. Part of the site also lies on land zoned for education – DR 02 Education – Ballynamadda Road within this plan.

Date of Site Visit: 10/08/2021

Site History:

LA07/2020/0774/O

- Lands approx. 50m south of No 12 Mountain View, Newry
- Replacement dwelling and garage
- Permission Granted 15.09.2020

Planning Policies and Material Considerations:

Banbridge Newry Mourne Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21 – Sustainable Development in the Countryside

Planning Policy Statement 2 – Natural Heritage

Consultations:

DfI Roads – No objections to the proposal

NI Water – Approved with standard planning conditions.

Objections and Representations:

Neighbours were notified of the proposal on 05.08.2021. The proposal was also advertised in local press on 14.07.2021.

No objections or representations have been submitted for consideration.

Consideration and Assessment

By way of background, outline planning permission was granted on 15 September 2020 for a replacement dwelling on a portion of the current application site. The dwelling to be replaced is again the subject of this application. This previous approval was subject to a strict siting condition to ensure that the proposed replacement dwelling would be located within the statutory settlement limit of Drumintee and to ensure compliance with planning policy requirements. The applicant has now submitted a full application which proposes to site the dwelling outside of the designated settlement limit. The Planning Department has carefully assessed this application against prevailing planning policy. It is considered that the proposal is contrary to prevailing planning policy for the reasons outlined below.

The Banbridge, Newry and Mourne Area Plan 2015

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

The application site covers quite a considerable area of land. The application site both lies within the settlement limit for Drumintee and within the countryside demarcation. The proposed replacement opportunity (outlined in green) lies within the settlement limit and the proposed siting for the new dwelling outside this limit (within countryside designation).

Strategic Planning Policy Statement (SPPS)

There is no significant change to the policy requirements for dwellings following the publication of the SPPS and as it is arguably less prescriptive, the retained policies of PPS 21 will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS.

**Planning Policy Statement 21 (PPS 21) 'Sustainable Development in the Countryside'
CTY 1 - Development in the Countryside**

CTY 1 outlines that there are a range of types of development which in principle are considered acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.

In the Design and Access Statement submitted for consideration, the agent has outlined that they consider the application should be assessed under CTY 3 of PPS 21 (Replacement Dwellings).

The building to be replaced is located within the settlement of Drumintee. There is no dwelling to be replaced within the open countryside. The policies contained within Planning Policy Statement 21 (PPS 21) 'Sustainable Development in the Countryside', only apply within the open countryside, they do not apply within villages. CTY 3 of PPS 21 does not apply in this case, as there is no dwelling to be replaced within the open countryside. The proposal does not meet the criteria outlined within CTY 1 for development in the countryside.

The previous approval on-site (LA07/2020/0774/O) included a strict siting condition to contain the development within the settlement limit (in line with policy). It is considered that there is sufficient space within the settlement limit to accommodate a dwelling without encroaching into the countryside and contrary to PPS 21.

This proposal is considered contrary to CTY 1 in that it does not meet the criteria for development in the countryside.

CTY 3 – Replacement Dwellings

CTY 3 outlines that the replacement of existing dwellings is important to the renewal and upgrading of the rural housing stock (5.14).

However, as outlined above, the building coloured green on the submitted site location plan is located within the settlement limit and cannot therefore be considered a replacement opportunity in line with policy. There is no provision in planning policy to allow the replacement of a dwelling in a settlement within the open countryside.

The proposal is contrary to CTY 3 in that it is not considered that there is a replacement opportunity which meets CTY 3 policy requirements within the portion of the application site that lies within the open countryside.

CTY 14 – Rural Character

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. The policy also states that a new building will be unacceptable where, amongst other things it results in a suburban style build-up of development when viewed with existing and approved buildings; or it creates or adds to a ribbon of development (see Policy CTY 8).

The siting of the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings in the locality. The proposal does not respect the traditional patterns of settlement exhibited in the area. It creates a ribbon of development along Ballynamadda Road.

The proposal is therefore contrary to CTY 14 and CTY 8.

CTY 15 – The Setting of Settlements

CTY 15 outlines that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl.

Landscapes around settlements have a special role to play in maintaining the distinction between town and country, in preventing coalescence between adjacent built-up areas and in providing a rural setting to the built-up area.

The principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built-up area and surrounding countryside. To approve an application which blurs this distinction would be contrary to policy.

The Planning Department cannot accept the applicant's case for the proposal, as referred to below, that *'the proposal seeks to round-off the settlement area'*. The proposal is unacceptable in that it proposes replacing a building within the settlement limit and siting this within open countryside, thus marring this distinction between the two defined areas. This clearly would not result in the rounding off of the settlement.

The proposal is therefore contrary to CTY 15.

Planning Policy Statement 2: Natural Heritage.

The proposed site lies within the Ring of Gullion Area of Outstanding Natural Beauty. Policy NH 6 of PPS 2 states that Planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met:

- a) *the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and*
The siting of the proposal is contrary to the AONB in that encourages sprawl into a designated countryside area, marring the distinction between the two and appearing incongruous in the landscape.
- 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*
The proposal does not threaten features in the local area which are important to the character, appearance or heritage of the landscape.
- 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.*
The proposal respects local architectural styles.

The proposal is contrary to Policy NH 6.

Correspondence with agent:

In addition to a request for further information from DfI Roads, an email was sent to the agent on 29/09/2021, outlining the Planning Department's concerns regarding this proposal:

In its current format, the proposal would be contrary to PPS 21 – CTY 1, in that the proposal does not meet the following criteria for an individual dwelling house in the countryside:

- *a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;*
- *a replacement dwelling in accordance with Policy CTY 3; (there is no replacement opportunity located in the countryside)*
- *a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*
- *a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*

- *the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or*
- *a dwelling on a farm in accordance with Policy CTY 10*

The proposal is contrary to CTY 15, in that the proposal mars the distinction between a settlement and the surrounding countryside. As outlined in policy, the principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built-up area and surrounding countryside. The proposal threatens this distinction.

The proposal is contrary to CTY 8 and CTY 14, in that it would create ribbon development along Ballynamadda Road. As outlined in policy, ribbon development has consistently been opposed and will continue to be unacceptable.

The agent was given an opportunity to comment on the above comments from the Planning Department within 21 days of the date of the email. In relation to the above comments, the applicant has provided the following response:

- *The proposal seeks to round-off the settlement area.*

The Planning Department does not accept this as a basis for an approval in this case, for the reasons outlined above.

Summary:

The proposal is for an off-site replacement dwelling and garage.

This application proposes replacing a building within the settlement limit and siting this outside the settlement limit. The building within the settlement limit cannot be assessed using a policy for countryside designations.

The siting results in ribbon development along Ballynamadda Road and is not sympathetic to the special character of the AONB.

For the reasons outlined above within this report, the proposal is recommended for refusal.

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of PPS 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 CTY 3 of PPS 21, Sustainable Development in the Countryside in that there is no opportunity for a replacement dwelling within the application site.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 and CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- it results in a suburban style build-up of development when viewed with existing and approved buildings in the locality;
 - It does not respect the traditional patterns of settlement exhibited in that area; and
 - It adds to a ribbon of development along Ballynamadda Road.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed development mars the distinction between a settlement and the surrounding countryside.
 5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of PPS 2 in that the siting of the proposal is not sympathetic with the special character of the AONB and of the particular locality.

Case Officer: E.Moore 11/08/2022

Authorised Officer: P Rooney 12/08/2022



REPRESENTATION AGAINST DECISION TO REFUSE

APPLICATION REFERENCE:	LA07/2021/1206/F
APPLICANT:	Seamus Gallagher
SITE LOCATION:	Site 50m South Of 12 Mountain View, Ballynamadda Road, Dromintee, Co. Armagh
PROPOSAL:	Proposed Off-Site Replacement Dwelling & Detached Garage
NEIGHBOUR NOTIFICATIONS:	No Objections
STATUTORY CONSULTATIONS:	No Objections

- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of PPS 21 Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.*
- The proposal is contrary to the Strategic Planning Policy Statement Northern Ireland and Policy CTY 3 of PPS 21 , Sustainable Development in the Countryside in that there is no opportunity for a replacement dwelling within the application site.*
- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 and CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that*
 - It results in a suburban style build-up of development when viewed with existing and approved buildings In the locality ;*
 - It does not respect the traditional patterns of settlement exhibited in that area; and*
 - It adds to a ribbon of development along Ballynamadda Road.*
- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 15 of Planning Policy Statement 21 , Sustainable Development in the Countryside in that the proposed development mars the distinction between a Settlement and the surrounding countryside.*
- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of PPS 2 in that the siting of the proposal is not sympathetic with the special character of the AONB and of the particular locality.*

The aim of the Strategic Planning Policy Statement (SPPS) for Northern Ireland is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development while supporting and sustaining rural communities consistent with Rural Development Strategy (RDS).

We believe this application complies with the SPPS and the RDS. Both the Planning Department and the Planning Committee have in the recent past approved applications involving rounding-off development zones and on occasion slight extensions to such zones where it can be shown that it is not detrimental to the area. This application is such a case.

One such application approved by the Planning Department is LA07/2019/1460/O infill site for dwelling and detached garage, lands between Nos 9 and 17 Lower Foughill Road Jonesborough. This was granted on 2 December 2019 even though number 9 Lwr Foughill Rd lies within the settlement limit of Jonesborough. The officers report accepts that the development is sympathetic to the AONB and is not detrimental to or further erodes rural character. This view was reinforced by planners during the consideration of a further application on the same site, LA07/2020/0942/F.

Another application referred to the Planning Committee, LA07/2019/1069/O dwelling 20m N.East of 31a Quarter Rd Glassdrumman, Annalong was granted on 13 Feb 2020. The Committee accepted the view that it wasn't detrimental to or eroded rural character and that it was sympathetic to the AONB even though the site adjoined the settlement limit of Glassdrumman / Mullartown. This view was reinforced by planners during the consideration of a further application on the same site, LA07/2022/0535/F which was granted on 14 July 2022. PAC 2017/A0147 is also of relevance.

The proposal is not contrary to CTY8 of PPS21. One building does not create or add to ribbon development. Nor is it contrary to CTY 14 as it does not cause a detrimental change or further erode the character of the area. Instead the proposal will be read with existing development in Dromintee and be seen as part of it just as the building to be replaced is. For this reason CTY15 will not be offended. The proposed development does not mar the distinction between the settlement of Dromintee and the surrounding countryside.

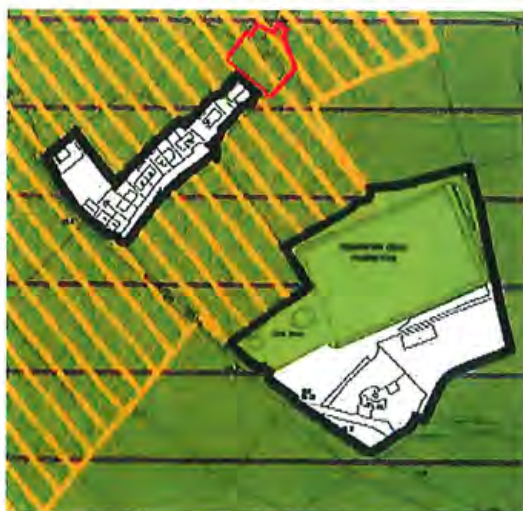
The proposed design is, in our view, sympathetic in style, size and scale to the character of the AONB in this particular locality. It therefore satisfies the principles of Policy NH6 of PPS2.

In conclusion we believe that this proposal is in keeping the SPPS for the reasons set out above. We also believe that a site visit by the Planning Committee is essential to appreciate the site specifics relating to the rounding off in compliance with the policies referred to.

Bed Line

Signed

14th September 2022



LA07/2019/1460/O
Foughill Road, Jonesborough

LA07/2019/1069/O
Quarter Road, Glassdrumman

LA07/2021/1206/F
Application Site



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2021/1663/F

Date Received: 21.09.2021

Proposal: Dwelling on a Farm

Location: Site 125m South South West of 26 Curley Road, Gransha Newry, BT34 1NU

1.0 Site Characteristics and Area Characteristics

1.1 The application site is located outwith 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 has been screened using online tools for any historic or natural environment designations. There are no known features within proximity to the proposed site. The application site is located approximately 2.5 miles west of the settlement development limit of Rathfriland.

1.2 The application site is located on the Curley Road (image 1 below highlights the location of the application site), comprising a triangular shaped roadside plot, to the far side of the Curley Rd from the existing holding. The Curley Road is a public road across the road from the application site is the access to the farm buildings. The proposed application site is enclosed via maintained hedges and is used as an agricultural field; a farm gate allows access to the application site.

Image 1 Extract from the Site Location Plan



Image 2 Aerial Image of the Application site and surrounds



1.3 The application is for the erection of a dwelling and detached garage under CTY10 for a dwelling on a farm. The proposed dwelling is a two storey dwelling with a two storey front projection alongside a single storey outcrop to the side return and rear return of the dwelling. The dwelling is of a Georgian style and has a 9m ridge height characterised by a pitched roof. The garage is characterised by a double door and is single storey in height and style. The dwelling is proposed to be accessed via a driveway from the Curley Road.

1.4 The proposed finishes of the dwelling include: a black/dark grey concrete tile/slate, render finish walls with stone as indicated on the elevation plans and black rainwater goods.

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 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 There are no known applications on the application site.

4.0 Consultations

4.1 The following were consulted in relation to the proposed application:

- DAERA – Have confirmed the status of the farm and confirmed that the business ID was allocated on the 9th November 2005. They set out that the farm business is a category 1 business and that they have claimed payments through the basic payment scheme or agri environment scheme within the past 6 years.
- NI Water – Approved with standard planning conditions attached
- DFI Roads – Have no objections to the proposal as presented and attached conditions should the proposal be approved.

5 Objections and Representations

5.1 There were no neighbours identified to be notified as part of this application. The application was advertised in the local press on the 6th October 2021. No objections have been received to date (08.02.2022).

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). 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 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.

PPS 3 Access Movement and Parking

6.3 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. DFI Roads have considered the access acceptable and have attached conditions as part of their consultation response. It is proposed to access on to the Curley Rd with splays of 2m by 45m.

PPS 21 Sustainable Development in the Countryside

6.4 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.

Policy CTY10- Dwellings on Farms

6.5 Policy CTY10 states planning permission will be granted for a dwelling on a farm whereby:

(a) the farm business is currently active and has been established for at least 6 years;

6.6 DAERA have confirmed that the farm business ID was allocated on the 9th November 2005; the farm is a category 1 farm that claim payments by the farm business.

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

6.7 The planning history has been investigated throughout the past 10 years using the farm maps supplied by the applicant and online search engines. It is confirmed that there has been no dwellings or development opportunities out-with the settlement limits sold off from the farm holding within 10 years and therefore this criterion is met.

(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).*

6.8 The farm business is registered to 35 Ardarragh Road; approximately 472 metres north east of the application site. Whilst it is noted that the business is registered to the address outlined above, the Site Location Plan submitted alongside the application sets out lands within the applicants ownership which includes the farm buildings opposite the application site, to the far side of the Curley Road. Furthermore, the blue line also includes the two storey dwelling at number 26 Curley Road. The agent clarified that number 26 Curley Road is a family home which belongs to the applicants great grandfather.

6.9 Whilst conducting a site visit it was noted that the farm buildings are located west of the application site and are separated via the Curley Road (a public Road). The access to the main farm buildings is via the Curley Road. There is another access to a shed within the applicants' ownership which appears to not benefit from planning permission (however, from the study of aerials would appear immune from enforcement). This shed again is located to the far side of the road. The access to the proposed dwelling is located 166m south of the main farm entrance and is further located on the opposite side of the road.

Paragraph 5.41 of Policy CTY10 advises that a new dwelling 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 vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them.

As stated, the established group of buildings on this farm are located to the other side of the laneway from the application site.

Though the site can be viewed in the context of the farm buildings from this stretch of Curley Rd, the staggered junction and a portion of the Ardarragh Rd, the physical separation by the intervening public road is clearly apparent, whereby the application site sits in isolation from the buildings on the farm and does not form an integral part of the established group of buildings.

The Curley Road separates the site from the grouping, whereby it is considered a dwelling on this site would appear as a separate entity, even for a rural road such as this.

All of the built development on this holding is confined to 1 side of the road, whereby it is considered locating a dwelling on this other side of the road introduces a new distinct and separate built element in the landscape.

As such, it is considered that on this occasion the proposed siting does not cluster or visually link with an established group of buildings on the farm nor would it be considered to be read with the farm buildings, when viewed from public viewpoints along Curley Rd and Ardarragh Rd. Having account the extent of this holding, it is considered other sites are available on the lands to the far side of the Curley Rd.

6.10 An email was issued to the agent on 3rd of December 2021 stating that the Planning Department had concerns with the siting of the application as presented. The agent was asked to submit any further information/plans they wish to be considered by the 17th December 2021. Further information was submitted and the siting of the dwelling remained as initially submitted. The agent made reference to precedents with the Council area where dwellings were to be separated by a main road to include:

6.11 LA07/2019/0103/O for a dwelling on a farm; the case officers report acknowledges the policy upon which the dwelling should be visually linked or sited to a cluster with an established group of buildings on a farm where practicable. Within the report the Case Officer sets out that the proposed site is located adjacent to farm buildings and a dwelling which is to be replaced furthermore on this occasion the agent submitted information to explain that there are no suitable sites adjacent to the main farm building due to farm expansion. The application site was considered to be adjacent to two existing buildings on the farm and therefore the proposal was considered to cluster with existing farm buildings and meet the policy requirements.

6.12 LA07/2019/0051/F for a dwelling on a farm; the case officer report acknowledged in these circumstances there was an access in place to service a mobile home that was unauthorised (at the time of the report). Given the spatial arrangement of the farm buildings and balance of material considerations on this occasion the proposed site was the only site that offered visual amenity and therefore was considered in that specific instance to be compliant with CTY10.

6.13 It is considered that the proposed development on this occasion does not meet criteria or appear to be an exceptional case when considered against policy and there is no overriding reason as to why the proposed dwelling could not be located to appear clustered with the farm buildings.

Also, it has not been demonstrated there are health and safety reasons or verifiable plans to expand the farm business which would justify a site away from the established group of buildings on the farm.

6.14 Furthermore, within the email issued to the agent on the 3rd December 2021 set out that the Planning Department had concerns with the design of the dwelling as presented it was considered inappropriate due to the two-storey front projection and attached garage. The agent addressed these concerns and submitted a

revised design which reduced the front projection porch to single storey as well as a detached garage positioned behind the dwelling.

Notwithstanding the principle, these design elements are now considered acceptable.

CTY 13 Integration and Design of Buildings in the Countryside

6.15 CTY 13 states that: *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.*

6.16 The application site does have mature vegetation and hedges surrounding it; it is proposed that there would be one new boundary proposed to enclose the application site. To enclose the application site a new boundary estate rail is proposed around the application site. It is considered the proposal does not necessary rely on new landscaping for integration but will use a mix of both the vegetation already on the application site and new vegetation in order to create a curtilage for the dwelling. Having account the existing character including house types and sizes, and also size of existing sheds in the locality, it is considered the principle of a two-storey dwelling within the context of the area is considered acceptable.

However, the proposed dwelling is not considered to visually link or cluster with an established group of buildings on a farm, sited in isolation, therefore appearing dominant as a lone building within the countryside. As such the proposal is therefore considered contrary to CTY13.

Image 3 Image taken from Google Maps (capture September 2021)



CTY14 Rural Character

6.17 CTY 14 states that: *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.*

6.18 It is considered that whilst the design of the proposed dwelling is acceptable the siting of the proposed dwelling is not and would create a situation whereby the dwelling would appear prominent and dominant in the landscape and not clustered with the farm buildings therefore the proposal is contrary to criterion a and c of CTY14.

7.0 Recommendation – Refusal

- a. Drawings in which the application relates to 684LM01, 684L01A, 684P01A, 684P02A, 684P03A, 684P04A, 684P05A**
- b. Conditions**
 - 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 and the proposed new**

dwelling is not visually linked or sited to cluster with an established group of buildings on the farm; other sites are available, and there are no demonstrable health and safety reasons, or verifiable plans to expand the business.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

- the proposed building would be a prominent feature in the landscape
- the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm

and therefore would not visually integrate into the surrounding landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- the building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

c. Informatives

1. This refusal notice relates to the following plans: 684LM01, 684L01A, 684P01A, 684P02A, 684P03A, 684P04A, 684P05A

Case Officer Signature: Roisin McGrane

Date: 08.02.2022

Appointed Officer Signature: M Keane

Date: 25-07-22

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ADA architects

design, planning + construction specialists

5 Gransha Road, Gransha, Newry, Co. Down, BT34 1NS

14 09 22

**Planning Department
Newry, Mourne & Down District Council**

REQUEST FOR SPEAKING RIGHTS – Written Submission

PROPOSED DWELLING ON A FARM, 125M SSW OF 26 CURLEY ROAD, NEWRY PLANNING APPLICATION REF: LA07/2021/1663/F

Please note we herewith request speaking rights for the Planning Committee Meeting on Wednesday 21st September 2022. Our written submission is as follows:

1. Policy CTY1 - **There is an overriding reason why this dwelling is essential** - the applicant works on his family farm in a full-time capacity and is dependant on it for his livelihood – he does not have other sources of employment. For example he is not also an engineer, accountant, shopkeeper etc. - this farm generates his sole income and he needs to be near the farm.

2. Policy CTY10 - **The application is not for approval as an 'exceptional case'**. The proposed **building is undoubtedly visually linked** with an established group of buildings on the farm and this is a clear fact – any site visit would clarify this beyond doubt.

There are in fact verifiable plans to expand the farm business as evidenced by 2 no. applications to Planning for sheds – application references LA07/2022/0171/F & LA07/2022/0442/LDP. These applications were lodged on 17th January 2022 and 8th March 2022.

3. Policy CTY13 - The proposed building **would not be a prominent feature in the landscape as the site is not very visible in the surrounding area**. There are only a few points in the surrounding area where the proposed dwelling would be visible. The dwelling would not be prominent, or very visible, owing to, (a) the hedgrows & planting along Curley Road and, (b) the undulating topography of the surrounding area. The 'visually linked' issue has been addressed under item 2 above.

The dwelling **would certainly be visually integrated** into the surrounding landscape as there are effectively existing boundaries on 3 sides and only one new boundary is required. The ground behind the proposed dwelling is higher and effectively screens the dwelling and reduces its prominence and visual impact. Essentially due to the topography, and the existing farm buildings to the west, the proposed dwelling is ideally integrated and only really visible from the front.

4. Policy CTY14 - See item 3 above confirming that **the proposed dwelling would certainly not be unduly prominent** and there would be little detrimental change to the rural character of the countryside.

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Also - the refusal reasons are not exactly factual

– firstly, the proposed dwelling is visually linked to the existing farm buildings.

- secondly, the proposed dwelling would generally not be prominent in the landscape owing to the topography of the area and the hedgerows & planting along Curley Road. High ground to the rear of the proposed dwelling, and the large farm sheds to the west, mean that the proposed new dwelling is screened and not that visible.

- also, Curley Road is a very minor country road and does not result in a significant physical separation between the existing farm buildings and the proposed dwelling.

Generally the proposed new dwelling will be read with the farm buildings, when viewed from public viewpoints along Curley Rd and Ardarragh Rd. It may also be safer to have the new dwelling separate from the farm to reduce the likelihood of accidents with farm vehicles.

Yours faithfully,

John Harkness BA(HONS) Dip ARCH ARB

aspire design achieve



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2021/2138/O

Date Received: 02.12.2021

Proposal: Proposed new dwelling with detached garage on an infill site

Location: Adjacent to and south of no.14 Edentrumly Road, Mayobridge, Newry, Co Down

1.0 Site Characteristics and Area Characteristics

1.1 The application site is located outwith the defined settlement development limits as designated in the Banbridge, Newry and Mourne Area Plan 2015 (Map 3/01 Newry and Mourne District). The application site is located approximately 0.87 miles south east of the settlement development limit of Newry. The site has been screened for natural and built heritage features. Whilst no historic environment features appear within proximity to the application site; it is located within an Area of Outstanding Natural Beauty.

1.2 The application site is located within a vacant field between numbers 14 and 18 Edentrumly Road, Mayobridge. The application site is relatively flat and is enclosed mainly via mature hedges. Access to the field is via a field gate along the Edentrumly Road. The images below set out the context of the application site upon which is to be assessed as part of this report.

Image 1 Site Location Plan



Image 2 Aerial of the application site

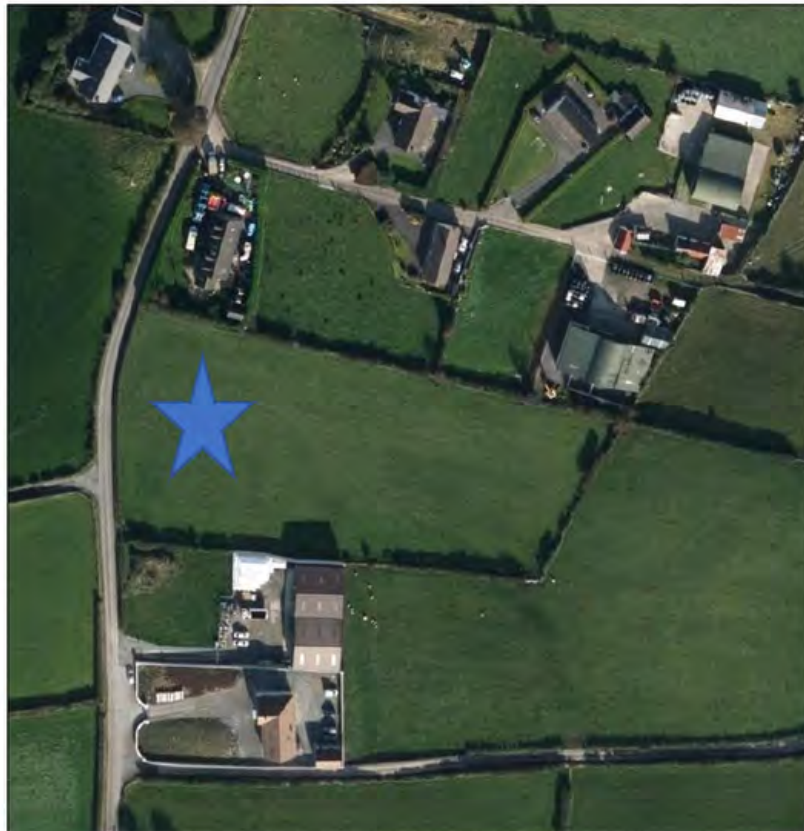


Image 3 Photograph of the application site from the Edentrumly Road



Image 4 Photograph from the Edentrumly Road looking towards number 18 (blue arrow points to the current access point to the application site)



Image 5 Photograph of the application site looking towards number 14 Edentrumly Road



Image 6 Indicative Site Layout



1.3 As visualised from the photos above number 14 Edentrumly Road is a storey and a half sized dwelling with dormer windows to allow for an upper floor to the dwelling. Number 18 Edentrumly is also a storey and a half dwelling. Between numbers 14 and 18 is a farm shed with a small agricultural holding/paddock to the front of the sheds at the time of site visit there was numerous bails being stored on the area of hardstanding to the front of the shed and sheep grazing the small field area. there is a field between this paddock area and shed and the road.

1.4 As set out above this is an outline application and therefore no details, elevations or finishes have been submitted as part of this application these would be assessed at reserved matters stage. An indicative site layout was submitted for information purposes (Image 6 above). The main objective of this application is to establish the principle of the development on the application site.

2.0 Planning Policies and Material Considerations

2.1 This planning application has been assessed against the following policy:

- Banbridge, Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement (SPPS) for Northern Ireland
- PPS 2 Natural Heritage
- PPS3 Access Movement and Parking
- DCAN 15 Vehicular Access Standards
- PPS21 Sustainable Development in the Countryside
- Building on Tradition Sustainable Design Guide

3.0 Site History

3.1 The Planning history of the site and surrounding area has been investigated. There are no known planning applications/decisions on the application site. Within the surrounding area there has mainly been applications for dwellings and associated works/improvements.

4.0 Consultations

4.1 Consultations were issued to the following consultees on the 14th December 2021.

- NI Water – No objections
- DFI Roads – No objections to the proposal – provided conditions to be attached
- DFI Rivers - No objections – provided informatives to be attached

5.0 Objections and Representations

5.1 The application was advertised in the local press on the 22nd December 2021. 4 neighbours were notified with regards to the application. No objections or representations have been received to date (23.05.2022).

6.0 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 the Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside the settlement limit of any designated settlement as illustrated on Map 3/01 of the plan.

Strategic Planning Policy Statement (SPPS) for Northern Ireland 2015

6.2 There is no significant change to the policy requirements for infill dwellings following the publication of the SPPS and it is arguably less prescriptive, the retained policies of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS.

Building on Tradition a 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 considered in assessing all development proposals in the countryside. Section 4.0 is relevant to the assessment of this application on visual integration. The document sets out how best to integrate a building into its surrounds further, paragraph 4.4.0 sets out that *ribbon (CTY8) will require care in terms of how well it fits in with its neighbouring buildings in terms of scale, form, proportions and overall character*. Paragraph 4.4.1 puts the onus on the *applicant to demonstrate that the gap site can be developed to integrate the new building(s) within the local context*.

6.4 This application was accompanied by a supporting planning statement which will be considered as part of this application.

Planning Policy Statement 2 – Natural Heritage

6.5 The application site is located within the Mourne Area of Outstanding Natural Beauty. Policy NH6 refers to AONBs. It sets out planning permission for a new development will only be granted where it is of an appropriate design, size and scale for the locality and all of the following criteria are met:

- a 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 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
- 1 c) The proposal respects:
 - 2 ▪ Local architectural styles and patterns

- 3 • Traditional boundary details, by retaining features such as hedges, walls, trees and gates;
- 4 • Local materials, design and colour.
- 5 Development within AONBs must be sensitive to the special character of the area and quality of their landscape, heritage and wildlife. The proposal is not considered to have a detrimental impact on the AONB due to the mix of different properties in the area which range in size, scale and design.

Planning Policy Statement 3 – Access Movement and Parking

DCAN 15- Vehicular Access Standards

6.6 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. As set out in section 4 DFI Roads were consulted in relation to the proposed development. DFI Roads had no objections to the principle of development on this occasion and provided conditions to be attached to any favourable decision. The proposal therefore complies to the policies set out in PPS 3.

PPS21 Sustainable Development in the Open Countryside

6.7 Policy CTY 1 states a range of types of development which in principle are considered to be acceptable in the countryside. This includes infill dwellings if they meet the criteria set out in CTY8.

CTY 8 – Ribbon Development

6.8 CTY8 allows for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage provided they respect the existing development pattern along the frontage in terms of size, scale, siting and plot size. In assessing proposals against CTY 8, the Planning Appeals Commission (PAC) have set out four steps to be undertaken (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).

6.9 The application site is located within an agricultural field adjacent to number 14 Edentrumly Road; the application site is also within proximity to number 18 Edentrumly Road. Adjacent to the application site and before number 18 Edentrumly Road is a small agricultural field and behind this field an area of hardstanding and a large conjoined agricultural shed. Through conducting a site

visit it is considered that the sheds are prevented from fronting onto the road due to the presence of the field to the front of them and as they are enclosed by fencing; thus, it is considered that there is **not** a substantial and continuously built up frontage on this occasion.

6.10 In terms of whether the application constitutes a small gap site relates to the matter of plot size. Having studied the plot sizes of the adjacent dwellings I have the following frontages to note (approximate):

- Application Site – 73.7m
- 9 Edentrumly Road - 32.3m
- 11 Edentrumly Road - 47.5m
- 14 Edentrumly Road – 50.2m
- 18 Edentrumly Road – 31.4m
- 24A Edentrumly Road - 52.5m
- 25 Edentrumly Road – 36.5m
- 27 Edentrumly Road – 37.8m

6.11 The building to building separation distance between number 14 Edentrumly Road and number 18 Edentrumly Road is approximately 128m. When taking an average, the average frontage of the sites along the stretch of the Edentrumly Road is 47.17m.

Although the frontage in question comprises the lands to the east side of the road including even numbered properties, the Dept has also noted the general pattern of development and frontages on both sides of the road.

6.12 It is important to note that appeal reference: 2019/A0001 clearly states that it is not merely a mathematical exercise therefore on this basis it is imperative to consider the surrounds of the application site/area; The aerial imagery from the beginning of the report (image 2) shows the extent of the application site as a large field; further images of the application site and a site visit confirms that the field is a large agricultural field.

Whilst it is acknowledged and set out above there are a variety of plot sizes within the surrounding area; notwithstanding there is no substantial and continuous built up frontage, the entire gap between no.14 and 18 could accommodate more than 2 dwellings. As such, the application site does not constitute a small gap as per CTY 8. In order to ensure an appropriate and thorough assessment of the application site the matter of size, scale and will be discussed below.

Size, Scale and Siting

6.13 The application site is located within a vacant agricultural field; image 6 above shows the siting and indicative layout of the dwelling, no further details have been provided. When studying the indicative site layout, it is even more evident that the site could house more than one dwelling. No further details have been provided in relation to the design/finishes of the dwellings.

6.14 Policy CTY8 further states *“Many frontages in the countryside have gaps between houses or other buildings that **provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character.** The infilling of these gaps will therefore **not be permitted** except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases **it will not be sufficient to simply show how two houses could be accommodated.** Applicants must take full account of the existing pattern of development and can produce a design solution to integrate the new buildings.”*

6.15 It is considered that when interpreting the extract above and given the characteristics of the site including the width of the site; the site is not considered as an acceptable infill opportunity but more so provides a visual break in the countryside. To permit such a development in the open countryside would be out of keeping with the character of the area.

Policy CTY13 – Integration and Design of Buildings in the Countryside

6.16 *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.*

6.17 The application has been presented as an outline application and therefore no detailed design has been provided. The indicative site layout whilst having no annotation indicates that the site boundaries are to be retained/enhanced where possible. It is considered that provided conditions were attached the proposal would comply to CTY 13.

Policy CTY14 Rural Character

6.18 *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.

6.19 As above, this is an outline application with no detailed design elements submitted; it is considered that however, the application does not comply with CTY14 in that the application site is not considered an infill opportunity and therefore would result in the suburban style build-up of development when viewed with existing and approved buildings. The proposal is considered to exacerbate and create ribbon development on the Edentrumly Road. Therefore the proposal is contrary to CTY14.

Residential Amenity

6.20 Due to the location of the application site coupled with the vegetation surrounding the application site and separation between the current dwellings within proximity to the proposed dwelling layout as indicated on the indicative site layout, it is considered that the dwellings would be far enough removed from the neighbouring dwellings as to not cause any demonstrable harm. Whilst no detailed design has been submitted as part of this application it is considered that well designed dwellings and appropriate utilisation of space would reduce any adverse impact. No objections from neighbouring properties had been received as part of this application.

Correspondence with the Applicant

6.21 A letter was sent to the applicant on the 4th March highlighting that the principle of development at this location was contrary to policy and that the gap does not represent a small gap. The applicant was afforded 14 days to provide any further information to be considered.

6.22 A supporting statement was received to the Planning Department on the 25th March in relation to the application. The document included the following comments (the agents comments are italic bullet points, the Planning Departments response is below).

- *We consider the shed forms part of the built-up frontage because it is one part of a single planning unit. The shed and yard are inter-accessible with the paddock to its front. The "field" is not accessed directly from Edentrumly Road. There are two gates to it: one opens out to the laneway that leads to the shed in question, and the other is to the rear and opens directly into the shed's accompanying yard. These facts confirm the fact that these two pieces of land are parts of a singular planning unit. There is no reason why one would be separated from the other, visually or otherwise.*

As set out above, the Planning Department consider that there is no substantial and built up frontage. The characteristics of the shed and through the conduction of a site visit it was considered that the sheds are prevented from fronting onto the road due to the presence of the intervening field to the front of them. The access to the small field is via an entrance onto the bottom of the lane at the Edentrumly Road and there is another field gate within the area of hardstanding. The fact there

are two entrances to the field does not change the fact that the field and associated application site does not create nor add to a substantial and built up frontage.

- *What can be taken from the aforementioned appeal decisions is the possibility that the Policy provides for other types of substantial and continuously built-up frontage. Thus, it would not be accurate to suggest that the Policy excludes buildings that are sited back, staggered or at angles or have gaps between them and the Council has unjustifiably concluded that the shed must be excluded in this case. Being set back does not indicate, of itself, that development is not part of the linear row of road facing development, and this is especially true where developments are inter-visibly linked along the frontage. In such circumstances there has to be the same opportunity for infill development as there would be if no individual developments were set back.*

The Planning Department would refer you to appeal 2019/A0001 clearly states that it is not merely a mathematical exercise; the Planning Department consider that the consideration of an application is too not a mathematical exercise and the characteristics of the application site and surrounds must be taken into consideration and this has been done. It is considered that the site provides for a visual break and not a gap site.

Various planning applications and appeal references were set out as part of the supporting information submission these are set out below with the Planning Departments comment beside each:

- 2011/A0103 and 2016/A0040 *and the use of the word **includes**, "which suggests the presence of other possibility of substantial and continuously built-up development, including that with development to the rear."*

The Planning Department appreciate the interpretation of policy and note the PAC interpretation however, on this occasion due to the specific circumstances of the application as assessed before us it is considered that the site is not *within an otherwise substantial and continuously built up frontage...*

- LA07/2019/1449/F – *As per the case officer report consideration was given to other buildings along the road, but it is considered that these do not have road frontage, just access points on to the main road. Therefore, the site lacks a substantial and continuously built-up frontage.*

The case officer recommended refusal on this application; the application was overturned at Planning Committee.

- LA07/2019/0008/F – *As per the case officer report no 11 is set some distance from the public road and is not considered to have a frontage with the public road. No 11 when approved did not include the curtilage of the property extending to the public road and as a result it does not have a road 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 add to a ribbon of development.*

The case officer recommended refusal on this application, the application was overturned at Planning Committee.

- 2020/A0019 – The application is located within another Council Borough and it would not be prudent to comment on the decision making of another Council. However, the Site Location Plan uploaded to the NI Planning Portal does **not** depict a similar set of circumstances as portrayed within the application under assessment.
- 2019/A0138 – As above the application is located within another Council Borough and it would not be prudent to comment on the decision making of another Council. However, having studied the proposed site plan (PCP-01) it highlights that the existing structure/farm shed on the application site is to be removed which is a varying set of circumstances to the application currently under assessment.
- LA07/2020/0669/F – The case officer report sets out *It is considered that the agricultural building does not have a frontage with the road given that it is set back from the road edge with only a very narrow agricultural access adjoining the public road... As such the building is not considered to have a frontage with the road and it is also considered that the area of agricultural field between the site and agricultural building is a break in the frontage.*

The case officer recommended refusal on this application which was overturned at Planning Committee.

- LA07/2019/0620/O – The case officer report sets out *the site is bounded to the south by number 84 Drumlough Road with a small garage set behind the main dwelling. Given the position of the garage behind the dwelling, I do not consider that this constitutes a line of two buildings. Number 76 is located to the north of the site and consists of one detached dwelling. There is further development to the north of number 76 - numbers 72, 74 and another new build dwelling to the rear of these buildings. However, these are separated from number 76 Drumlough Road by a gap of around 8 metres which is a break in the line of buildings along the road. A new dwelling on the application site would therefore create a ribbon of development along the Drumlough Road.*

The case officer recommended refusal on this application which was overturned at Planning Committee. The basis of this was on a garage mainly being situated to the rear building line of the dwelling which ultimately is a differing set of circumstances to the application under consideration

7.0 Recommendation – Refusal

Conditions

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 the proposal would, if permitted, result in the addition of ribbon development along the Edentrumly 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 CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted add to a ribbon of development along the Edentrumly Road; and would therefore result in a detrimental change to further erode the rural character of the countryside.

Case Officer Signature: Roisin McGrane

Date: 23.05.2022

Appointed Officer Signature: M Keane

Date: 25-07-22

The council in this case do not consider the site to be within a substantially and continuously built up frontage. Gap sites are required to have three buildings to either side. In this case, one of the buildings the applicant relies upon is discounted by planning officers because they see it as being set behind a paddock (in some sections of the planning report it is referred to as a paddock but in others it is "a field") – to planning officers this means it is not part of the frontage. Planners' view is that if it is not part of the frontage, then the gap between buildings is too large to treat this as the infilling of a small gap site. This is contested but regardless, whether or not the shed is set behind the small paddock does not need to be fatal, for the reasons set out below (not least of which is the difference between a field and a paddock – a field is generally a large open area whereas a paddock is a small enclosure, typically adjacent to a building). If that issue is addressed, the proposal will be recognised as meeting CTY 8, and in turn CTY 1. As it meets CTY 8 it automatically overcomes the issues raised under CTY 14 (ribbon development / change in character). The accepted norm is that a building has a frontage onto a road if the plot on which it stands abuts or shares a boundary with the road. The shed and paddock are clearly a single plot, just like a house and garden. Using the PAC's universally accepted definition, the shed should not be excluded.

The applicant has raised issues regarding interpretation of planning policy, consistency and fairness, which require further consideration due to the fact that officers' interpretation appears inflexible. The contested shed does in fact lie behind a paddock, but they both form part of the one planning unit and the paddock in question lies within the curtilage to the shed. A curtilage is defined as an area of land attached to a house and forming one enclosure with it. Because the paddock is within the shed's curtilage then the shed and paddock must be treated as one unit. Since both front onto the same part of Edentrumly Road they should not have been discounted from this assessment. Refusing this application would be akin to saying that a house was not part of a frontage because it had a front garden. The shed and paddock are owned by the same applicant. There is an interconnecting gate facilitating passage. Animals are let out from the shed into the paddock, and loading takes place in the yard at the shed, when animals are taken in from the field. The paddock measures around 20 metres back from the road. The shed that is relied upon by the applicant is just behind this. Its size and presence on the frontage are such that it could not read as anything other than part of the ribbon of development that exists at present. Since it is so obviously part of the ribbon, it would appear perverse to discount it from the built-up frontage especially when all that divides the two is a single strand of sheep wire fencing (with a gate wide enough to allow tractors in and out, for inter accessibility).

The justification section of Policy CTY 8 states that "A 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development. By discounting the subject building the planning department are effectively dismissing this part of the policy.

Officers' photograph shows bales of hay stored to the rear of the paddock, in the yard to the front of the shed the applicant relies upon. It is clear from officers' own photographs that the paddock is not such a substantial feature that it results in the setting back from the frontage of the shed. The number of round bales stored is much greater than what could have been mowed in this "paddock". In fact, a mower would find it very difficult to enter and turn in the paddock, so it is clearly nothing more than a small holding area for the farmer to manage his activities. Even when the yard is piled high with round bales, there is no impression that the shed does not form part of the frontage.

Officers' assessment was that, "through conducting a site visit it is considered that the sheds are prevented from fronting onto the road due to the presence of the field to the front of them and as they are enclosed by fencing; thus, it is considered that there is **not** a substantial and continuously built up frontage on this occasion". Therefore, implying if the fencing in question did not exist then by officers' logic that shed would contribute towards the built-up frontage. In practice, it should not be necessary to determine

planning applications on such narrow grounds. It has been noted that at one-point officers referred to the land to the front of the shed as a field but earlier in its report it was accepted as a paddock. The fact that there are inconsistent references within the officers' analysis makes it difficult to uphold their reasoning for refusal of this planning application.

The refusal recommendation (justified in part on the basis that *"the site is not considered as an acceptable infill opportunity but more so provides a visual break in the countryside"*) is not consistent with the recent judicial review (*Duff* case at Glasdrumman Road, Ballynahinch) in which Justice Scofield reaffirmed that the policy allows for the infilling of visual breaks – the policy does not protect every single break out there: it only protects those which are important OR frame important views. There is no indication this "break" falls into either category thus Members need to be informed why this "break" is in such need of protection.

Members were recently provided with a copy of the *Duff* judgement, in which the Courts pointed out that the policy is flexible, can offer many meanings, and does not need to be applied rigidly. In actual fact, the Courts recorded that decisions can be taken even if they are regarded as "bad" by some.

There has been an apparent over-emphasis upon the status of the land to the front of the shed in the decision-making process. The applicant made the point that there is only a single planning unit, and this point was acknowledged but not addressed. There has been an under-emphasis on the fact the paddock does not have an access that is independent of the shed.

Of the precedents highlighted by the applicant, in some instances there has been no attempt to show how the cases are not in fact comparable – in these cases the only comment was that applications were approved by planning committee, against the recommendation of planning officers. Regardless, this applicant must be entitled to the same consistency as those other applicants whose cases were not found distinguishable from the applicant's.

The PAC recognises how the definition of "substantial and continuously built-up frontage" states that it *"includes"* *"which suggests the presence of other possibility of substantial and continuously built-up development"*. On that basis, it is unnecessary to exclude the sheds in question because there is nothing in policy that actually indicates that they cannot be relied upon. Put simply, it is not accurate to suggest that the Policy *excludes* buildings that are sited back, staggered or at angles or have gaps between them and the Council has unjustifiably concluded that the shed must be excluded in this case. Being set back does not indicate, of itself, that development is not part of the linear row of road facing development, and this is especially true where developments are inter-visibly linked along the frontage. In such circumstances there has to be the same opportunity for infill development as there would be if no individual developments were set back.

Even if the shed has to be discounted, when one studies the area, there are other buildings could be relied upon. Officers rely upon mathematical values alone to establish that the gap could then take more than two houses. But, in fact that is not the policy's test: the gap would have to be capable of accommodating more than two dwellings THAT RESPECT THE PATTERN OF DEVELOPMENT ALONG THE FRONTAGE. Any hypothetical third dwelling would have to be positioned to the front of the sheds in question. That would actually be out of keeping. It would also represent "tandem development" of which there are no other examples in this locality (thereby showing that the prospects of a third dwelling meeting PPS 21's "other planning and environmental requirements" would be so slim that it is nonsensical to refuse this application due to the potential threat from a third dwelling on the frontage). If there is no such prospect, this application should be approved.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0155/F

Date Received: 13.01.2022

Proposal: Application is to place 2 x 20ft shipping containers on the beach to the north of Warrenpoint baths from May to September each year from 2022 - 2026 (inclusive) in order to facilitate swimmers for changing. These shipping container units are stand alone and do not require a water supply or electricity.

Location: Warrenpoint Baths, Seaview, Warrenpoint, BT34 3NH

1.0 Site Characteristics and Area Characteristics

1.1 The application site is located adjacent to Warrenpoint Baths on the seafront of Warrenpoint. The portion of the site upon which this application relates is located within the settlement development limit of Warrenpoint (3/06b) and has the following designations on the site:

- Within the Settlement Development Limit
- Development Opportunity Site WB 33
- Area of Townscape Character
- NIEA Seascape Character Area
- ASSI Carlingford Lough
- Area of Outstanding Natural Beauty

1.2 In terms of Historic Features whilst there are no features on the site there are the following listed buildings/records within the immediate surrounds:

- HB16/12/020 – Public Swimming Baths (Record Only)
- HB16/12/021 A – 6 Sea View (Grade B2)

- HB16/12/021 B – 7 Seaview (Grade B2)
- HB16/12/021 C – Coolbawn (Grade B2)
- HB16/12/019 – 8 and 9 Seaview (Record only)

1.3 The application site is located on the seafront of Warrenpoint adjacent to Warrenpoint Baths. The application site is currently accessed via a ramped walkway, the walkway extends down to the water edge making it accessible for all. The area upon which the application relates to is a mix of stone and sand.

1.4 The proposal is for 2 x 20ft shipping containers to be placed on the beach from May to September each year from 2022 to 2026 (5 years). This purpose of this is to allow and facilitate the changing of swimmers. An initial site inspection took place on the 29th March 2022 upon which it was noted that the site was vacant however, on the 8th July 2022 it was noted during the conduction of other site inspections the container ships had been placed on the beach. This was disappointing to the Planning Department as the Container Ships had not attained planning permission prior to placement on the beach.

Image 1 Photograph of the application site (Container Ships placed)



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
- DCAN 15 Vehicular Access Standards
- PPS 6 Planning Archaeology and the Built Heritage
- PPS 8 Open Space, Sport and Outdoor Recreation
- PPS 15 Planning and Flood Risk
- PPS 16 Tourism

3.0 Site History

3.1 With regards to the Planning History, there is no planning history on the footprint of the site within the immediate vicinity of the application site the following applications are prevalent:

- LA07/2021/2026/LDE for Warrenpoint baths 35m north east of no. 6 Radharc na Mara Warrenpoint, BT34 3NH for Planning application LA07/2015/0369/F - Proposed redevelopment of the Warrenpoint baths including refurbishment and extension of existing adventure centre, community function room, seaweed baths/spa, coffee shop and external venue space, public toilets and all associated site works. First phase of works for the stabilisation of the existing structure has been undertaken. Works commenced in 2019 to repair structural elements of the site/building which form the initial phase of the overall proposal (Approval)
- LA07/2021/1655/F for Lands along Warrenpoint Front Shore adjacent to Marine Parade, Harbour Quays, Havelock Place for Public realm improvement scheme comprising resurfacing; new kerbing; new railings; installation of street furniture including picnic benches, seats, bins, cycle stands and bollards; replacement street and feature lighting; reconfiguration of existing car park; sea wall repairs; vegetation planting; new signage and entrance feature; upgrade of existing ramps to the faux beach adjacent to the baths to be made DDA compliant, complemented with the installation of new granite steps; and all associated works (Approval)
- LA07/2022/0949/DC for Lands along Warrenpoint Front Shore adjacent to Marine Parade, Harbour Quays, Havelock Place for Partial Discharge of condition no 13 on LA07/2021/1655/F (Approval)

- LA07/2022/0935/DC for Lands along Warrenpoint Front Shore adjacent to Marine Parade, Harbour Quays, Havelock Place for Partial Discharge of condition no. 10 on LA07/2021/1655/F (Approval)
- LA07/2015/0369/F for Warrenpoint baths 35m north east of no. 6 Radharc na Mara Warrenpoint, BT34 3NH for Proposed redevelopment of the Warrenpoint Baths including refurbishment and extension of existing Adventure Centre, Community Function Room, Seaweed baths/spa, Coffee shop and external venue space, Public toilets and all associated site works (Approval)

4.0 Consultations

Consultations were issued to the following consultees:

- Historic Environment Division – advised that the application is sufficiently removed from any listed building as to have a negligible impact. HED are content with the proposal
- Environmental Health – are content with the proposal as presented and have no objections
- DfI Roads – No objections to the proposal
- Northern Ireland Environment Agency (Marine and Fisheries Division) – content with the application as presented that there should be no adverse impacts on marine conservation.
- Shared Environmental Services – Concluded that there is no viable pollution pathways for effects on any European Site
- DfI Rivers - Following the submission of a Flood Risk Assessment DfI Rivers were re-consulted. DfI Rivers made the following comments
 - The shipping containers have been positioned within and sett to a level below the Present Day T200 Coastal Floodplain. DfI Rivers PAMU has not been informed that the proposal is an exception to Policy PPS 15 and therefore current arrangements are contrary to Policy PPS 15.
 - The present day predicted T200 year sea level at this location is 3.65 mOD and the Future Climate Change T200 CC Tidal Sea level is estimated to be 3.88 mOD. DfI Rivers recommend that 600mm additional freeboard be added on to the required T200 coastal level to set any buildings finished floor, path or road levels.
 - It is note and observed that if the concrete block plinth was raised by 2 blocks laid on the flat and a bed of mortar then maybe the shipping containers would be above the Present Day Coastal T200 Floodplain level of 3.65m OD and would then comply with Policy PPS 15.

The Planning Department issued an email to the relevant officer on the 15th June 2022 whereby it stated that the Planning Department deem the application

an exception to policy. DFI Rivers consultation comments will be discussed further within the assessment of this application.

5.0 Objections and Representations

5.1 13 neighbours were identified and notified of the application. The application was advertised in the local press on the 16th February 2022. No objections or representations have been received to date (17.08.2022).

Correspondence with Applicant

5.2 Following a site visit and review of the application a letter was issued to the applicant on the 5th April 2022 advising the following:

- The current proposal is unacceptable and as such amendments are required. This was considered unacceptable in terms of visual impact
- A proportionate Flood Risk Assessment and Habitats Regulation Assessment is required to be submitted.

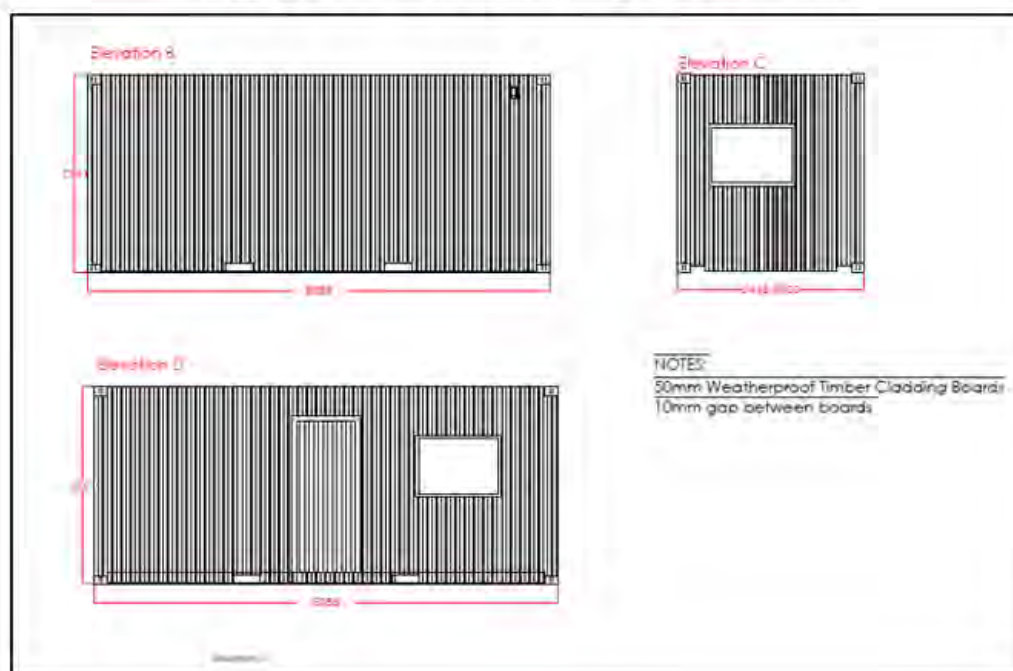
5.3 The respective reports and revised drawings were received with regards to the application which will be considered as part of this application/assessment.

6.0 Assessment:

Image 2 Extract from drawing 002 Site Block Plan



Image 3 Extract from drawing 004 Elevations



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 Warrenpoint (3/06b) and is further located within the following designations:

- Development Opportunity Site WB 33
- Area of Townscape Character
- NIEA Seascape Character Area
- ASSI Carlingford Lough
- Area of Outstanding Natural Beauty

6.2 In terms of the above the designation of WB 33 refers to a development opportunity site, the baths Seaview which is a 0.2 hectare site at the baths. The plan further elaborates setting out that this is the former site of the Victorian Baths. A large part of the structure still remains. Possible uses would include leisure/water sports or a conference facility. With regards to the ATC it is noted as designated WB 34 and encompasses a large area the guidance sets out that key features within the area will be taken into account when assessing applications. It is noted there is no specific mention of the application site however its effect on the setting of the ATC will be assessed.

Strategic Planning Policy Statement (SPPS) 2015

6.3 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.

6.4 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

6.5 It is considered that the proposal aims to abide by and enhance the core planning principles set out in the SPPS into reality on the ground whilst enhancing the tourist benefit to the town. The proposal is compliant to the guidance set out within the SPPS.

PPS 2 Natural Heritage

6.6 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 NH3 – Sites of Nature Conservation Importance- National

6.7 *Planning permission will only be granted for a development proposal that is not likely to have an adverse effect on the integrity, including the value of the site to the habitat network, or special interest of:*

- *an Area of Special Scientific Interest;*
- *a Nature Reserve;*
- *a National Nature Reserve; or*
- *a Marine Nature Reserve.*

A development proposal which could adversely affect a site of national importance may only be permitted where the benefits of the proposed development clearly outweigh the value of the site.

In such cases, appropriate mitigation and/or compensatory measures will be required.

Policy NH 6 – Areas of Outstanding Natural Beauty

6.8 *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*

6.9 With regards to the above two policies the shipping containers as amended are clad with timber. Whilst the Planning Department note the policy guidance set out above it is considered that the siting of the proposed temporary facility close to the built development of the Warrenpoint Baths and retaining walls as well as sufficiently removed from listed buildings as to have minimal impact on the buildings.

6.10 It is noted that there has been an increase of the sport/recreational attraction of sea swimming, which has led to pressure on bodies to facilitate and adapt coastal areas in order to facilitate these users. It is imperative to note that the proposal is temporary in nature for a time duration each year from 2022 to 2026 inclusive thus given this it is considered that it would not cause significant adverse impact on the AONB. Further, the proposal is located within a sheltered area of the beach (which is below road level) and is not dominant in terms of views within the area given its location close to the Warrenpoint baths. It is considered therefore that the Planning Department could not sustain a refusal under these policies. NIEA were consulted with regards to the proposal and set out advice that should be considered by the applicant however, no reasons for refusal were given. Their full consultation response should be read and considered by the applicant as well as any informatives attached to this permission.

PPS 3 Access Movement and Parking

6.11 Given the nature of the proposal in that it will allow for a changing facility for sea swimmers and the potential tourist attraction this may create as an extra facility, coupled with the fact that the applicant believes there would be a 52 person increase than current users a consultation was issued to DFI Roads. DFI Roads offered no objection to the proposal as presented. The Planning Department have no reason to question DFI Roads consultation response and would expect that a number of users would be from the local area and are able to walk to the beach coupled with the fact there is plenty of on street and off-street parking options within the town. It is therefore considered that the proposed development complies with the guidance and policy set out in PPS 3.

PPS 6 Planning Archaeology and the Built Heritage

Policy BH 11 Development affecting the setting of a listed building

6.12 *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.

6.13 With regards to the above policy it was necessary to consult Historic Environment Division, this was due to the fact the application site is within proximity to listed buildings (HB16/12/021 A-D – 6 - 8 Seaview, Warrenpoint, Newry, Co Down, Grade B2). Whilst site characteristics were noted with regards to the difference in height and viewpoints it is still necessary to assess the application against policy BH 11. Historic Environment Division acknowledged the distance of the proposed development in relation to the listed buildings as to have negligible impact and acknowledged the temporary nature of the application. On this basis Historic Environment Division were content with the proposal as presented. As set out above due to the temporary nature of the application and the fact it will not be in situ all year round it is mainly a summer feature for 5 years the Planning Department could not sustain a refusal on the site.

PPS 8 Open Space, Sport and Outdoor Recreation

Policy OS 6 Development of facilities ancillary to Water Sports

6.14 *The Department will permit the development of facilities ancillary to water sports adjacent to inland lakes, reservoirs and waterways where all the following criteria are met:*

(i) it is compatible with any existing use of the water, including non-recreational uses;

(ii) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

(iii) there is no adverse impact on visual amenity or the character of the local landscape;

(iv) it will not result in water pollution or an unacceptable level of noise or disturbance;

(v) buildings or structures are designed to a high standard, are of a scale appropriate to the local area or townscape and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;

(vi) the proposed facility takes into account the needs of people with disabilities; and

(vii) there is no conflict with the provisions of any local management plan

6.15 Paragraph 5.47 sets out that water-based sports in Northern Ireland are an increasingly popular activity ... Paragraph 5.48 sets out that the development of ancillary facilities to support water sport uses such as ... changing facilities ... generally requires planning permission. With regards to the above policy in relation to the application under assessment it is considered that the proposal has been

demonstrated that it is for a changing facility which is compatible with its location. The proposal has been assessed against PPS 2 and PPS 6 and given the unique temporary circumstances of the application and necessary consultees it is considered to comply with these policies. Whilst it cannot be explicitly stated that there is no adverse visual impact of the containers ships on the beach for changing, given the temporary nature of the application and given its location close to built development and on the beach (lower than road level); the view points and impact are minimised and the Planning Department could not sustain a refusal based on the location of such a proposal.

6.16 With regards to pollution and noise, there is no water nor electricity needed for the container ships and therefore they do not create nuisance in this sense. The use for changing should also not create any public nuisance. Environmental Health and NIEA were consulted with regards to the proposal and given the temporary nature of the use were content with the proposal as presented.

6.17 The container ships are located close to a concrete walk way that leads to the beach and are located at a ramped access to the beach they are therefore considered to be situated within an area that takes account of those who are disabled. Having reviewed the policy set out above, it is considered that the proposal is compliant with the policy set out above and as such the Planning Department could not sustain a refusal.

PPS 15 Planning and Flood Risk

Policy FLD 1 Development in Fluvial (River) and Coastal Flood Plains

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

PPS 16 Tourism

TSM 1 Tourism Development in Settlements

6.19 *Planning permission will be granted for a proposal for tourism development (including a tourist amenity or tourist accommodation) within a settlement; provided it is of a nature appropriate to the settlement, respects the site context in terms of scale, size and design, and has regard to the specified provisions of a development plan.*

6.20 DFI Rivers were consulted in relation to the proposed development their consultation response of the 15th July sets out that they have not been informed that this is an exception to policy. An email was issued to the case officer in DFI Rivers on the 15th June 2022 setting out that the Planning Department would deem the proposal an exception to policy.

6.21 Whilst the Planning Department note DFI Rivers comments that the proposal could be considered an exception should the containers *be raised to an acceptable level above the floodplain* and further **recommends** that *600mm additional freeboard be added onto the required T200 Coastal level to set any buildings finished floor, path or road levels.*

6.22 DFI Rivers consultation response further states *the shipping containers are presently supported by a single concrete block plinth (100mm) = 3.42Mod. It is*

note and observed that if the concrete block plinth was raised by 2 blocks laid on the flat and a bed of mortar then maybe the shipping containers would be above the Present Day Coastal T200 Floodplain level of 3.65m OD and would then comply with Policy PPS 15.

6.23 It is considered, that whilst the Planning Department note DFI Rivers consultation response, the position of the shipping containers are on a beach, which is contended to be a sensitive location for any development. The proposed shipping containers have been placed at the most sheltered part and with any development on a beach the applicant should be aware that there is a chance the containers would flood given its close proximity to water and the tidal patterns along with varying weather at the location. However, it is considered that there is no electricity or water supply to the proposed shipping containers nor do these containers contain any foul waste storage or disposal. The proposal is a temporary proposal for summer months in order to allow for a changing facility for sea swimmers. It is considered that should the shipping containers be raised any further from the ground they would be more prominent within the context of the surrounding area and have an adverse impact of the quality of the surrounding area. It is therefore considered that the proposal is an exception to PPS 15.

TSM 7 Criteria for Tourism Development

6.24 TSM 7 is also applicable to the development; which sets out proposals will be subject to the following design criteria:

Design Criteria

6.25 (a) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;

6.26 The application site is located on the beach adjacent to Warrenpoint Baths, there is a ramped access at this entrance point to the beach and concrete hardstanding path leading down to the beach. The location of the application site and its use is considered to comply with criterion a in so far that it is located on a central location within proximity to all amenities and public transport.

6.27 (b) the site layout, building design, associated infrastructure and landscaping arrangements (including flood lighting) are of high quality in accordance with the Department's published guidance and assist the promotion of sustainability and biodiversity;

6.28 The proposed building(s) are shipping containers that will have a timber clad. An assessment has been carried out in relation to the natural and built heritage aspects that surrounding the proposed use and it is considered given the temporary nature of the shipping containers that these are an acceptable use at this location.

6.29 (c) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are screened from public view;

6.30 Due to the location of the application site on a beach and given the fact the containers have been placed close to built development, coupled with, the beach being at a lower level than road level and the walls surrounding it is considered that the proposal is not readily seen from public view points and has a limited impact due to its temporary nature.

6.31 (d) utilisation of sustainable drainage systems where feasible and practicable to ensure that surface water run-off is managed in a sustainable way;

6.32 There is no need for any water or electricity for the proposal.

6.33 (e) is designed to deter crime and promote personal safety;

6.34 The shipping containers are for public changing facilities on the coast to allow for swimmers to utilise. It is considered that these are a Council application and will be maintained as a Council facility for the duration of their use each summer. In doing so monitoring of these will be the responsibility of the Council. Given the location of these on the beach at a public spot it is considered this location in itself will deter crime and promote public safety.

6.35 (f) development involving public art, where it is linked to a tourism development, needs to be of high quality, to complement the design of associated buildings and to respect the surrounding site context.

6.36 Not applicable to this application

General Criteria

6.37 (g) it is compatible with surrounding land uses and neither the use or built form will detract from the landscape quality and character of the surrounding area;

6.38 The application has been considered against PPS 2 and PPS 6 above in terms of natural and built heritage. As previously stated it is considered that the use is compatible with the location in terms of its using as a changing facility for swimmers using the beach and water for swimming. In terms of its impact on landscape quality etc it is considered that due to the temporary nature ie it is only in situ between the months of May to September (inclusive) it would not be feasible for the Council to sustain a refusal on this basis.

6.39 (h) it does not harm the amenities of nearby residents;

6.40 Due to the location of the application site and separation distances from dwellings/uses; it is considered there would be negligible impact to the amenity of neighbouring dwellings. Further Environmental Health were consulted and offered no objections.

6.41 (i) it does not adversely affect features of the natural or built heritage;

6.42 Consultation was carried out with NIEA and HED with regards to the proposal; whilst guidance was offered no objections were presented with regards to the proposed use due to the temporary nature of the application.

6.43 (j) it is capable of dealing with any emission or effluent in accordance with legislative requirements. The safeguarding of water quality through

adequate means of sewage disposal is of particular importance and accordingly mains sewerage and water supply services must be utilised where available and practicable;

6.44 The proposal does not need any form of drainage or water supply due to its nature.

6.45 (k) access arrangements must be in accordance with the Department's published guidance;

6.46 (l) access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic;

6.47 (m) the existing road network can safely handle any extra vehicular traffic the proposal will generate;

6.48 (n) access onto a protected route for a tourism development in the countryside is in accordance with the amendment to Policy AMP 3 of PPS 3, as set out in Annex 1 of PPS 21.

6.49 DFI Roads were consulted with regards to the proposed development and offered no objection from a road safety perspective. It is considered that due to the tourist nature of the area, the use of the building as a changing facility and the fact there is adequate on and off street parking and public transport links to Warrenpoint the proposal will not cause any demonstrable harm nor prejudice road safety.

6.50 (o) it does not extinguish or significantly constrain an existing or planned public access to the coastline or a tourism asset, unless a suitable alternative is provided;

6.50 The proposal is located within the beach area adjacent to Warrenpoint baths and does not block any public access to the beach/coastline.

6.51 Having considered the application and all aspects for assessment it is considered that on this occasion the proposal for the temporary approval from May to September each year from 2022-2026 (inclusive) is appropriate and therefore approval is recommended.

7.0 Recommendation – Approve

7.1 Drawings in which the application relates to: 01, 02, 03, 04

1. The development hereby permitted shall be for a limited period of 4 years and shall expire on the 1st October 2026.

Reason: This is a temporary permission is such that permanent retention would harm the scenic quality and amenity of the area.

2. The development hereby permitted shall only be sited in the area agreed as indicated on approved drawing number 02 stamp dated 13th January 2022 from the 1st May each year (2022-2026 inclusive) for the duration of this permission and removed by the 1st October each year, up to 2026.

Reason: This is a temporary permission and as such permanent retention would harm the scenic quality and amenity of the area.

3. The lands shall be restored to their original condition within 14 days following the removal of the temporary structure on the 1st October each year from 2022 to 2026 inclusive.

Reason: This is a temporary permission and as such permanent retention would harm scenic quality and amenity of the area.

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

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

5. The development hereby permitted shall be cladded with 50mm weatherproof timber cladding boards with 10mm gap between the boards prior to being erected on site, and shall be natural timber in colour.

Reason: in the interest 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.

NIEA Guidance:

3. The applicant's attention is drawn to Article 15 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to release or allow to escape into the wild any plant or animal which;
 - a) is of a kind which is not ordinarily resident in and is not a regular visitor to Northern Ireland in a wild state (or is a hybrid of any animal of that kind), or
 - b) is included in Part I of Schedule 9 (or is a hybrid of any plant or animal included in that Part).
4. Article 15 of the Wildlife (Northern Ireland) Order 1985 <https://www.legislation.gov.uk/nisi/1985/171/article/15>
5. The applicant's attention is also drawn to the following links which provide advice to be considered:
 - Planning in the Coastal Area
 - Standing advice for development that may have an effect on the water environment (including groundwater and fisheries)
 - Marine Non-Native Species
 - Marine Map Viewer
 - Decisions affected by marine policy - authorisation decisions

6. Further advice can be sought from the Marine Conservation Advice Team, DAERA Marine and Fisheries Division, Klondyke Building, Cromac Avenue, Belfast, BT7 2JA. Tel: 028 90 569 757 or email: Marine.Wildlife@daera-ni.gov.uk

Marine Licensing

7. The applicant should be made aware that all construction or deposition works below the Mean High Water Spring Tide (MHWST) mark are subject to licensing under the Marine and Coastal Access Act 2009. If any elements of the construction in this proposal cross the intertidal area below the MHWST mark, contact must be made with the Marine Licensing Team, DAERA Marine and Fisheries Division, 1st Floor, Klondyke Building, Gasworks Business Park, Cromac Avenue, Belfast BT7 2JA, Tel: 028 90569247 to apply for a Marine Construction Licence.
8. The applicant should be aware that it is an offence under the Marine and Coastal Access Act 2009 to carry out a licensable marine activity except in accordance with a marine licence granted by the DAERA Marine and Fisheries Division. Conviction of such an offence may incur a fine of up to £50,000 and/or two years imprisonment.

Case Officer Signature: Roisin McGrane

Date: 18.08.2022

Appointed Officer Signature: M Keane

Date: 18-08-22



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2021/1270/F

Date Received: 04.06.2021

Proposal: Proposed extension to Monkshill Cemetery to include approximately 600 burial plots with circulation road, paths and small skip enclosure.

Location: 29 Monkshill Road, Newry, Co. Down, BT34 2FD

1. Site Characteristics & Area Characteristics:

1.1. This application relates to an extension of a cemetery at Monks Hill Road in Newry. The existing cemetery is enclosed along Monkshill roadside by a traditional stone wall with cement mortar. The application site is to the south west of the existing cemetery and the Chapel. The site falls steeply from the existing car park south west towards Newry.

1.2. The application site is zoned for a cemetery through NY74 and adjacent to the existing Monkshill Cemetery and Chapel located within the development limit of Newry as defined in the Banbridge, Newry and Mourne Area Plan 2015. There are primarily housing developments in the vicinity of this cemetery. There is however a NIE substation to the east of the existing cemetery.



2. Site History:

- P/1977/0077: Proposed public cemetery. Granted 16.02.1977

Adjacent Planning Histories

- P/1975/0128: Proposed use of land for public cemetery and crematorium. Granted 29.01.1976
- P/1980/0265: Proposed Chapel of Rest. Granted 12.05.1980.

3. Planning Policies & Material Considerations:

Regional Development Strategy
 Banbridge, Newry and Mourne Area Plan 2015
 Strategic Planning Policy Statement
 Planning Policy Statement 15: Planning and Flood Risk
 Planning Policy Statement 8: Open space

Other Material Guidance

NIEA: Cemeteries, Burials and the Water Environment (Guidance Notes) April 2016

4. Consultations:

DfI Rivers:	No objections subject to conditions
NI Water:	No objections subject to conditions
NIEA:	No objections subject to conditions
Environmental Health:	No objections subject to informatives

5. Objections & Representations

12 neighbouring properties were notified of the proposal on the 13/08/2021 and 22/06/2022. The application was advertised in two local papers 03.08.2021 and 04.08.2021.

One representation was received from a neighbouring property raising concerns regarding a potential access to site adjacent the rear of their property, the surveys required for the storm drainage, potential overlooking of from the application site. the material considerations raised in the representation will be addressed in the assessment below.

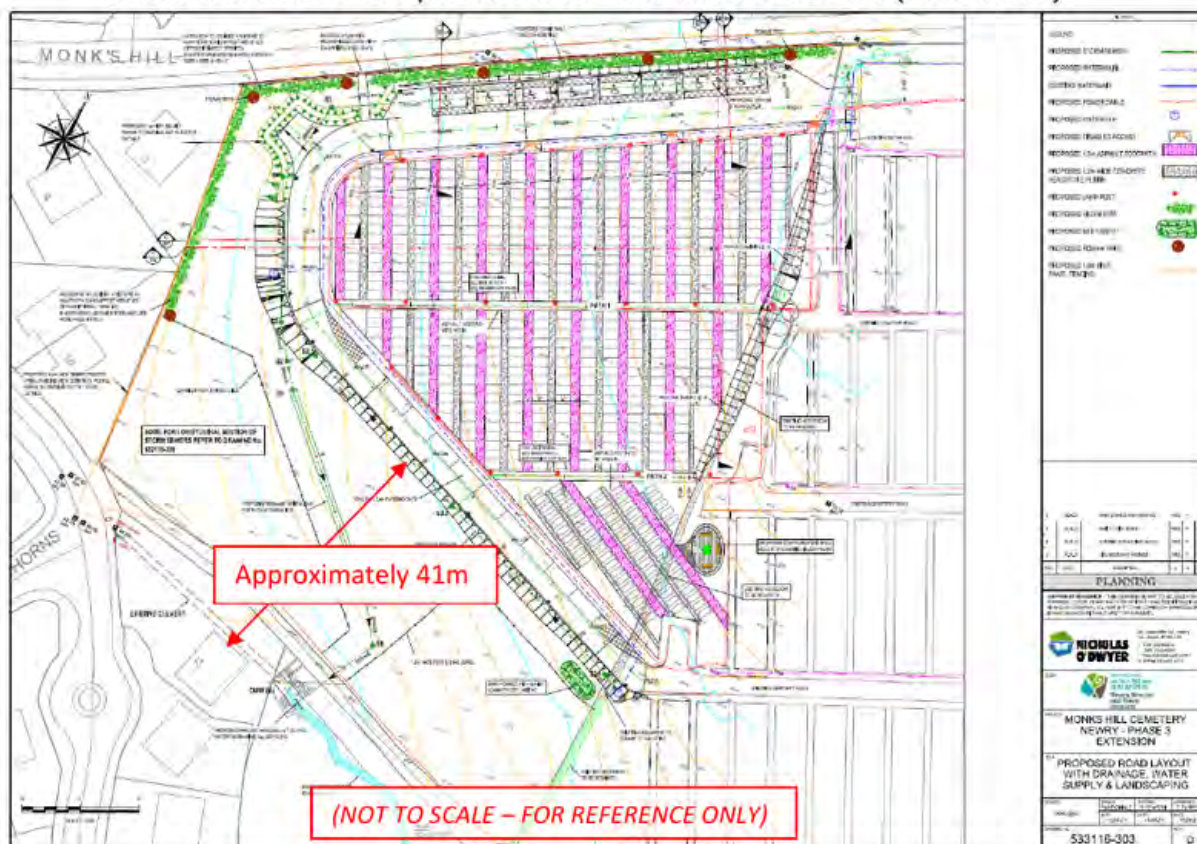
Note: Revised plans were received in Aug 2022 showing the maintenance area removed and a portion of the road levels also reduced. As this was a reduction to the

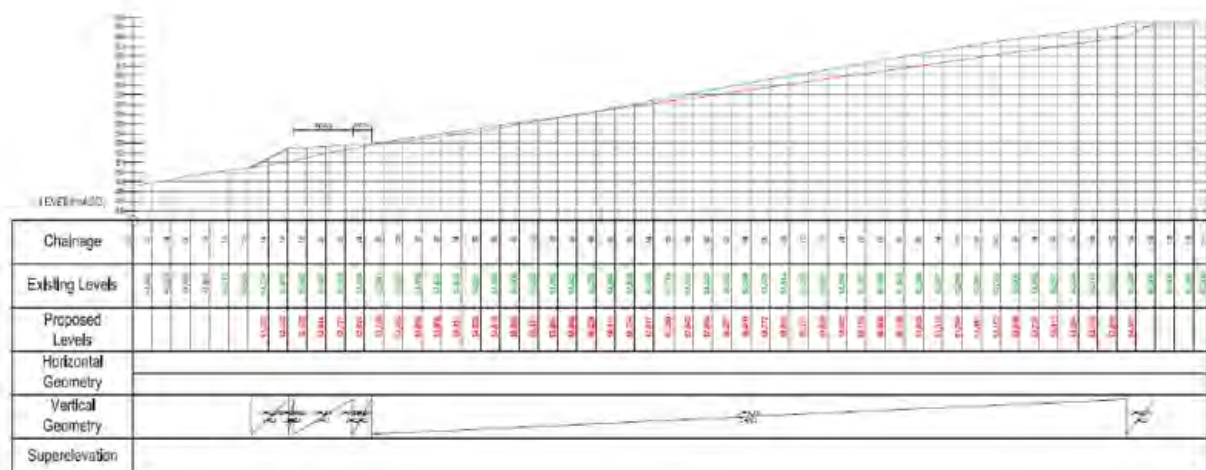
original scheme which was likely to lessen any potential impact on neighbouring properties it was not considered necessary to RE NN.

6. Consideration and Assessment:

Proposal

6.1. The application is for an extension to an existing cemetery. The site is located on land zoned for use as a cemetery within the settlement limit of Newry. Cemeteries are classed as Open Space under PPS 8: Open space and Outdoor recreation. The proposal is for an extension of 0.94 ha to an existing cemetery of 2.93ha and proposes an additional 600 new burial plots. Access to the development is from the existing access at Monkshill Road. In addition to the burial plots, the proposal includes 8 additional disabled parking spaces, an amenity/reflection area and a skip and soil area. There is no proposed vehicular access from the laneway adjacent the southern boundary. An amended scheme was requested to mitigate the potential overlooking of the properties along the western boundary from the soil and skip area and a reduction in the height of the access road above the existing ground level to approximately 1.5m. An amended scheme was received on 12.08.2022 which removed the maintenance area (skip and soil area) and reduced/lowered this portion of the access road levels. (See below).





Assessment

6.2. As stated above, the application site is within the settlement limit of Newry on land zoned for use as a Cemetery as designated in the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP). The BNMAP policy for development on zoned land is contained within Policy SMT 2 Development on Zoned Land. Policy SMT 2 states '*Planning permission on zoned sites will be granted for the specified uses as well as any range of uses included within the Key Site Requirements and any specified complementary uses*'.

6.3. The zoning, NY 74, has only one Key Site Requirement (KSR) '*Adequate parking shall be provided in curtilage.*' The completed P1 form states there will be no increase in visitor numbers or employees. There is no specific guidance in the Parking Standards relating to cemeteries. Therefore, the allocation parking spaces will be a taken as a professional judgement. The application proposes an additional disabled 8 Parking spaces. The nature of cemeteries and the intensity of use can vary however it is acknowledged that the existing car park is sufficient when combined with the 8 additional disabled parking spaces to satisfy the KSR.

6.4. The policy does not offend OS1 of PPS 8. Annex A of PPS 8 provides a definition of Open Space which includes cemeteries and churchyards under part viii.

Neighbouring Amenity

6.5. The proposed site is located adjacent residential development along the western and southern boundaries. As stated above the site slopes from the north east downwards to the south and west. Along the western boundary, the rear boundaries of No. 3 Monks Hill Road and 10 The Blackthorns abuts the site. The applicant has amended the proposal to include a 2m close board fence along this boundary. The close board fence together with mature planting secured by condition, is considered sufficient screening to mitigate

the loss of private amenity. It should be noted that the current boundary treatments, a chain link fence, to the rear of No.3 Monks Hills affords negligible privacy to the dwelling. The proposal represents a marginal planning gain.

- 6.6. The southern boundary abuts a small stream and gravel lane. The lane separates the site and the rear boundary of 12 The Blackthorns. While the application site runs to the stream and lane, this is primarily to service the storm drain connection. The access road that encloses the burial plots is over 40m from the boundary of No.12 The Blackthorns. The separation distance combined with mature planting is considered sufficient to prevent any significant adverse loss of privacy.

Other Material Considerations

- 6.7. No alterations are proposed to the existing access. The P1 form indicates that there will be no increase of vehicles daily to the premises. It was not considered necessary to consult DfI Roads on the anticipated increase in vehicular movements. It is reasonable to assume that vehicular parking demand would only be high during burials but apart from these occasions, it would be unlikely to attract significant numbers.
- 6.8. As the proposal involves over 1000sq.m of additional hardstanding a Drainage Assessment (DA) is required under Policy FLD 3 of PPS 15. The applicant submitted a DA and DfI Rivers were reconsulted. DfI Rivers were content to propose a negative condition requiring the submission of a final DA prior to commencement.
- 6.9. NIEA were consulted with the Natural Environment Division and the Drinking Inspectorate referencing standing advice. The Regulation Unit and Water Management Unit both provided conditions.

7. Recommendation: Approval

- 7.1. The proposal adheres to the zoning and satisfies the key site requirement. The proposal does not present any significantly adverse impacts to the neighbouring properties or the environment. The potential adverse impacts

have been addressed or mitigated through amendments to the scheme and restrictive conditions.

It is considered there are no grounds to sustain a refusal. Accordingly, Approval is recommended subject to conditions.

8. 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. Prior to the commencement of any of the approved development on site, a final drainage assessment, compliant with FLD 3 & Annex D of PPS 15, and Sewers for Adoption Northern Ireland 1st Edition, including a detailed drainage network design, suitable maintenance and management procedures and a demonstration of how out of sewer flooding due to exceedance of the drainage network will be managed, must be submitted to the Planning Authority for its consideration and approval.

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

3. No burials shall commence until the applicant has submitted evidence in writing to the Planning Authority for its agreement demonstrating that the site has been zoned for areas suitable for 1, 2 and 3 burials on the basis of ground investigations. This evidence should include, all new and existing ground investigation records and a map/plan of the site showing the zones and all excavation hole locations. No burials shall take place at a depth where resting water is recorded.

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

4. 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.

5. All services within the development should be laid underground

Reason: In the interests of visual amenity.

6. A comprehensive landscaping plan shall be submitted, agreed in writing with the Planning Authority and implemented prior to the operational use of the development hereby approved. All planting along the boundary with No.3 Monkshill and 10 Blackthorns shall be a minimum height of 1.5m above ground level at the time of planting which shall be allowed to grow on to a minimum height of 2m thereafter.

Reason: In order protect the private amenity of neighbouring properties

7. There shall be no external lighting directed towards retained boundary vegetation.

Reason: To minimise the impact of the proposal on bats.

8. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1 March and 31 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 the Planning Authority within 6 weeks of works commencing.

9. Reason: To protect breeding birds.

www.daera-ni.gov.uk/water-environment-standingadvice

10. A 1.8m high close boarded panelled fence shall be erected along the boundary with no.3 Monkshill and 10 Blackthorn as indicated on the plans hereby approved, prior to any part of the development hereby permitted coming into use, which shall be permanently retained thereafter.

Reason: In the interests of visual and residential amenity.

Informatives:

E01, E02, E03, E06 & E10

1. The storm drainage of the site, during site clearance, construction and operational phases of the development, should be designed to the principles

of Sustainable Drainage Systems (SuDS), where appropriate, in order to minimise the polluting effects of storm water on waterways.

2. Construction of SuDS should comply with the design and construction standards as set out in the Construction Industry Research and Information Association (CIRIA) manual C753. A separate site handbook (C698) for the construction of SuDS has also been produced by CIRIA.
3. Should a sewage pumping station be required for this development then the applicant must apply to NIEA Water Management Unit (WMU) for Water Order (1999) Consent for an 'emergency overflow'.
4. The applicant should consult with the Water Management Unit within the NIEA regarding any potential dewatering that may be required during the development works including the need for discharge consent. Discharged waters should meet appropriate discharge consent conditions. (Please refer to the Standing Advice link at the end of this document).
5. The applicant must comply with the Control of Pollution (Oil Storage) Regulations (Northern Ireland) 2010.
6. The applicant should ensure that the management of all wastes are suitably authorised through the Waste Management Regulations (NI) 2006 and/or the Water Order (NI) 1999. This should be demonstrated through a Site Waste Management Plan (see <http://www.netregs.org.uk/environmental-topics/waste/more-storage-handling-transport-of-waste/>)
7. General advice and guidance on private water supplies can be obtained from the DWI's information leaflet 'Is your private water supply safe?' <https://www.daera-ni.gov.uk/sites/default/files/publications/doe/water-leaflet-is-your-private-water-supply-safe-2015.pdf>

More detailed guidance can be obtained from the private water supplies technical manual at: <http://www.privatewatersupplies.gov.uk/>

8. Borehole construction should be undertaken by a competent contractor taking account of best practice. Guidance on best practice can be accessed by the Institute of Geologists of Ireland (IGI) at: <http://igi.ie/publications/guidelines/>
9. The applicant should comply with all the relevant Pollution Prevention Guidance (PPG's) and the replacement guidance series, Guidance for

Pollution Prevention (GPPs) in order to minimise the impact of the project on the environment, paying particular attention to:

- PPG 01 - Understanding Your Environmental Responsibilities - Good Environmental Practices
- New GPP 02 - Above ground oil storage tanks.
- PPG 04 – Treatment and disposal of sewage where no foul sewer is available.
- New GPP 05 - Works and maintenance in or near water.
- PPG 06 - Working at construction and demolition sites.

Compliance with the advice in GPP 05 and PPG 06 will help to minimise the impact of the site clearance and construction phases of the project on the environment. These PPGs/GPPs can be accessed by visiting the NetRegs website at

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

10. The applicant should comply with all the relevant DAERA Standing Advice in order to minimise the impact of the project on the water environment, paying particular attention to Standing Advice– Pollution Prevention Guidance, which contains a link to all the current Pollution Prevention Guidelines (PPGs/GPPs).
11. Standing Advice Notes are available on the DAERA website under the Topic: Environmental Advice for Planning. Alternately the following address can be copied and pasted to a web browser: <https://www.daera-ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environment-including-groundwater-and-fisheries>

Bats

12. 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.

Birds

13. 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:
- a) kill, injure or take any wild bird; or
 - b) take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
 - c) at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
 - d) obstruct or prevent any wild bird from using its nest; or
 - e) take or destroy an egg of any wild bird; or
 - f) disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
 - g) 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 (e.g. between 1st March and 31st August). No works should be carried out on any buildings or structures containing bird's nests unless an appropriate survey has been carried out prior to works commencing and it is confirmed that no active nests are present.

14. Identification of Private Water Supplies: A development must not impact on either the quality or sufficiency of a private water supply, and mitigation measures must be put in place, where required, in the protection of such drinking water supplies. Therefore, dependent on the scale, type, location and the potential impacts the proposal may have on such supplies the developer should, if appropriate, undertake a scoping exercise to determine the location of any private water supplies. Details on undertaking a search for potential private water supplies in the vicinity of the proposed development can be undertaken by accessing the following link:

<https://docs.spatialni.gov.uk/applications/drinkingwaterinspectorate/Generalinformation.pdf>.

15. As detailed Section 3.2.3, 'Groundwater Abstractions', the DWI notes that this scoping activity has been carried out in March 2021; however, please be aware that the Register of Private Water Supplies can change over time. Therefore, the DWI would encourage the applicant to conduct another scoping exercise to establish the most recent situation with regards to any registered Private Water Supplies in the area to ensure that this hasn't

changed within the period before commencement of building work. If changes are noted, the DWI is to be informed. If any private water supplies have the potential to be impacted by the development appropriate mitigations must be put in place. Further information on private water supplies can be obtained through contacting DWI by emailing at dwi@daera-ni.gov.uk or telephone 028 9056 9282 or from the DWI website:

<https://www.daerani.gov.uk/articles/private-water-supplies>.

16. Please be aware that if the applicant intends to use any borehole / private water supply on site, and its intended usage would abstract over 10m³ /day then it will require further consultation with the NIEA Abstractions and Licencing Team - more information is available at: <https://www.daera-ni.gov.uk/articles/applying-abstract-or-impound-water>.
17. Engagement with NI Water (Public Water Supplies): All catchments are considered as Drinking Water Protection Areas (DWPAs) under Article 7 of the Water Framework Directive. The nationwide basins are utilised by the primary Water Undertaker, Northern Ireland Water Limited (NI Water), to provide the public supply of water. Consideration should be given to the location of any infrastructure and protection of DWPAs. Consultation with NIW is also encouraged from an early stage, in order to establish capability of the public water system infrastructure.
18. Standing Advice: The developer is directed to the following list of standing advice which should, as appropriate and relevant, be considered in relation to the scale, type, location and potential impacts the proposal may have on the water environment: <https://www.daera-ni.gov.uk/publications/standing-advice-development-may-have-effect-water-environmentincluding-groundwater-and-fisheries>.
19. Borehole and Wells Decommissioning: If a borehole has been advanced as part of any site investigation works and will be required to be decommissioned the following guidance should be followed: <https://www.sepa.org.uk/media/34618/decommissioning-redundantboreholes-and-wells.pdf>*
20. Street Lighting should be suitably positioned to prevent any nearby properties from experiencing light annoyance.
21. The skip area should be managed in such a way as to prevent odour annoyance to nearby properties.

Case Officer Signature: E McArdle

Date: 06/09/2022

Authorised Officer Signature:

M Keane

Date: 07-09-22



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/0767/O

Date Received: 08.06.2020

Proposal: Proposed Residential Housing Development (Amended Description)

Location: Lands at Bridle Loanan, NW of Ridgefield Grove and NE of Woodlands, Warrenpoint

1. Site Characteristics & Area Characteristics:

- 1.1. The application site is accessed via the north end of Bridal Loanan adjacent No.1 Ridgefield Grove. The site is bounded by hedgerow on the east, south and west boundaries with the north boundary features mature trees with pasture between. The site is currently used for as improved grass pasture with residential development to the east, south and west. The northern boundary, partially defined by mature tree abuts the settlement limit as defined by the Banbridge, Newry and Mourne Area Plan 2015. The site is location on zoned land WB 17.



2. Site History:

There is no relevant site history.

3. Planning Policies & Material Considerations:

- The NI Regional Development Strategy 2035
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry & Mourne Area Plan 2015
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- DCAN15 – Vehicular Access Standards
- Parking Standards
- PPS6 – Planning, Archaeology and the Built Heritage
- PPS7 – Quality Residential Environments – Policy QD 1
- Addendum to PPS7 – Safeguarding the Character of Established Residential Areas
- PPS8 – Open Space, Sport and Outdoor Recreation
- DCAN8 – Housing in Existing Urban Areas
- PPS12 – Housing in Settlements
- PPS15 – Planning and Flood Risk
- A Planning Strategy for Rural Northern Ireland (Policies DES2 & SP18)
- Creating Places
- Living Places Urban Stewardship and Design Guide

4. Consultations:

NIEA:	Content subject to conditions
DfI Roads:	Content subject to conditions
DfI Rivers:	<i>Amended Drainage Layout DWG to reflect the most recent Site Layout and the Consultant is also required to correct errors within the Drainage Layout DWG labelling to ensure it corresponds accurately with the submitted MicroDrainage Calculations.</i>
NIHE:	A minimum of 27 dwellings shall be provided for social housing and a suitable housing mix stated.
Environmental Health:	Content subject to conditions.

5. Objections & Representations

138 neighbouring properties were notified of the application and the application was advertised in a local newspaper on the 03.06.2020 and re-advertised on 04.01.2021 and 17.08.2022. 13 representations were received objecting to the proposal. 11 of the 13 objections submitted a letter of similar contents. Concerns were raised regarding the following:

- Traffic implications of the proposal on the existing road infrastructure with particular concern with the junction of Bridal Loanan and Upper Dromore Road/Duke

Street. This matter has been carefully considered and is discussed further under policy PPS 3 below.

- The utility and water infrastructure to the site. NI Water has been consulted and negative conditions have been attached to approval to ensure satisfactory arrangements prior to commencement

6. Consideration and Assessment:

6.1. The proposal fell within the threshold of Category 10 (b) of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2019. On 2nd September 2022 the Council determined that there would be no likely significant environmental effects and an Environmental Statement would not be required.

6.2. RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide more high quality accessible housing within existing urban areas without causing unacceptable damage to the local character and environmental quality or residential amenity of these areas. The SPPS sets out core planning principles to be employed in the quest to achieve sustainable development. Of particular relevance to this application are the aim of supporting good design and positive place making while preserving and improving the built and natural environment.

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

zoned for housing (WB 17: Bridle Loanan North). There are 3 Key Site Requirements:

- A minimum of 27 dwellings shall be provided for social housing;
- Housing Development shall be a minimum gross site density of 25 dwellings per hectare and a maximum gross site density of 35 dwellings per hectare to take account of adjacent densities; and
- Junction improvement works will be required at the Bridle Loanan/Duke Street/ Upper Dromore Rd / East Street Junctions.

The lands outlined in red as part of this application extend to comprise the entire 1.53 hectares of zoned lands.

Accordingly, there can be no objections in principle to residential development on this site.

6.4. The zoning of land provides a basis for rational and consistent decision on planning applications and provides a measure of certainty about which types of development will and will not be permitted.

6.5. The current statutory development plan refers to policy for the control of development on zoned sites being contained in Policy SMT2 in Volume 1 of the plan.

Policy SMT2 – Development on Zoned Land

6.6. Planning permission on zoned sites will be granted for the specified uses as well as any range of uses included in the key site requirements and any specified complementary uses.

PPS 7 – Policy QD1 – Quality in New Residential Development

6.7. Planning permission will 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. This policy lists 9 criteria to comply with:

- (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;*

While this is an outline application an indicative layout was submitted and was not considered to present a policy compliant layout. However, these are only indicative and full details will be provided at any Reserved Matters/Full stage. The topography of the land slopes

gentle from east to west and full details of existing and proposed levels will be assessed at Reserved Matters stage.

The character of the wider area and peripheral location within the settlement limit are noted, whereby a mix of detached and semi-detached units in a well designed layout, which complies with the Area Plan designations, are considered acceptable in principle.

- (b) *features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;* in terms of this criterion, no archaeological features or built heritage are affected landscape features exist along the site's boundaries, and although the concept plan notes boundary treatments, a condition will be imposed on any approval notice stipulating the retention and augmentation of the boundary treatment and full landscaping plan to be submitted at RM Stage.
- (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;* With regard to private open space, although an outline application with no detailed plans, sufficient provision for private amenity space must be provided on any detailed scheme. It is noted that the concept plan did not propose and public open space as an integral of the development. This would not meet the 10% minimum requirement as set out in OS2 of PPS 8, the proposed layout submitted at RM stage can be assessed for adequate open space. A strip of buffer planting in the region of 5m wide, is be provided at the edge of the development limit (northern boundary). This will be conditioned. Existing trees and boundaries to be retained and supplemented with native species planting where required.
- (d) *adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;* Although the additional houses proposed will increase the number of dwellings within this locality, no neighbourhood facilities are required given the size of the site and the location of services within a reasonable distance. The zoning in the current statutory plan does not indicate the need for neighbourhood facilities.
- (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; Footpaths already exist throughout the Bridal Loanan and the proposed development will incorporate a link to the existing footpaths. These footpaths lead directly to Warrenpoint town centre.

- (f) *adequate and appropriate provision is made for parking;* Any Rm application would have to ensure that adequate and appropriate parking is provided for the number and type of houses provided.
- (g) *the design of the development draws upon the best local traditions of form, materials and detailing;* Being an outline application no details of the dwelling have been provided and will be a material consideration in the assessment of the RM application.
- (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;*

The surrounding land is residential in use therefore the proposal for more housing is not at odds with the surrounding lands uses. A well designed layout will ensure no unacceptable adverse impact will result on the residential amenity of any adjoining property or between units. A condition to limit the hours of construction will mitigate the disturbance to residents during the construction phase, Although Environmental Health advised the application site is in close proximity to Warrenpoint Harbour Authority and this should be considered to ensure no noise nuisance to future occupants of the properties, no conditions have been provided or recommended in this required. With regard to the retention and augmentation of the existing boundary vegetation, new landscaping, suitable boundary treatments between new properties it is possible to achieve a successful scheme providing it is in accordance with current planning policy and guidance in the form of DCAN 8 and 15 and Creating Places that would meet this criteria.

- (i) *the development is designed to deter crime and promote personal safety.* Through careful design and siting, the development could deter

crime and promote personal safety by providing a layout and road network that overlooks public space and roads.

PPS 12 – Policy Planning Control Principle (PCP) 1 – Increased Housing Density without Town Cramming.

6.8. This policy supports an increase in density of housing development within town and city centres and other locations which benefit from high accessibility to public transport facilities without eroding local character, environmental quality and amenity. New design should also respect adjacent housing and safeguard their privacy. The proposed site lies within the development limits of Warrenpoint and contains land zoned within the statutory development plan for housing under WB17. The minimum and maximum densities of the KSR are provisioned to ensure the proposed density will match those of the surrounding area.

PCP 2– Good Design

6.9. Any RM/Full application would have to ensure good design is proposed.

PCP 3– Sustainable Forms of Development

6.10. The proposed site would be a sustainable form of development in that it is located within an existing well established residential area, involves the completeness of the residential area and is within land zoned for housing in the area plan.

PPS 3 – Access, Movement and Parking

6.11. As stated above the application site is subject to a KSR that requires junction improvement at the Bridle Loanan/Duke Street/ Upper Dromore Rd/ East Street Junctions. Following several consultations an acceptable redline was received to allow for an approval and conditioned with an RS1. Concerns were raised through objections regarding the impact of the proposal on the junction of Bridle Loanan/Duke Street/ Upper Dromore Rd/ East Street Junctions. DfI Roads were consulted and are content that a satisfactory improvement can be achieved in accordance with the KSR.

PPS 2 – Natural Heritage

6.12. A Preliminary Ecological Appraisal (PEA) was completed and indicated no concerns and NIEA have provided a condition restricting the impact of artificial lighting. The retention of the existing boundaries is also required to ensure the impact of biodiversity remains low as per the PEA. This will be ensured via condition.

PPS 2 – NH 6 – Areas of Outstanding Natural Beauty

6.13. In terms of the site's location within the AONB, careful design and respectfulness of the locality, its architectural and environmental

characteristics and qualities as well as historical features and assets, a suitably designed housing layout could be accommodated on this site without causing detriment to the area.

PPS 15 – Planning and Flood Risk

- 6.14. An amended drainage assessment was requested by DfI Rivers and supplied by the agent. DfI Rivers requested additional details to correct discrepancies between the Drainage Assessment and the proposed site layout. As this is an outline application and the indicative layout was unacceptable a final drainage assessment will be requested via negative condition

7. Recommendation: Approval

8. Refusal Reasons/ Conditions:

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

Reason: Time Limit

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

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

3. No development shall take place until a plan of the site has been submitted to and approved by the Council indicating the existing and proposed ground levels, the finished floor levels of the proposed buildings and the position, height and materials

of any retaining walls. Development shall be carried out in accordance with the approved plans.

Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings.

4. At the Reserved Matters stage a plan indicating full details of all proposed tree and shrub planting and a programme of works, shall be submitted to and approved by the Council. All tree and shrub planting shall be carried out in accordance with those details and at those times.

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

5. 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. The access and visibility splays shall be constructed prior to any other development commencing on site.

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

6. Provision shall be made and permanently retained, within the approved development, for a minimum of 27 No. social housing units. This minimum requirement shall be delivered by an arrangement with a Registered Social Landlord (RSL) ie. Northern Ireland Housing Executive (NIHE) or a registered housing association. These units shall consist of:

- 12 No 2 person 1 bedroom apartments
- 8 No 3 person 2 bedroom apartments
- 5 No 5 person 3 bedroom houses
- 2 No 6 person 4 bedroom houses

Full details of the mix opted for, from the above, shall be submitted to and agreed by the Council at Reserved Matters stage.

Reason: To meet the Key Site Requirement for Social Housing provision as listed in Zoning WB 17 of the Banbridge / Newry and Mourne Area Plan 2015 and ensure its long term delivery.

7. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

8. Each building shall be provided with such sanitary pipework, foul drainage and rain-water drainage as may be necessary for the hygienic and adequate disposal of foul water and rain-water separately from that building. The drainage system shall also be designed to minimise the risk of wrongly connecting the sewage system to the rain-water drainage system, once the buildings are occupied.

Reason: In order to decrease the risk of the incorrect diversion of sewage to drains carrying rain/surface water to a waterway.

9. All services within the development should be laid underground.

Reason: In the interests of visual amenity

10. Development shall not be occupied until the onsite works have been completed in accordance with the drainage details submitted to and approved by the relevant authority.

Reason: In the interest of public health

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

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

12. Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Planning Authority for its consideration and approval.

Reason – In order to safeguard against surface water flood risk to the development and manage and mitigate any increase in surface water flood risk from the development to elsewhere.

13. A lighting plan, to include an isolux light spillage drawing showing >1 lux light spill on boundary vegetation (hedgerow/trees) must be submitted and approved in writing by the Planning Authority.

Reason: To protect bats.

14. Working hours, deliveries and vehicle movements on site shall be restricted to
- | | |
|--|----------------|
| Monday – Friday | 08.00 to 18.00 |
| Saturday | 08.00 to 13.00 |
| No working on Sundays or Bank Holidays | |

Reason: To protect amenity of local residents

15. The existing natural screenings of the site along the entire perimeter of the application site as identified on drawing no. 200 Rev C date stamped 4th April 2017 shall be retained and no lopping or felling of trees and hedging shall take place without the prior written consent of the Council, unless necessary to provide access to the application lands or to prevent danger to the public in which case a full explanation shall be submitted to the Council within 28 days.

Reason: To ensure the maintenance of screening to the site and to help safeguard the amenity of neighbouring residential properties.

16. During the first available planting season after commencement of development, a 5m wide strip of buffer landscaping as highlighted in yellow on approved plan '200 Rev C' shall be planted along the northern boundary of the site in accordance with a scheme submitted to and approved by the Council.

17. Reason: To soften the boundary between the development and the adjacent open countryside.

Informatives

1. It is the Northern Ireland Housing Executive's stated preference that three of the above units should be accessible, specifically 2 No 3 person 2 bedroom and 1 No 5 person 3 bedroom. The social housing should be designed to DFC Design Guide standards. The design standards for social housing are

set out on the DFC website: <https://www.communities-ni.gov.uk/design-standards>.

2. The applicant should be aware that this advice is current and may change if the policy context changes, or if there is a change in housing need".

Bats

3. 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.
4. 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.

Wild Birds

5. 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.

6. 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.
7. 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 31st August.
8. The proposed development is in close proximity to Warrenpoint Harbour Authority. This should be considered to ensure no noise nuisance to future occupants of the properties.
9. The Applicant is advised that the design concept information received as part of this outline application (date stamped 4th April 2017) is not acceptable to the Council. The information submitted does not meet favourably with the Department's policy requirements and statutory guidance. Whilst the Council is satisfied with housing / residential use in principle on these application lands, the concept information submitted does not indicate a suitable layout and form of development and establish an appropriate set of accompanying design principles. This outline permission, hereby approved, is therefore not based on any agreed design concept. All matters of detail are therefore reserved for future consideration by the Council.

Case Officer Signature: EMcArdle

Date: 05.09.2022

Authorised Officer Signature:

M Keane

Date: 07-09-22



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0179/F

Date received: 31.01.2022

Proposal: New vehicular access onto Ballagh Road to serve dwelling at 65A Ballagh Road

Location: 65A Ballagh Road, Newcastle, BT33 0LA

Area Characteristics & Site Characteristics:

The site is located within the rural countryside outside any development limits as designated within the Banbridge, Newry and Mourne Area Plan 2015. The site is also within an Area of Outstanding Natural Beauty.

The application site contains the existing curtilage of No.65A and a section of agricultural field between the dwelling and Ballagh Road which will provide the new vehicular access arrangements. The section of field measures approximately 75m in length with ground levels gradually falling down towards the road. The field was being used for agricultural purposes at the time of site visit. No 65A contains a single storey, detached dwelling with parking provided to the front elevation. Access is currently shared with No.65 which bounds the site to the North. The new access will adjoin No.71 to the South.

Date of Site Visit: 20.04.2022

Site History:

P/2014/0787/F- 65a Ballagh Road, Newcastle, BT33 0LA- Extension and conversion of roof-space to provide first floor accommodation with alterations to dwelling- Permission Granted 30.07.2015

Planning Policies and Material Considerations:

Banbridge, Newry and Mourne Area Plan 2015

Strategic Planning Policy Statement (SPPS) for Northern Ireland 2015

PPS 3 Access, Movement and Parking

PPS 7 (Addendum) Residential Extensions and Alterations

PPS 21 Sustainable Development in the Countryside

DCAN 15 Vehicular Access Standards

Consultations:

DfI Roads- No objection, with condition

HED- Content

Objections and Representations:

5 neighbours were notified of the proposal which expired 20.04.2022. The proposal was also advertised in local press which expired 02.03.2022.

No representations have been received to date (24.06.2022)

Consideration and Assessment:

Banbridge, Newry and Mourne Area Plan 2015

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. There are no specific policies in the Plan relevant to the determination of the application which directs the decision maker to the operational policies of the SPPS and the retained policies of PPS 3 and PPS21.

Strategic Planning Policy Statement (SPPS)

As there is no significant change to the policy requirements for the proposed alteration and extension of a dwelling following publication of the SPPS, the retained planning policy is PPS7 Addendum. This policy will be given substantial weight in determining the principle of the proposal in accordance of para 1.12 of the SPPS.

PPS 7 (Addendum) Residential Extensions and Alterations Policy EXT 1

Policy EXT 1 PPS 7 Addendum covers residential extensions and alterations which includes extensions of domestic curtilages.

- a) The property currently utilises and shares the existing access and driveway with no.65, which extends down to and adjoins the Ballagh Road. The application proposes the creation of a new, sperate access for No.65A which is to be constructed in the agricultural field East of the property. The new access is to measure approximately 75m in length, with a width of approximately 5m. The driveway is to be finished in stone, with new native species hedgerow and a post and wire fence constructed to the inner side. A stone wall is to be constructed along the field frontage with a post and wire fence on top.
It is considered that the scale of the proposal is unacceptable. The proposal will create a visual disturbance within the landscape and result in the removal of a portion of agricultural field, detracting from the existing appearance and character of the surrounding rural area.

- b) The proposal does not impact upon the amenity of any neighbouring properties due to its nature.
- c) The proposal will result in the loss of a section of agricultural field and hedgerow, however these are not considered to contribute significantly to the local environmental quality. New native species planting is to be introduced to the inner side of the access.
- d) The proposal will provide the property with a dedicated access point, providing an area for the parking and the manoeuvring of vehicles.

Addendum to PPS 7 goes on to state:

"The impact of an extension or alteration on the visual amenity of the countryside and, in particular, Areas of Outstanding Natural Beauty needs to be considered. Proposals should be in keeping with the character of the existing property and its countryside setting. Through poor design the individual and cumulative effect of extensions and alterations which are disproportionate in size to the existing property, or which require the use of land outside the established curtilage of the property, will result in a detrimental change to rural character."

The proposal is to cut through an existing agricultural field for approximately 75m, with a width of approximately 5m. It is considered that the proposal, when viewed cumulatively with the existing context, will have a detrimental impact on the rural character of the area and on the AONB.

PPS21 – Sustainable Development in the Countryside

Policy CTY 1 states a range of types of development which in principle are considered to be acceptable in the countryside, although it does not set out a specific policy for new accesses in the countryside. However the policy headnote states "all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety."

CTY 13 + 14 Integration and Rural Character

As previously discussed, it is considered that the scale and nature of the proposal is unacceptable as submitted. The creation of a long strip of hardstanding through an existing elevated agricultural field is considered unacceptable, appearing incongruous within the landscape and having a detrimental impact to the rural character of the area.

PPS 2 Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) policy NH 6- requires that new development within a designated AONB must be of an appropriate design, size and scale for the locality. As previously discussed, the impact on the visual amenity of the countryside, especially within the AONB is considered detrimental. The proposal fails this policy.

PPS 3 Access, Movement and Parking and DCAN 15 Vehicular Access Standards

Policy AMP 2 Access to Public Roads is the relevant policy to assess to the proposed development. The policy states planning permission will only be granted for a development proposal involving direct access on to a public road where:

- (a) Such access does not prejudice road safety or significantly inconvenience the flow of traffic
- (b) The proposal is to provide access onto a protected route, therefore it is to be assessed under AMP 3.

Policy AMP 3 Access to Protected routes restricts the number of new accesses and control the level of use of existing accesses onto Protected Routes.

The Planning Department having assessed the application against the proposal, do not consider the proposal to meet an exception case. The agent was informed of this opinion and asked to provide comment.

Annex 1- Consequential amendment to Policy AMP3 of PPS3 as contained within PPS21 also applies.

This Annex deals with protected routes outside settlement limits and advises PP will only be granted for a development proposal involving access onto this category of protected route in specific circumstances.

The agent responded, stating the proposal meets criteria (d) Other Categories of Development. The agent states that existing visibility splays are poor in both directions and cannot be improved as the land is not under the applicant's control. They continue 'The nett result will be a new access for 65A Ballagh Road which has full access standards, and a significantly improved existing access to serve 65 Ballagh Road. Additionally, 50% of the existing traffic using the sub-standard access, will now utilise the new access point, which will significantly decrease the likelihood of an accident at this location'.

While the circumstances are noted, it is considered there is no justification for a new additional access onto this protected route.

DFI have an established policy of restricting accesses onto roads such as this which facilitate the efficient movement of traffic.

It is important that a new access or intensified use of an existing access onto a Protected Route does not compromise their function of facilitating the free and safe movement of traffic or does not significantly add to congestion.

The policy specifically states that approval may be justified in particular cases where access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals are required to make use of an existing vehicular access onto the protected route.

Accordingly, there is no policy support for the creation of a new vehicular access onto this protected route.

The Planning Department do not consider this justification for a new access onto a protected route and therefore consider the proposal to be contrary to the policy.

Recommendation: Refusal

Reason for Refusal

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy EXT 1 PPS 7 (Addendum) Residential Extensions and Alterations in that the proposal's scale is unacceptable for the surrounding context.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 and 14 of Planning Policy Statement 21, Sustainable Development in that the proposal will not visually integrate within the landscape and erode the rural character of the area.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of Planning Policy Statement 2, Natural Heritage in that the proposal is not appropriate for the AONB.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy AMP 3 of Planning Policy Statement 3 and Annex 1- Consequential amendment to Policy AMP3 of PPS3 as contained within PPS21, Access, Movement and Parking, in that the proposal does not meet the exceptions test for a new access on to a Protected Route, in that it does not use a minor road or existing vehicular access.

Case officer: Gareth McShane

Authorised by: M Keane

Date: 23.06.2022

Application Reference: LA07/2022/0179/F

Proposal: New vehicular access onto Ballagh Road to serve dwelling at 65A Ballagh Road

Location: 65A Ballagh Road, Newcastle

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

- 1- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy EXT 1 PPS 7 (Addendum) Residential Extensions and Alterations in that the proposal's scale is unacceptable for the surrounding context.
- 2- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 and 14 of Planning Policy Statement 21, Sustainable Development in that the proposal will not visually integrate within the landscape and erode the rural character of the area.
- 3- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of Planning Policy Statement 2, Natural Heritage in that the proposal is not appropriate for the AONB.
- 4- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy AMP 3 of Planning Policy Statement 3 and Annex 1- Consequential amendment to Policy AMP3 of PPS3 as contained within PPS21, Access, Movement and Parking, in that the proposal does not meet the exceptions test for a new access on to a Protected Route, in that it does not use a minor road or existing vehicular access.

We would respond to each reason as follows -

Reasons 1 and 2: The proposal is for a new driveway with full standard visibility splays. The driveway proposed extends exactly the same distance from the main road as the driveway for all neighbouring properties. Therefore the scale of the driveway is exactly the same as those in the surrounding context and is compliant with Policy EXT1(a)PPS7 (Addendum), and CTY 13&14.

Reason 3: The proposal involves the removal of an existing low level ditch across the 45m frontage, and construction of a new Mourne stone wall behind the proposed visibility splays. No other frontage is proposed to be removed. The driveway hugs the existing boundary as all other driveways in the surrounding context do, and provides a new native species planted hedgerow to the field side of the driveway. This level of integration is normally acceptable in any other new access proposal. The neighbouring properties on either side include block build and rendered/dashed front boundary walls. The proposed Mourne stone wall is much more in keeping in this AONB. (Photographs attached)

PPS2 Policy NH6 – Areas of Outstanding Natural Beauty states that:

Planning permission for a 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 in the particular locality; and
- (b) It respects or conserves features (including buildings or other man made features) of importance to the character, appearance or heritage of the landscape: and
- (c) The proposal respects:
 - (i) the local styles and patterns;
 - (ii) traditional boundary details, by retaining features such as hedges, walls, trees and gates,
 - (iii) local material, design and colour.

We feel that the proposal generally complies in full with this policy.

Reason 4: In this particular instance, there is an existing sub-standard access onto the protected route which serves 2no existing dwellings. Visibility splays are very poor in both directions, and the land to the Newcastle side is not under the owner's control, so splays in this direction cannot be improved. The proposal seeks to provide a new access point onto the protected route, which will achieve full access standards in terms of visibility splays (2.4m x 160m in both directions), width and turning radii. This will provide access for the existing dwelling at 65A Ballagh Road. (Please note that DFI Roads consultation response returned No Objection to this proposal)

Implementing these new splays for the new access will also significantly improve the nearside splays for the existing access point which will continue to serve 65 Ballagh Road.

To conclude, The nett result will be a new access for 65A Ballagh Road which has full access standards, and a significantly improved existing access to serve 65 Ballagh Road. Additionally, 50% of the existing traffic using the sub-standard access, will now utilise the new access point, which will significantly decrease the likelihood of an accident at this location. (There will be NO intensification of use or increase in vehicular movement onto the Protected Route. Overall, there will be no additional traffic coming onto Ballagh Road as both dwellings are existing, and the application will not result in intensification of use of the site or additional traffic to or from.)

Other examples of new access which were accepted by Planning onto a Protected Route include application LA07/2016/0651/O and LA07/2027/0900/RM, Castlewellan Road, Newcastle. These were for new builds and, unlike this application, did result in intensification of use onto the Protected Route.

Whilst we have tried to plead out our case with planning, we would now ask the Planning Committee to apply a more common sense approach to this application, rather than a "strictly by the policy" approach. The significant benefits in road safety are apparent to see, and we would appreciate if this application could be considered by the Planning Committee for approval, before this situation results in a more serious outcome.

The applicant is willing to invest a significant amount of money in improving the access to and from his dwelling, in order to minimise the risk in the future. We would ask the Council to consider the long term benefits of this proposal from a road safety perspective, taking into account the points made above. We feel that the application should be considered as an exception to the policy given the overall benefit to road safety, in comparison the dangerous access situation that currently exists, and would welcome your feedback in this regard. If needed, a site visit might help to demonstrate how dangerous the existing access condition is.



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**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2021/1268/F

Date Received:

17.06.2021

Proposal:

Demolition of existing shed to facilitate off site replacement dwelling of former weavers cottage. The original 'weavers cottage' building to be retained with change of use to storage for adjacent existing textile workshop and erection of wastewater treatment system and all associated site works

Location:

86 Killowen Old Road
Rostrevor
Newry
BT34 3AE

Site Characteristics & Area Characteristics:

The site is outside any development limit as designated under the Banbridge, Newry and Mourne Area Plan 2015 (BNMP 2015). The site is also within an Area of Outstanding Natural Beauty.

The site outlined in red comprises an existing building which is in use as a factory/workshop (Mourne Textiles) and lands to the NW of the building. An extension to the factory to provide a self-contained flat was approved under P/1980/0572. It is this extension that is proposed to be replaced under Policy CTY 3. The existing building is accessed off the northern side of Killowen Old Road. Views of the building are limited due to the existing mature planting throughout the site which provides natural screening.

The area is rural in character with the surrounding land predominantly in use for agriculture. There are a number of adjacent detached dwellings sited along the roadside of differing sizes, scales and design. Killowen Primary School is directly adjacent the application site to the east.



Existing access to application site off Killowen Old Road



Single storey building to be replaced



Proposed siting of new dwelling

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 2: Natural Heritage
- PPS 3: Access, Movement and Parking
- PPS 21: Sustainable Development in the Countryside
- DCAN 15: Parking Requirements
- Building on Tradition

Site History:

- P/1980/0572 – Extension to factory to provide self-contained flat – Permission granted
- P/2013/0080/F - Proposed store/maintenance workshop – Permission granted
- LA07/2018/0625/F - Proposed store/ maintenance workshop – Permission granted

Consultations:

- **NI Water** – Approval
- **Rivers** - If Planners deem the new additional impermeable hardstanding to be positively drained exceeds 1000 square meters, then the policy states a Drainage Assessment will be required and the surface water discharge limited to green field run off rate. A DA is not required for this application.

Note: It was not considered necessary to consult DfI Roads as the existing entrance is to remain unaltered and is to be used to serve the proposed dwelling as well as the existing factory/workshop. This application is for a replacement.

Objections & Representations:

Five neighbour notification letters were issued 13.08.2021. Another neighbour notification letter was issued to a sixth address 05.01.2022.

Advertised: 26.05.2021

No objections or representations received to date (15.08.2022).

AssessmentProposal

The proposal is a full application for the erection of a replacement dwelling. The proposal involves the retention of the 'original weavers cottage' with a change of use to storage for the adjacent textile workshop.

The Design and Access Statement submitted states:

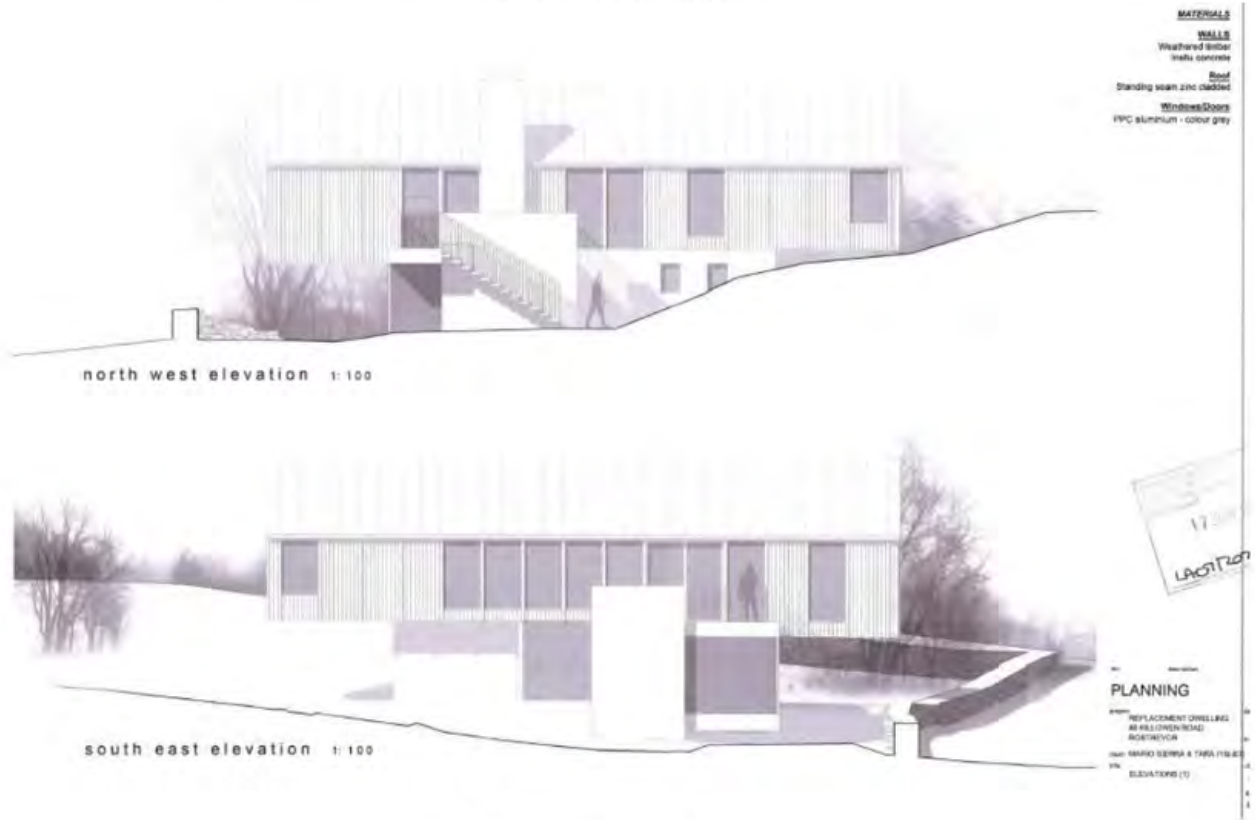
"The simple geometric language of the dwelling is a responsive solution to the utilisation of the existing topography, site orientation and vernacular form. The massing, a configuration consisting of a central two-storey pitched roof section flanked by two single storey elements, one to the north and one to the south. The three interconnecting volumes work to collect the eastern, southern and western sun, allowing for the manipulating of natural light and maximum solar gain throughout the dwelling."

The proposed dwelling is to be sited on lands to the NW of the existing structure. An existing wooden shed is to be removed from the site. The existing entrance is to be used to access the site and a shared driveway created. The existing mature vegetation throughout the site is to be retained.

The proposal is shown below.



Proposed site plan



Proposed elevations



Proposed elevations

Principle of Development

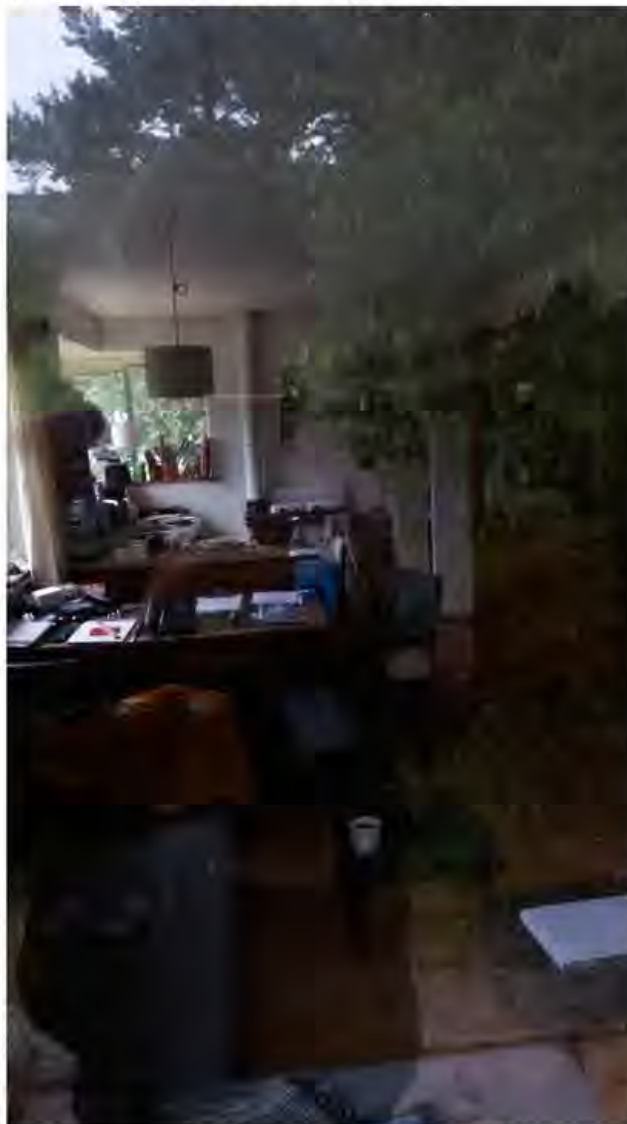
Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015 as the new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

The principle of development is established under PPS 21: Sustainable Development in the Countryside, Policy CTY 3 – Replacement Dwellings. This policy provides the criteria to be met in order to grant permission for a replacement dwelling.

Planning permission will only be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

During a site visit, it was noted that the single storey structure to be replaced forms part of a larger 2-storey building with no separation from the larger unit with an internal link. It shared boundary walls with the larger factory unit which were intact and had a chimney on the roof. An internal view of the building to be replaced is shown below. The photo shows a small kitchen and seating area.



Following a history check, it was noted that the existing structure to be replaced was approved as an extension to the existing workshop to provide a self-contained flat.

The proposal description refers to the 'Demolition of existing shed to facilitate off site replacement dwelling of former weaver's cottage'. The Planning Department considers this description to be misleading in that it is intended to convey that the structure to be replaced is a 'former cottage' rather than a self-contained flat, as formally approved by the previous planning authority. The 2 concepts are entirely different.

The Planning Department had concerns with the proposal in terms of the principle and an email was sent to the agent on 26th January 2022 advising that the Planning

Department consider the principle of a replacement dwelling is not met, as a flat is not eligible for replacement with a detached dwelling under policy CTY3 of PPS21.

An email was received from Brendan Starkey (O'Toole and Starkey) 27th January outlining that "the Planning Portal (England) states that "a dwelling may be a house, bungalow, flat, maisonette or converted farm building" and that "the applicant has lived in this dwelling for over 40 years. It has bedrooms, a bathroom, kitchen and dining/living space and is distinct from the factory. It satisfies the definition of a dwelling per the requirements of CTY3 and is suitable for replacement." The Planning Department considers these comments to be misplaced in that the agent is attempting to rely on a legislative definition of a dwelling, as provided, he states, on the planning portal in England. This is entirely different to planning policy requirements as provided, for example in Planning Policy Statement 21 (PPS 21). While a purported legal definition of a dwelling may be a material consideration, limited weight should be attached to it in the interpretation of planning policy and the assessment of this application.

In a response email, the Planning Department advised that a flat is not considered to be a dwelling for the purposes of the policy regarding replacement dwellings and as such the principle of development on site is unacceptable. Moreover, the Department outlined the definition contained within the Permitted Development Regulations which advises that a dwelling-house does not include a building containing one or more flats, or a flat contained within such as building.

Mr Starkey responded advising that CTY3 specifically relates to replacement dwellings, not replacement dwellinghouses and that "it does not matter what it was called in a planning permission back in 1980, the planning system and its suite of policy and legislative documents have changed entirely since then. The applicant has lived in it for over 40 years and it meets every reasonable definition of a dwelling."

The Planning Department is strongly of the view that should this Council decide that CTY 3 of PPS 21 allows for the replacement of flats that form part of a larger complex with individual detached dwellings then the implications could be very wide. Any property in the countryside comprising individual apartments would then have policy support to be replaced by a number of separate dwellings. This is clearly wrong and would not be within the spirit and meaning of CTY 3.

Following the correspondence above, a LPS Valuation Check was carried out for No. 86 Killowen Old Road (the site address outlined on the P1 form). No. 86 Killowen Old Road has been described as a non-domestic industrial workshop. The screenshot below includes the description of the rooms on the ground and first floors as well as the size of each room.

< Back

Valuation Entry

20 Kilmorey Old Road
 Ballinacorney
 Limerick
 Eire
 R124 3AE

LPS Property ID: 70420

Unique Property Reference Number: 1853221/8

Property Type: Non Domestic

Non Domestic Information

Description	Workshop
Total Net Annual Value (NAV) Non Exempt Property value for rate calculation.	13,600.00
Total Net Annual Value (NAV) Exempt Property value exempt from rates.	10.00
OT (Other)	10.00
W (Workshop)	13,600.00
SR (Spans and Extensions)	10.00
FT (Flight Transport)	10.00
ER (Exempt)	10.00
Estimated Non Domestic Rate Bill This estimate calculation is based on a general rate for rate payers in 2021. It does not include any reductions for rate relief, exemptions, or discounts or any emergency measures introduced to avoid those impacted by COVID-19.	13,610.00

Non Domestic Valuation Summaries

#	Floor	Description Use	Area	Rate	Distinguishment #
1	GF	OFF	21.59m ²	£71.88	0%
2	1F	WSHOP	35.92m ²	£38.75	0%
3	2F	OFF	66.34m ²	£70.94	0%
4	GF	WSHOP	91.79m ²	£17.50	0%
5	GF	RETCN	23.70m ²	£27.88	0%

[Apply for a valuation review](#) [Pay your rates online](#)

Measuring the plans of the existing building ('self-contained flat' and factory/workshop) submitted alongside this application, it appears that the building in its entirety has been paying industrial non-domestic rates. The screenshot above shows that there has been no distinguishment between the 'self-contained flat' and the attached workshop in terms of paying rates. It appears that the 'self-contained

flat' has been in use as offices and a kitchen in association with the adjoining workshop.

Regardless of this, the Planning Department acknowledge that Policy CTY 3 states that "all references to 'dwellings' will include buildings previously used as dwellings".

Nonetheless, in consideration of the planning history on site, the fact that the structure was approved as an extension to the existing workshop to provide a self-contained flat, and regardless of its current use; the Planning Department do not accept the principle of replacing a flat with a detached dwelling and as such the proposal is contrary to Policy CTY 3. To approve an application for the replacement of a flat with a detached stand-alone dwelling would set a harmful precedent.

I will also provide comment on the remaining criteria within CTY 3 for the purposes of this report.

CTY 3 also requires the proposed replacement dwelling to be sited within the established curtilage of the existing building, unless the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

Within an email sent to the agent 11th November 2021, the Planning Department relayed concerns about the proposed dwelling being sited outside the curtilage of the existing flat. In response, the agent advised that *"the curtilage of the existing dwelling extends in a northeast direction by approximately 100m and is defined by a mature hedgerow and trees along its north, west and southern boundaries. These boundaries are clearly eligible and mark an unmistakable definition between the residential curtilage and the agricultural fields beyond... The land is utilised for domestic purposes incidental to the use of the dwelling on site which is further evidenced by virtue of the domestic shed located at the very end of the garden which has been in situ for over 10 years and is used to store garden tools."*

Upon review of the planning history for the self-contained flat, the approved site location is shown below. Evidentially, the proposed siting of the new dwelling is not on land within the boundary shown on the site location map approved under P/1980/0572. Regardless of the agent's claims and the presence of a wooden shed, there appears to be a breach of planning on this site and the curtilage serving the self-contained flat appears to have been extended without the benefit of planning permission and no application has been received/approved to regularise this. Therefore, the Department consider the proposed dwelling to be sited outside the existing curtilage and will proceed on this basis.



Approved site location - P/1980/0572

Within the rebuttal document, the agent goes on to advise that the description outlined on the P1 form (off site replacement) may have unintentionally indicated that it fell beyond the existing curtilage.

The agent then provides justification for an offsite replacement in that:

- *"The existing dwelling is very small, adjoins an operational factory and is surrounded by mature trees. The chosen location would deliver clear amenity benefits by creating an opportunity to deliver an adequately sized dwelling that meets modern space standards and by providing adequate separation between the operational factory and the dwelling.*
- *The chosen location also delivers clear landscape benefits because locating the dwelling on the existing footprint would necessitate the loss of mature trees."*

As mentioned above, the planning history on this site is very important in the assessment of this application. The existing structure was approved under P/1980/0572 as an extension to a factory to provide a self-contained flat. The extension included a hallway, 2 bedrooms and an open plan kitchen/living room. An existing store within the existing factory structure was to be changed into a bathroom to serve the extension.

Referring to a previous comment from the agent that *"it does not matter what it was called in a planning permission back in 1980"*, the Planning Department do not agree with this statement. Weight should be applied to this material consideration and, in

the opinion of the Planning Department, it is clear that the self-contained flat was approved to be used in connection with the existing factory.

The agent also provided a reference to a planning appeal which was upheld (2019/A0007) whereby an off-site replacement dwelling was approved approx. 125m away from the existing dwelling. This application involved the replacement of a semi-detached dwelling and not the replacement of a self-contained flat which was approved as an extension to an existing factory. The circumstances of both applications are different and thus this application will be assessed on its own merits.

All in all, due to the planning history on site and in consideration of the justification provided, the Planning Department do not consider the off-site replacement of the self-contained flat to be acceptable.

Regarding the size of the proposed dwelling, an email was sent to the agent 11th November 2021 outlining concerns with the size and scale of the proposed dwelling. In response, the agent advised that *"on account of its siting, the existing intervening screening vegetation, the surrounding rising land, the surrounding trees and its close proximity to a significant development cluster, the proposal would integrate acceptably within the receiving landscape and would not have a visual impact significantly greater than the existing."*

The application building is totally screened from view by the existing factory structure. The proposed dwelling is to be sited approx. 76m NW from the flat. The Department acknowledge the natural screening of the site and the critical views of the site as shown later in the report. The Planning Department accept that *"the determination of whether a new building integrates into the landscape is not a test of invisibility"*; however, the effect of an increase in footprint resulting in a 2-storey detached dwelling from a single storey attached flat must be considered in the context of Policy CTY 3 of PPS 21.

I accept that the site is well screened by existing vegetation and critical views of the site are limited due to this. The rising lands to the north also provide a backdrop. Nonetheless, it is considered that the proposed dwelling would have a visual impact significantly greater than the existing due to the detached two storey form, off-site siting and contemporary design which bears no resemblance to the existing adjacent dwellings/buildings or the flat it is proposed to replace. The Planning Department do not consider the design of the proposed dwelling to be of a high quality appropriate to its rural setting and AONB designation.

Notwithstanding the above, I will also assess the proposal against other relevant policies.

Within the Design and Access Statement submitted, the agent also makes reference to Policy CTY 2a of PPS 21. Although the proposal description specifically outlines a replacement dwelling, I will also provide comment in regard to CTY 2a.

Policy CTY 2a

This policy covers new dwellings in existing clusters and provides criteria that must be met.

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.*

The red line boundary is shown below including the proposed siting of the new dwelling.





The Planning Department accept that the cluster of development lies outside of a farm and consists of four or more buildings of which at least 3 are dwellings. When travelling along Killowen Old Road, owing to the mature vegetation that screens the existing development, the cluster does not appear as a visual entity in the local landscape. Killowen Primary School adjacent the site can be considered a focal point. The application site is not considered to be bounded on at least two sides with other development in the cluster. The development of the site would not round off existing development but would instead extend development further into the countryside which would visually intrude into the open countryside.

For the reasons outlined above, the proposal also fails to comply with Policy CTY 2a.

Policy CTY 13

New dwellings in the countryside must be able to visually integrate into the surrounding landscape and be of an appropriate design.

The proposed site layout and elevations are shown above. The proposal involves the replacement of a flat with a standalone dwelling approx. 76m from the existing structure. The design of the proposed dwelling comprises "a configuration consisting of a central two-storey pitched roof section flanked by two single storey elements, one to the north and one to the south." The proposed materials include; weathered timbers

walls and in situ concrete, standing seam zinc cladded roof and PPC aluminium doors and windows.

The view of the proposed site when travelling west along Killowen Old Road adjacent Killowen Primary School is shown below.



Views of the application site when travelling east along Killowen Old Road are shown below.



View of the application site from Killowen Road is shown below.



An email was sent to the agent 11th November 2021 advising that the Department considered the proposed siting to be a more prominent location on the foot of the mountain and is visible from the public walkway at the edge of the forest and that the overall size of the proposed dwelling is excessive and would not be able to integrate into the surrounding landscape.

A document prepared by O'Toole and Starkey was received from the agent 3rd December 2021 whereby it was advised that *"the application site is entirely screened from public view and cannot be seen at all from the public road network. Officers appear to have mistaken a rural agricultural track that runs through the forest and mountains to the northeast with the public walk way."* The document goes on to outline that *"this path is located 400m from the application site and is separated from it by trees, undulating fields and a network of intervening hedgerow. The proposal is augmented into the rising landscape, is set amongst a substantial corpse that form a beneficial backdrop and clusters with the group of buildings in this location."*

Para 5.28 of Policy CTY 13 states that *"the determination of whether a new building integrates into the landscape is not a test of invisibility; rather it requires an assessment of the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings."*

CTY 13 goes on to state that:

"The main criteria against which the degree of visual impact will be considered include:

- the location of the site within the landscape, the position of the building within the site and its relationship with surrounding buildings. this will help determine whether the development will be a prominent feature in the landscape;*
- the attributes of the site and its landscape surroundings and whether these provide sufficient enclosure for the new building. This includes the existence or otherwise of natural boundaries and/or a visual backdrop, and whether there is any intervening vegetation or natural features between the site and critical views; and*
- the suitability of the design of the building for the site and its locality, including its form, scale and massing."*

Para 5.60 advises that *"the assessment of integration will be judged from critical views along stretches of the public road network; shared private lane-ways serving existing or approved dwellings; public rights of way and other areas of general public access and assembly, e.g. a car park."*

A second site visit was carried out by the Planning Department taking account of critical views of the site as shown in the photographs above. The application site benefits from mature vegetation which provides natural screening of the site. The site layout plan shows the vegetation within the site to be retained and the dwelling to be sited in an area clear of any trees. The site also benefits from the rising topography to the north which provides a visual backdrop. Views of the site are limited and obscured by intervening vegetation and natural features between the site and critical views. The existing access to the site from Killowen Old Road is to be used and a second access created off an existing shared driveway is to be created within the site.

The adjacent buildings are of different design and finishes; however, none are similar to the proposed dwelling in terms of form, scale and massing.

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 5.3.1 of BOT states that *"the most common offence [of replacements] is to introduce a new house that is simply too big for the site and bears no relationship to the scale of the traditional buildings that are retained."* Para 5.4.0 of BOT advises that *"replacement projects will tend to be most successful where they defer to the form and shape of the building they are replacing"*.

The Planning Department totally accepts that development in the countryside does not preclude development of a contemporary/modern built form given Para 5.67 of CTY 13 which states that *"that there will also be opportunities for contemporary or innovative design which results in the provision of high quality more environmentally friendly buildings provided the overall design and orientation are acceptable"*.

However, the Department query the inspiration behind the design given the AONB designation, adjacent existing buildings and the form and scale of the structure to be

replaced. The Planning Department considers the proposed dwelling to bear no relationship to the scale nor form of the existing buildings adjacent the site and of the structure to be replaced.

Within the document prepared by O'Toole and Starkey on the applicant's behalf and in response to the Planning Department advising of concerns with the proposal, it is outlined that *"the replacement dwelling proposed under this application is entirely hidden from public view and has been designed through the use of sympathetic materials and careful siting to integrate into the receiving landscape without visual detrimental or harm to existing landscape features."*

As outlined above, the Planning Department acknowledges the natural screening of the site provided by the vegetation, however Para 5.60 of CTY 13 concludes that *"where a site cannot be readily identified from critical viewpoints, it does not obviate the need for careful site selection to ensure the proposed building blends into its surroundings and is of a high standard of design."*

The Planning Department do not consider the proposed design to be acceptable on this site for the reasons outlined above and therefore the proposal is considered contrary to criterion e) of CTY 13.

Policy CTY 14

New dwellings in the countryside must not cause a detrimental change to, or further erode the rural character of an area.

Para 5.78 of CTY 14 states:

"In assessing the cumulative impact of a building on rural character the matters taken into consideration include the following:

- *the intervisibility of the proposed building with existing and approved development;*
- *the vulnerability of the landscape and its capacity to absorb further development; and*
- *the siting, scale and design of the proposed development."*

As noted above, the application site benefits from mature vegetation which provides natural screening of the site. The site layout plan shows the vegetation within the site to be retained and the dwelling to be sited in an area clear of any trees. The site also benefits from the rising topography to the north which provides a visual backdrop. Views of the site are limited and obscured by intervening vegetation and natural features between the site and critical views. The existing access to the site from Killowen Old Road is to be used and a second access created off an existing shared driveway is to be created within the site.

However, as also outlined above, the design including the scale and form of the proposed dwelling is considered unacceptable given the AONB designation, adjacent existing buildings and the form and scale of the structure to be replaced. The Planning Department considers the proposed dwelling to bear no relationship to the scale nor form of the existing buildings adjacent the site and of the structure to be replaced.

Para 5.79 of CTY 14 advises that *"in order to maintain and protect the rural character of an area the new building should respect the traditional pattern of settlement; that is, the disposition and visual appearance of land and buildings in the locality of the proposed development."*

The proposed is considered to be contrary to criterion c) of CTY 14.

Accessibility & Transportation

DfI Roads was not consulted on this application as it was not considered necessary as the existing access was to be retained and used as is. The proposal includes the retention of the subject building for use as storage for the existing factory. As such, the proposal will not result in intensification of the existing access. The proposal is considered to comply with PPS 3 and the relevant policies within.

PPS 2: Natural Heritage

Policy NH6 – Areas of Outstanding Natural Beauty of PPS 2 must also be considered given that the proposal is situated within the Mourne AONB. It lays out the relevant criteria to be met by new development which must be of an appropriate design, size and scale for the locality. The design including the scale and form of the proposed dwelling is considered unacceptable given the adjacent existing buildings and the form and scale of the structure to be replaced. The Planning Department consider the proposed dwelling to bear no relationship to the scale nor form of the existing buildings adjacent the site and of the structure to be replaced and therefore appears unsympathetic to the AONB designation.

The proposal fails to comply with Policy NH6 of PPS2.

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 CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - the structure to be replaced does not demonstrate the essential characteristics of a dwelling as required by planning policy.
 - the replacement of a self-contained flat with a detached dwelling is considered unacceptable in this rural location;
 - the proposed replacement dwelling is not sited within the established curtilage of the existing flat and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits;
 - the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building;

- the design of the replacement dwelling is not of a high quality appropriate to its rural setting and does not have regard to local distinctiveness.
3. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:
 - the cluster does not appear as a visual entity in the local landscape;
 - the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure;
 - the dwelling would, if permitted, visually intrude into the open countryside.
 4. The proposal is contrary to criterion (e) of Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality.
 5. The proposal is contrary to criterion (c) of Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted not respect the traditional pattern of settlement exhibited in that area.
 6. The proposal is contrary to the Department's Planning Policy Statement 2, Natural Heritage, Policy NH 6, in that the proposed dwelling does not respects local architectural styles and patterns and the scale of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty of the particular locality.

Informatives:

This refusal notice relates to Drawing Nos; 0458-(PL)-001A (Site Location), 0458-(S)-002 (Site Plan), 0458-(PL)-003 (Ground Floor Plan), 0458-(PL)-004 (First Floor Plan), 0458-(PL)-005 (Elevations 1), 0458-(PL)-006 (Elevations 2), 0458-(PL)-007 (Sections 1), 0458-(PL)-008 (Sections 2), 0458-(PL)-009 (Existing Dwelling and Workshop Ground Floor), 0458-(PL)-010 (Existing Dwelling and Workshop First Floor), 0458-(PL)-011 (Existing Dwelling and Workshop Elevations) and 0458-(PL)-012 (Existing Dwelling and Workshop Elevations).

Case Officer Signature: Eadaoin Farrell

Date: 15.08.22

Appointed Officer Signature: M Keane

Date: 15-08-22

COMMITTEE BRIEFING NOTE

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App Reference:	LA07/2021/1268/F
Proposal:	Demolition of existing shed to facilitate off site replacement dwelling of former weavers' cottage. The original 'weavers' cottage' building to be retained with change of use to storage for adjacent existing textile workshop and erection of wastewater treatment system and all associated site works.
Location:	86 Killowen Old Road, Rostrevor, Newry, BT34 3AE

We fundamentally disagree with the Planning Officer's interpretation of policy and legislation 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 proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

The application complies with PPS21 policy CTY3 - see further justification under refusal reason 2, below. It is therefore an acceptable form of development in principle in the countryside thereby satisfying policy CTY1.

REFUSAL 2 (BULLETS 1 & 2): The proposal is contrary to Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that: the structure to be replaced does not demonstrate the essential characteristics of a dwelling as required by planning policy, and; the replacement of a self-contained flat with a detached dwelling is considered unacceptable in this rural location;

This application relates to a dwelling that the applicant's family has lived in since the 1980's and the applicant himself continues to live in it to this day (see family photographs at **Appendix A**). In compliance with policy, it has 4 structurally intact walls, and it exhibits the essential characteristics of a dwelling in that it has 2 bedrooms, a kitchen/living room, bathroom, separate front door, and fire (see internal photographs of the dwelling at **Appendix B**).

The planning department's justification for refusing this application is primarily predicated upon the fact that the dwelling was referred to as a 'flat' within a planning permission granted in 1980. The department's position is that a flat is not a dwelling suitable for replacement under policy CTY3. The position adopted by the Department is wholly incorrect for several reasons:

- There is no 'planning' definition of a flat. The RICS however define a flat as "having to be contained within a dwelling with a least 2 -storeys." This is not the case in this instance because the dwelling is a single-storey unit of residential accommodation that adjoins the existing factory. Irrespective of what it was referred to in 1980, the application dwelling is not a flat as one would interpret it today.
- Regardless of this, policy CTY3 is entitled 'replacement dwellings'. The everyday dictionary definition of a dwelling is 'a house, flat etc. where a person lives' (Oxford Dictionary). For context, the Planning Portal (England) states that: "a dwelling may be a house, bungalow, flat, maisonette or converted farm building". Even if this were to be considered a flat, a flat is a dwelling. Accordingly, it would be acceptable for replacement under policy CTY3 in any event.
- In support of its case, the Department relies on the definition of 'dwellinghouses' (as defined in the General Permitted Development Order), which excludes flats. This is immaterial – the policy clearly refers to 'dwellings' not 'dwellinghouses.' Applying this legislation to this planning application is harmfully erroneous.

In short, the subject building is a dwelling that is acceptable for replacement under policy CTY3.

REFUSAL 2 (BULLET 3): the proposed replacement dwelling is not sited within the established curtilage of the existing flat and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access; or amenity benefits;

The Department states that the application site falls beyond the boundary of the residential curtilage defined in the original permission ((P/1980/0572). This permission was granted over 40 years ago. The land marked for

development has served as the applicant's private garden for over 35 years. The application site therefore falls within the established residential curtilage of the existing dwelling.

Without prejudice to this, even if the site were to be considered to fall beyond the established curtilage the proposal would deliver clear amenity benefits by creating an opportunity to deliver an adequately sized dwelling that meets modern space standards and by providing adequate separation between the operational factory and the dwelling. The chosen location also delivers clear landscape benefits because locating the dwelling on the existing footprint would necessitate the loss of mature trees.

REFUSAL 2 (BULLET 4): the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building;

The proposal will not have a significantly greater visual impact. The application site is entirely screened from public view and cannot be seen at all from the public road network or from any other critical viewpoint. The Department concedes this within its report stating: *"I accept that the site is well screened by existing vegetation and critical views of the site are limited due to this. The rising lands to the north also provide a backdrop."* Given that the Department agrees that views of the site are limited, it is astounding that it has proceeded to advance a refusal based on visual impact.

REFUSAL 2 (BULLET 5): the design of the replacement dwelling is not of a high quality appropriate to its rural setting and does not have regard to local distinctiveness.

This is a high quality and carefully considered residential proposal. The design approach was to create a contemporary family home that is respectful of its secluded setting within the Mourne AONB. The form is simple and includes vernacular elements and integrates within the receiving landscape with minimal intervention. The materials include a combination of timber, which will provide visual warmth, and contrast with the more solid modern concrete components. The design and materiality ensure this contemporary proposal will integrate within its rural woodland setting and will not have a harmful impact upon rural character or upon the Mourne AONB.

This aside, the proposal will be imperceptible from public view and will not impact upon the local rural character of the area.

REFUSAL 3: The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that: the cluster does not appear as a visual entity in the local landscape; the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure; the dwelling would, if permitted, visually intrude into the open countryside.

This application is not advanced under policy CTY2a – it complies with CTY3 and it is therefore acceptable. This aside, the application site does fall within a development cluster comprising numerous dwellings and a primary school, which further aids its integration into the countryside.

REFUSAL 4: The proposal is contrary to criterion (e) of Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality, and;

REFUSAL 5: The proposal is contrary to criterion (c) of Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted not respect the traditional pattern of settlement exhibited in that area, and;

REFUSAL 6: The proposal is contrary to the Department's Planning Policy Statement 2, Natural Heritage, Policy NH 6, in that the proposed dwelling does not respect local architectural styles and patterns and the scale of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty of the particular locality.

Per the previous comments above, this proposal has been carefully designed to integrate into its surrounding with minimal intervention and without necessitating the loss of trees. It will be imperceptible from public view and integrates acceptably without having a harmful impact upon the rural character of the area or upon the character of the Mourne AONB.

Appendix 1: Photos of Dwelling from 1980's

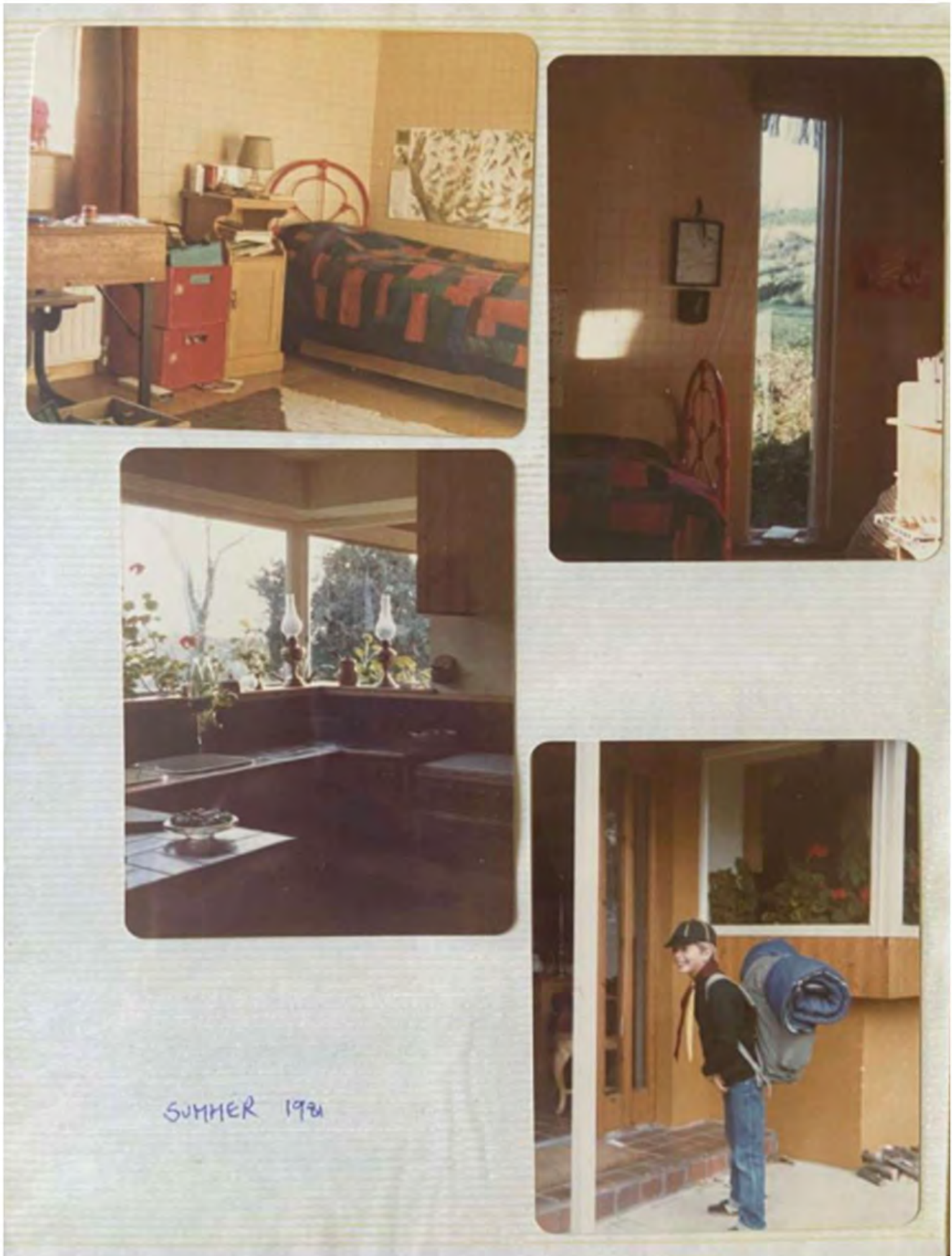
Photo 1: Applicant as a boy taken during construction of subject dwelling (1980)



Photo 2: Applicant in kitchen of subject dwelling (1981)



Photos 3-6: Extract from Photo Album: Internal photos of subject dwelling & photo of applicant at front door (1981)



Appendix 2: Photos of Dwelling – Present Day

Photo 7: Kitchen



Photo 8: Living Area



Photo 9: Bedroom



Photo 10: Bathroom





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2022/0044/O

Date Received:

20.12.2021

Proposal:

Infill site for 2 dwellings and garages

Location:

Between 10 and 14 Kilkeel Road Hilltown

Site Characteristics & Area Characteristics:

The site is located within the rural countryside outside any settlement limits as designated under the Banbridge, Newry and Mourne Area Plan 2015 (BNMP, 2015). The site is also within an Area of Outstanding Natural Beauty.

The site is situated between Nos. 10 and 14 Kilkeel Road and comprises parts of 2 larger agricultural fields. Nos. 10 and 14 are single storey dwellings, both with associated garages to the side.

The site itself is elevated off the Kilkeel Road and slopes upwards from road level south to north. Existing boundaries comprise a low wooden fence and hedgerow along the southern boundary, a low wooden fence along the common boundaries between No. 10 to the west and No. 14 to the east. The northern boundary of the application site is currently undefined as the site is part of 2 larger fields. Hedgerow with some mature trees runs along the middle of the application site denoting the 2 different fields.



Application site. No. 14 can be seen in the picture. The application site also includes the field beyond the hedgerow and mature trees that can be seen in the picture



Nos. 10 and 14 Kilkeel road with the application site in between

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 2: Natural Heritage
- PPS 21: Sustainable Development in the Countryside
- PPS 15: Planning and Flood Risk
- PPS 3: Access, Movement and Parking
- DCAN 15: Parking Requirements
- Building on Tradition

Site History:

- LA07/2020/1832/F - Between 10 and 14 Kilkeel Road Hilltown Newry - Infill site for 2 dwellings and garages – Refusal, May 2021.

The application site above is the same site currently under consideration. The proposed principle is also the same. The above application was refused for the following reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site does not represent a small gap site within a substantial and continuously built-up frontage.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted add to a ribbon of development along the Kilkeel Road; and would therefore result in a detrimental change to (further erode) the rural character of the countryside.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of Planning Policy Statement 2, Natural Heritage in that the proposed development would not be sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

No changes have been made to the application site since the determination and subsequent refusal of the above application.

Consultations:

- Rivers advised that an undesignated watercourse runs through the middle of the site between both proposed dwellings and as per Policy FLD 2 of PPS 15 advised that an adjacent 5m working strip would be required to facilitate future maintenance by the riparian owner. As this is an outline application, a condition could be attached to ensure that a 5m strip is retained if approval is granted.
- DfI Roads offered no objections subject to conditions.
- NI Water recommended approval.
- HED were content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Objections & Representations:

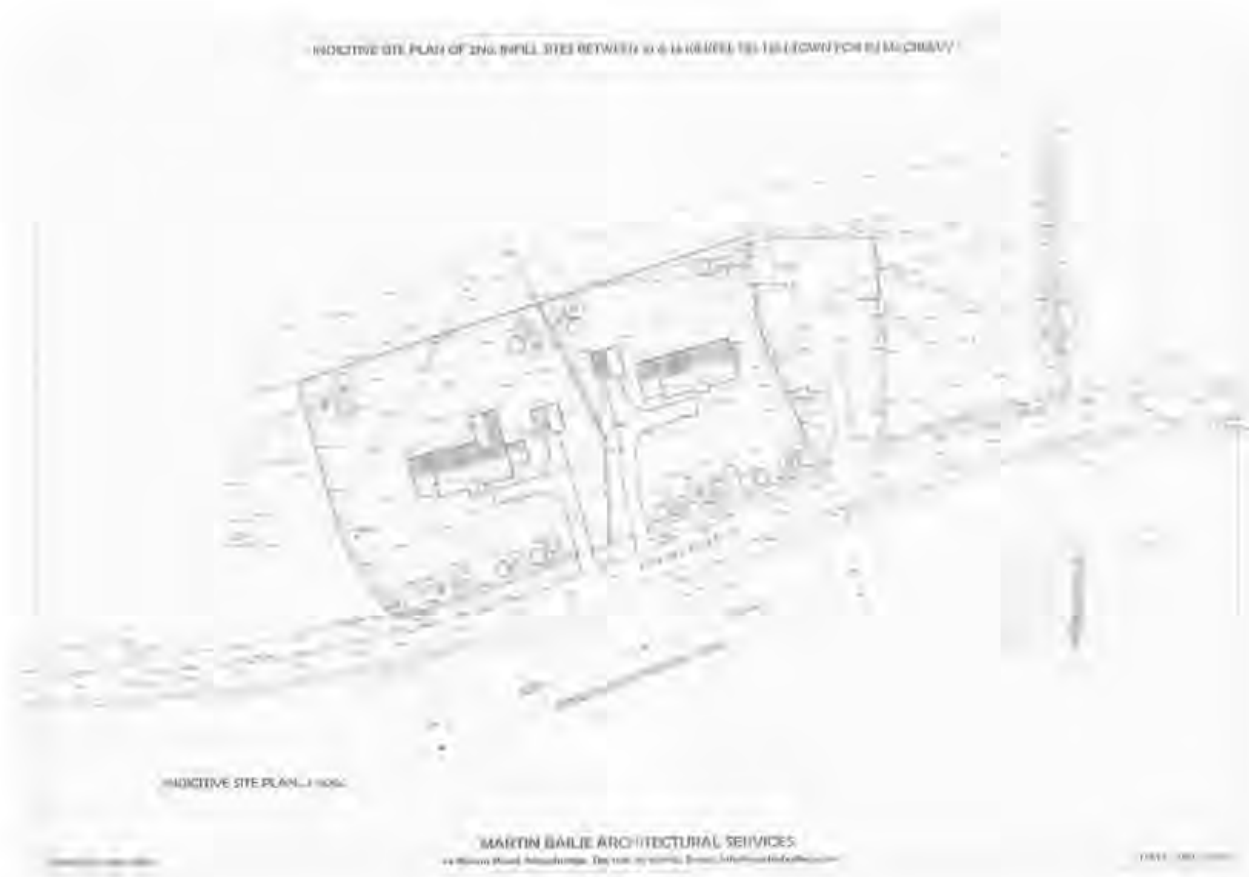
Two neighbours were notified 21.02.2022. Two further neighbours were notified 22.03.2022.

Advertisement: 26.01.2022

No objections or representations have been received to date (21.04.2022).

Assessment**Proposal**

This is an outline application for the erection of 2 dwellings and garages on an infill site on lands between Nos. 10 and 14 Kilkeel Road, Hilltown. As this is an outline application, no floor plans or elevations have been submitted. An indicative site layout plan has been submitted and shown below.



Indicative site layout

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.

However, before the assessment, it is important to note that, as noted above, this application site was recently assessed under Policy CTY 8 under planning application LA07/2020/1832/F whereby the Planning Department considered that the application site could accommodate more than 2 dwellings and therefore was not considered a small gap site under CTY 8. Nothing on site has changed since this assessment. Within the Concept Statement submitted under LA07/2022/0044/F, the agent outlined that "although there was a previous application on the site under LA07/2020/1832/F certain elements were not fully explored and unfortunately the application did not get discussed at Committee. It is our intention to address the new information fully and in doing so to get the application before the Planning Committee."

It appears that this application has been submitted solely to be discussed at Planning Committee. The agent is advised that the process of appealing a Planning Decision is through the Planning Appeals Commission.

As nothing has changed since the 2021 refusal on the application site, the assessment under Policy CTY 8 remains the same.

The site in question sits along the Kilkeel Road. West of the subject site is No. 10 Kilkeel Road which is a single storey dwelling with associated garage to the side. West of No. 10 is an access lane to No. 10A and beyond the laneway is an agricultural field. East of the application site is No. 14 Kilkeel Road which is a single storey dwelling with associated garage to the side. Beyond No. 14 is an agricultural field. This is shown below. The application site is roughly outlined in red.



Application site outlined in red and adjacent development

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. There are 2 dwellings with road frontage (Nos. 10 and 14) with associated garages to the side which constitutes a substantial and continuously built up road frontage and thus the first test of the policy is met.

No. 14 has frontage of 13.4m, there is a gap of 108.2m and No. 10 has frontage of 60.1m. The average frontage for developed sites is 36.75m. As the subject site has a frontage of 108.2m, it is considered that the site can accommodate more than 2 dwellings i.e. 3 dwellings and is therefore not considered a gap site.

It is acknowledged that whilst the plot sizes along this stretch of Kilkeel Road vary in size, the road frontage for the subject site, in particular the site for House Type 1, is not comparable to the average plot site as shown on the screenshot above in that it is larger can could accommodate 2 dwellings whilst a 3rd dwelling could be sited in the remained of the application site, east of the dissecting hedgerow.

Appeal 2019/A0001 states that it is not merely a mathematical exercise, however the screenshot below from Google Maps shows the extent of the application site when travelling along Kilkeel Road.



The screenshots above show how large the application site appears when travelling east and west along the Kilkeel Road respectively. The building to building (garage to garage) distance is approximately 115m.

CTY 8 goes on to state:

*"Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore **not be permitted** except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases **it will not be sufficient to simply show how two houses could be accommodated**. Applicants must take full account of the existing pattern of development and can produce a design solution to integrate the new buildings."*

On this basis, the proposal is not considered acceptable as an infill opportunity. The provision of 2 new dwellings on this site does not comply with Policy CTY 8 as it is considered the existing gap provides relief and a visual break between the existing development and the development of this site would not be in-keeping with the rural character of the area.

An email was sent to the agent 31st March 2022 advising that as the proposal is considered to fail Policy CTY8, the application is likely to be recommended for refusal as the concerns of the previous application on the site still stand in that the site does not represent a small gap site as more than 2 dwellings could be accommodated on site and if the dwellings were permitted they would add to a ribbon of development along the Kilkeel Road; and would therefore result in a detrimental change to (further erode) the rural character of the countryside which would not be sympathetic to the special character of the AONB.

A response email was received from the agent 4th April 2022 stating the following:

"At this stage I still feel that the dwelling at 10a Kilkeel Road has a clear frontage to the road although it is set back up a lane and this dwelling and site have not been considered as part of the built-up road frontage. Previous Appeals have identified such site as being a clear part of the road frontage and if this is the case our proposed sites clearly respect the development pattern."

Within the 'Concept Statement' submitted, the agent also advises that "to the west are 2 dwellings with detached garages on sites similar in size to the application site. After this are 6 semidetached dwellings which form Bann View. Although the plot frontages here are much smaller in size they all add to the feeling of the substantially built up frontage".

The application site is circled in red below and the adjacent dwellings shown. As shown on the aerial and on the Google image below, an access laneway to No. 10a extends down to Kilkeel Road. The curtilage of No. 10a does not extend down to the road and therefore No. 10a is not considered to be part of the continuous and built up frontage.



Overall, the Planning Department consider the proposal contrary to CTY 8 for the reasons outlined above.

Design, Scale, Size and Massing

Policy CTY13 -Integration and Design of Buildings in the Countryside outlines that a dwelling will be acceptable where it is visually integrated into the landscape and is of an appropriate design.

The policy provides 7 criteria that should be met:

(a) A single storey ridge height condition and simple design in compliance with guidance outlined in Building on Tradition would ensure that the dwellings would not be a prominent feature in the landscape.

(b) The indicative site layout shows a portion of the hedgerow dividing the application site is to be retained and a portion removed and realigned. The reasoning for this has not been provided. The indicative site layout also shows a new hedgerow to be planted to define the rear boundary. The site boundaries are able to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

(c) The site is defined by natural boundaries along the southern boundary and is dissected by a hedgerow and mature trees. The northern boundary is undefined as the site is part of a larger field, however a new hedgerow is shown on the indicative site layout along this boundary which will provide a suitable degree of enclosure for the building to integrate into the landscape.

(d) Ancillary works will integrate into the surroundings.

(e) As this is an outline application, no floor plans or elevations have been submitted. I consider that single storey dwellings of a suitable scale and design would be appropriate.

(f) Again, as this is an outline application, no floor plans or elevations have been submitted. This would be considered at RM stage.

(g) The application is not for a farm dwelling.

The proposal complies with CTY 13.

Policy CTY14- Rural Character outlines that a dwelling will be acceptable where it does not cause a detrimental change to, or further erode the rural character of an area.

The policy provides 5 criteria that should be met:

(a) A single storey ridge height condition and simple design in compliance with guidance outlined in Building on Tradition would ensure that the dwellings would not be a prominent feature in the landscape.

(b) For the reasons outlined within the assessment for CTY 8, as it is considered that the site could accommodate more than 2 dwellings and is therefore not a small gap site, it is considered that the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings.

(c) As outlined within the assessment for CTY 8, the proposal does not respect the traditional pattern of settlement exhibited in that area in that the plot sizes would be bigger than the surrounding plot sizes in the area.

(d) As mentioned above, the proposal is considered to add to ribbon development along Kilkeel Road.

(e) the impact of ancillary works (with the exception of necessary visibility splays) would not damage rural character.

The proposal fails to comply with Policy CTY 14.

Impact on Amenity

The closest neighbouring dwellings are Nos. 10 and 14 Kilkeel Road. The east and western boundaries of the site (common boundaries between Nos 10 and 14) are defined by a low wooden fence. A landscaping Plan would be required to be submitted at RM stage if outline approval is granted. Moreover, as this is an outline application, no floor plans or elevations have been provided. Nonetheless, I am satisfied that 2 dwellings of a single storey nature would be appropriate. Careful design and siting would also ensure that the 2 dwellings would not have a significant adverse impact on the amenity space of the neighbouring dwellings.

Accessibility & 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.

PPS 2: Natural Heritage

The site is also within an Area of Outstanding Natural Beauty therefore Policy NH 6 applies.

Planning permission will be granted if all of the following criteria is 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.

It is considered that the proposed siting of 2 dwellings on this site would not be sympathetic to the special character of the AONB in that the development of this site would result in a suburban style build up and would therefore erode the rural character of the area. The proposal fails to comply with criterion (a). HED were consulted as part

of this application and have no objections. The proposal complies with criterion (b). As this is an outline application, no floor plans or elevations have been submitted.

Summary:

As outlined above, the proposal is considered to be contrary to CTY 8 of PPS 21 in that the application site could accommodate more than 2 dwellings and is therefore not considered a gap site; therefore, no principle of development can be established at this site.

The proposal is also considered to be contrary to Policy CTY 14 of PPS 21 in that the proposed dwellings at this site would add to ribbon development along Kilkeel Road and would result in a suburban style build up in a rural area. Finally, the proposal is also considered contrary to Policy NH 6 of PPS 2 in that the proposed development would not be sympathetic to the special character of the Area of Outstanding Natural Beauty as this site provides an essential visual break between existing development and the development of this site would result in a suburban style build up.

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 the site does not represent a small gap site within a substantial and continuously built-up frontage.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted add to a ribbon of development along the Kilkeel Road; and would therefore result in a detrimental change to (further erode) the rural character of the countryside.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of Planning Policy Statement 2, Natural Heritage in that the proposed development would not be sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

<p>Case Officer Signature: Eadaoin Farrell</p> <p>Date: 08.08.22</p>
<p>Appointed Officer Signature: M Keane</p> <p>Date: 08-08-22</p>

Planning Committee 'Call in' Request Form

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Delegated Application List w/c: 15 AUGUST 2022	Planning Application Number : LA07/2022/0044/O	Requested by: CLR RUANE
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PLEASE NOTE THAT SUBMISSIONS SHOULD BE ON THIS FORM AND LIMITED TO TWO PAGES. ANY ADDITIONAL INFORMATION BEYOND TWO PAGES WILL BE DISREGARDED.

Description of the application – PROPOSED INFILL SITE FOR 2 DELLINGS AND GARAGES BETWEEN 10 AND 14 KILKEEL ROAD, HILLTOWN

Proposed decision (including reasons if the decision is refusal) – REFUSAL FOR THE FOLLOWING REASONS:

1. The proposal is contrary to the SPPS for Northern Ireland and policy CTY1 of PPS21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the SPPS for Northern Ireland and Policy CTY8 of PPS21, Sustainable Development in the Countryside, in that the site does not represent a small gap within a substantial and continuously built up frontage.
3. The proposal is contrary to the SPPS FOR Northern Ireland and Policy CTY14 of PPS21 in that the buildings would if permitted add to a ribbon of development along the Kilkeel Road; and would therefore result in a detrimental change to (further erode) the rural character of the countryside.
4. The proposal is contrary to the SPPS for Northern Ireland and Policy NH^ of PPS2, Natural Heritage in that the proposed development would not be sympathetic to the special character of the AONB in general and of the particular locality. Policy BH1 of PPS6 and paragraph 6.8 of the SPPS in that the development, if permitted, would have an adverse impact upon the integrity of the setting of Edenmore Cashel (DOW 047:079) – a regionally important Scheduled Monument.

Set out the valid and credible planning reasons why this application should be referred to Committee (including reference to relevant planning policies) –

- 1. Reason 1** of refusal. If the principal of infill is deemed acceptable by Committee then this reason for refusal is not sustainable as there will then be an overriding reason as to why the development is essential in the countryside.
- 2. Reason 2** of refusal. This reason for refusal requires to be discussed at Committee. It is at the centre of the argument as we consider the site to be an infill opportunity and Planning do not. The Case Officers report has not given sufficient weight to the 500m stretch of road either side of the application site and the photographs provided concentrate on the dwellings/garages either side. The density of development on this stretch of road needs to be discussed and the visual impact of the dwellings in the area. Also the Case Officer has totally discounted the dwelling at 10a Kilkeel Road which in my interpretation has a clear frontage and boundary of fence and visibility splays with the Kilkeel Road.
- 3. Reason 3** of refusal. If the principal of infill is deemed acceptable by Committee then this reason for refusal is not sustainable. The character of the area in this instance is built up and would not be eroded further.
- 4. Reason 4** of refusal. If the principal of infill is deemed acceptable by Committee then this reason can be overcome by conditioning the approval in such a manner that any new dwelling must be in keeping with the locality.

Set out why this application should be determined by Committee rather than officers –

Planning Committee 'Call in' Request Form

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We wish the application to be considered at Committee as in our opinion the application has been assessed using the policies literally with no regard to the existing setting and the development pattern in the area. The photographs in the report are misleading and do not give an accurate visual feeling of the site when traversing along the Kilkeel Road.

We feel that there is sufficient information at hand for the Committee to overrule the recommendation made by Planning but should through the course of the discussions a site visit be deemed necessary then we would welcome this to give all concerned the opportunity to view development along the Kilkeel Road and the locality. This would enable them to get a realistic feel for what has been historically acceptable by Planning in this area.

We acknowledge that this application is similar to the application previously refused on this site but this application did not reach Committee due to a technicality and the format of the Call In request made and not due to the fact that there are valid and credible Planning reasons that the application should be referred to Committee. We are all aware that Policy CTY8 is open for interpretation and request that Local Councillors are given the opportunity to look at the site in detail and to decide whether a further 2 dwellings would be detrimental to this heavily developed stretch of the Kilkeel Road on the edge of Hilltown.

We would argue that policies have been interpreted negatively by the Case Officer and would seek clarification if the same Officer assessed both the applications on the site and as to whether other officers were involved. By bringing the application before Committee the concerns of Planning and their interpretation of CTY8 can be debated more positively. We could argue about metres here and there regarding plot frontage but it is not a mathematical exercise but what one ascertains on the ground. The site is too small to be deemed a sustainable gap.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2021/1949/O

Date Received: 02.11.2021

Proposal: Proposed 2 no. detached dwellings and domestic garages on an infill site

Location: Between nos. 35 and 37 Rath Road, Clonallon, Warrenpoint Co Down, BT34 3RX

1.0 Site Characteristics and Area Characteristics

1.1 The application site is located out-with the defined settlement development limits as designated in the Banbridge, Newry and Mourne Area Plan 2015 (Map 3/01 Newry and Mourne District). The application site is adjacent to the settlement development limit of Warrenpoint/Burren. Having reviewed the application site and designations it is evident that the application site is located within the Mourne Area of Outstanding Natural Beauty. In terms of historic features the application site is within proximity to Clonallon Parish Church; a listed building (HB16/12/015). In terms of other designations/features on the application site from the study of hazards and constraints it is evident that the application site is located within flood zone.

1.2 The application site is located within a vacant field between numbers 35 and 37 Rath Road. The application site is currently a vacant field which is not utilised. The application site is flat and is enclosed via a hedge to the roadside, mature trees to the rear and eastern boundary and to the northern boundary via a post and wire fence. Beyond the post and wire fence is a continuance of the field and to the rear a car park.

Image 1 Site Location Plan



Image 2 Aerial of the application site



Image 3 Photograph of part of the application site from the Rath Road



Image 4 Indicative Site Layout



1.3 Number 35 Rath Road is a two storey dwelling enclosed via mature vegetation. Number 37 Rath Road is home to Annetts Garden Centre, the recently constructed Gate Lodge/Bakery and Sweet Pea Café to the front of the site both buildings would be considered a storey and a half to two storey in height. The area between the application site and those buildings at number 37 is currently vacant with an area for car parking to the rear. There is an approval for car parking within this area (LA07/2020/0929/F) however, this is not yet constructed.

1.4 As set out above this is an outline application and therefore no details, elevations or finishes have been submitted as part of this application these would be assessed at reserved matters stage. An indicative site layout was submitted for information purposes (Image 6 above). The main objective of this application is to establish the principle of the development on the application site.

2.0 Planning Policies and Material Considerations

2.1 This planning application has been assessed against the following policy:

- Banbridge, Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement (SPPS) for Northern Ireland
- PPS 2 Natural Heritage
- PPS3 Access Movement and Parking
- DCAN 15 Vehicular Access Standards
- PPS21 Sustainable Development in the Countryside
- Building on Tradition Sustainable Design Guide

3.0 Site History

3.1 The Planning history of the site and surrounding area has been investigated. There are no known planning applications on the application site however, there are a number of applications within the immediate surrounds upon which pose useful to understand the context of the surrounding area. These have been inset in the table below.

3.2 Planning History Table

Planning Reference	Location	Proposal	Status
LA07/2020/1387/F	Annetts Garden Center 37 Rath Road Warrenpoint Newry BT34 3RX	Proposed gate lodge, bakery, preparation area and office.	Approved
LA07/2020/0929/F	37 Rath Road Warrenpoint Newry BT34 3RX	Retention of Cloister and Folly Turrett and erection of covered orangery and cakery. Walled garden and extension to curtilage to create additional	Approved

		parking facility at 37 Rath Road, Clonallon, Warrenpoint, Co Down, BT34 3RX, for Mr Mark Annett T/A Annett's Garden Centre.	
P/2011/0499/F	77 Clonallon Road Warrenpoint BT34 3RY	Demolition of existing vestry and extension to provide disabled toilet and vestry accomodation	Approved
P/2007/0029/F	Annett's Garden Centre, 100 metres south-east of Clonallan Parish Church, Rath Road, Warrenpoint	Demolition of existing tea rooms and erection of new garden design and tea rooms	Approved
P/1999/0835	29 Rath Road, Warrenpoint	Construction of polythene tunnel to be used in connection with existing garden centre	Approved
P/1998/1015	Rath Road Warrenpoint (180m SE of Clonallon Parish Church)	Site for dwelling	Approved
P/1997/1065	Rath Road Warrenpoint (180m SE of Clonallon Parish Church)	Proposed Tea Room	Approved
P/1996/1026	Rath Road Warrenpoint (100m SE of Clonallon Parish Church)	Site for Nursery/Garden Centre	Approved
P/1987/6027	Rath Road Warrenpoint	Land to be used for amenity/tourist/recreation purposes Rath Road Warrenpoint	Pre-App Enquiry

4.0 Consultations

4.1 Consultations were issued to the following consultees:

- NI Water – No objections subject to conditions
- Historic Environment Division – Responded to state that the proposal was sufficiently removed from any historic building.
- Environmental Health – Initially responded requesting further information with regards of distances of the proposal to neighbouring properties and a recommendation that the units are located 7 metres from all residential

properties and a minimum from any residential property not associated with the treatment unit. Environmental health requested that these measurements be shown on a plan. Following revised drawings being submitted for consideration by Environmental Health a consultation was re-issued. Environmental Health responded to state they had no objections to the proposals as presented.

- DFI Roads – No objections subject to conditions
- DFI Rivers – Responded setting out that with regards to FLD 1 Development in Fluvial (River) and Coastal Plains; the proposal presented encroaches within the northern part of the flood plain. DFI Rivers would consider that this proposal to construct the northern proposed dwelling within the strategic floodplain is contrary to PPS 15, Planning and Flood Risk, FLD 1 and would object to any such development taking place.

5.0 Objections and Representations

5.1 The application was advertised in the local press on the 24th November 2021, 4 neighbours were notified with regards to the application. No objections or representations have been received to date (20.07.2022).

Correspondence with the Agent

5.2 Two letters were issued to the applicant during the planning process one on the first of December 2021 requesting information for Environmental Health and a further letter issued on the first April 2022. The letter requested further information again for Environmental Health but further set out DFI Rivers consultation comments and the Planning Departments opinion on the status of the proposal. The Planning Department would not consider the application an exception to policy and as such the Planning Department would not be requesting any further information. An opportunity was requested to provide any further information that the applicant wished to be assessed.

5.3 A revised site layout was submitted to the Planning Department (Drawing Number SA-21-02B) alongside a print out of the status and extent of the floodplain and an accompanying letter which indicated that the applicant would remove the dwelling in the northern side of the development.

5.4 A phone call was received from the applicants father whereby it was explained the Planning Department's opinion remained.

6.0 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 the Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside the settlement limit of any designated settlement as illustrated on Map 3/01 of the plan.

Strategic Planning Policy Statement (SPPS) for Northern Ireland 2015

6.2 There is no significant change to the policy requirements for infill dwellings following the publication of the SPPS and it is arguably less prescriptive, the retained policies of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS.

Building on Tradition a 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 considered in assessing all development proposals in the countryside. Section 4.0 is relevant to the assessment of this application on visual integration. The document sets out how best to integrate a building into its surrounds further, paragraph 4.4.0 sets out that *ribbon (CTY8) will require care in terms of how well it fits in with its neighbouring buildings in terms of scale, form, proportions and overall character*. Paragraph 4.4.1 puts the onus on the *applicant to demonstrate that the gap site can be developed to integrate the new building(s) within the local context*.

6.4 The application under assessment is an outline application and therefore a formal design has not been submitted nor would be assessed under this application.

Planning Policy Statement 2 – Natural Heritage

6.5 Policy NH6 states planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of appropriate design, size and scale for the locality and where additional criteria are met. Due to the current nature of the area with a variety of development surrounding the application site it is considered that a proposal on the site would not detrimentally affect the area of outstanding natural beauty; however, as this is an outline application the design, materials and finishes of the dwellings have not been presented to the Planning Department therefore no final comment can be made in terms of the dwellings and their integration.

Planning Policy Statement 3 – Access Movement and Parking

DCAN 15- Vehicular Access Standards

6.6 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. As set out in section 4 DFI Roads were consulted in relation to the proposed development. DFI Roads had no objections to the principle of development on this occasion and provided conditions to be attached to any favourable decision. The proposal therefore complies to the policies set out in PPS 3.

PPS21 Sustainable Development in the Open Countryside

6.7 Policy CTY 1 states a range of types of development which in principle are considered to be acceptable in the countryside. This includes infill dwellings if they meet the criteria set out in CTY8.

CTY 8 – Ribbon Development

6.8 CTY8 allows for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage provided they respect the existing development pattern along the frontage in terms of size, scale, siting and plot size. In assessing proposals against CTY 8, the Planning Appeals Commission (PAC) have set out four steps to be undertaken (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).

6.9 The application site is located within a vacant field between numbers 35 and 37 Rath Road. Adjacent to the application site before number 37 and outwith the red line is a post and wire fence and a vacant area (this would however form part of the gap and will continue to do so within the assessment of this application). Policy CTY8 sets out *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*. It is considered on this occasion there is a substantial and built up frontage along the Rath Road through the incorporation of numbers 35, the bakery/gate lodge building at number 37 and the café building. The buildings within Annetts Garden centre form part of a larger established complex with no identifiable individual curtilages. As such it is accepted both of these buildings which are adjacent to the road have frontage in this instance and can be counted towards a continuous frontage.

6.10 In terms of whether the application constitutes a small gap site relates to the matter of plot size. Having studied the plot sizes of the adjacent dwellings I have the following frontages to note (approximate):

- Application Site – 145m
- 35 Rath Road – 70m
- 36 Rath Road – 32m
- 37 Rath Road – 47m
- 38 Rath Road – 40m
- 40 Rath Road – 36m
- 42 Rath Road – 46.5m
- B to B taken from the nearest edge is 189m

6.11 The building to building separation distance between number 35 Rath Road and number 37A Rath Road is approximately 189m (taken from the nearest edge of each building). When taking an average, the average frontage of the sites along the stretch of the Rath Road is 45.25m.

The frontage within which the application is located and primary assessment is based is that on the side of no.35 and 37, however the Planning Dept has noted the frontages and plots of the properties to the far side of the road also.

6.12 It is important to note that appeal reference: 2019/A0001 clearly states that it is not merely a mathematical exercise therefore on this basis it is imperative to consider the surrounds of the application site/area; The aerial imagery from the beginning of the report (image 2) shows the extent of the application site as a large vacant field; further images of the application site and a site visit confirms that the field is located on the side of the road and enclosed to the roadside via a maintained hedge. Whilst it is acknowledged and set out above there are a variety of plot sizes within the surrounding area; it is considered that on this occasion the application site could accommodate more than two dwellings thus the application site does not constitute a small gap as per CTY 8. In order to ensure an appropriate and thorough assessment of the application site the matter of size, scale and will be discussed below.

Size, Scale and Siting

6.13 The application site is located within a vacant field; image 4 above shows the siting and indicative layout of the dwellings, no further details have been provided. When studying the indicative site layout and red line, it is evident that the gap extends further than the red line contained within the site location plan and thus that the site could house more than two dwellings. No further details have been provided in relation to the design/finishes of the dwellings.

6.14 Policy CTY8 further states *"Many frontages in the countryside have gaps between houses or other buildings that **provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character.** The infilling of these gaps will therefore **not be permitted** except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. In considering in what circumstances two dwellings might be approved in such cases **it will not be sufficient to simply show how two houses could be accommodated.** Applicants must take full account of the existing pattern of development and can produce a design solution to integrate the new buildings."*

6.15 It is considered that when interpreting the extract above and given the characteristics of the site including the width of the site; the site is not considered as an acceptable infill opportunity but more so provides a visual break in the countryside. To permit such a development in the open countryside would be out of keeping with the character of the area.

While it is noted this application is for 2 dwellings and this is an Outline application, a site layout plan has been provided. This plan shows the entire plot of the dwelling to the north side is within the flood plain thus it cannot actually be implemented which further emphasis the break and gap. The site constraints are such that only part of the site can be developed, whereby a gap still remains. This is covered further below.

Also, the lands beyond the northern boundary will continue to have a further break in the frontage before reaching the frontage of no.37, as these comprise a field at present.

Policy CTY13 – Integration and Design of Buildings in the Countryside

6.16 *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.*

6.17 The application has been presented as an outline application and therefore no detailed design has been provided. The indicative site layout whilst having limited annotation indicates that the eastern boundary is to have a 10m wide buffer zone along the stream. Further hedging is proposed along the front and northern boundary of the application site. It is considered that provided conditions were attached the proposal would comply to CTY 13.

Policy CTY14 Rural Character

6.18 *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.*

6.19 As above, this is an outline application with no detailed design elements submitted; it is considered that however, the application does not comply with CTY14 in that the application site is not considered an infill opportunity and therefore would result in the suburban style build-up of development when viewed with existing and approved buildings. The proposal is considered to exacerbate and create ribbon development on the Rath Road. Therefore the proposal is contrary to CTY14.

Residential Amenity

6.20 Due to the location of the application site coupled with the vegetation surrounding the application site and separation between the current dwellings within proximity to the proposed dwelling layout as indicated on the indicative site layout, it is considered that the dwellings would be far enough removed from the neighbouring dwellings as to not cause any demonstrable harm. Environmental Health were consulted in relation to the proposed development and following a request for measurements are content with the proposal as presented. Whilst no detailed design has been submitted as part of this application it is considered that well designed dwellings and appropriate utilisation of space would reduce any adverse impact. No objections from neighbouring properties had been received as part of this application.

PPS 15 – Planning and Flood Risk

6.21 As set out above DFI Rivers were consulted as part of the application due to the floodplain. DFI Rivers responded setting out that with regards to Policy FLD 1 the proposal encroaches within the Northern part of the floodplain and would consider that this proposal to construct the northern proposed dwelling within the strategic floodplain is contrary to PPS 15, Planning and Flood Risk, FLD 1 and would object to any such development taking place. The Planning Department do not consider the application an exception to policy and the applicant was made aware of this within a letter issued on the 1st April 2022; as such no further information was requested in this regard. The application is considered contrary to Policy FLD 1 of PPS 15.

Summary

To conclude, it is considered this is not a small gap site that can accommodate up to 2 dwellings. It is considered the gap is so big it could in principle accommodate more than 2 dwellings, and acts as a an important visual break. Also, the site constraints are such that a sizeable portion of the site is located within a flood plain and cannot be developed.

7.0 Recommendation – Refusal

Reasons (in relation to drawings: Site Location Plan, SA-21-02B (Indicative Site Layout).

- 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 the proposal is not considered to be a small gap site, and would, if permitted, result in the addition of ribbon development along the Rath 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 CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted add to a ribbon of development along the Rath Road; and would therefore result in a detrimental change to further erode the rural character of the countryside.**
- 4. The Proposal is contrary to Policy FLD 1 of Planning Policy Statement (PPS) 15: Planning and Flood Risk in that the site lies within the 1 in 100 year fluvial flood plain and insufficient information has been received to demonstrate that the proposal should be considered an exception by the Planning Authority.**

Case Officer Signature: Roisin McGrane

Date: 20.07.2022

Appointed Officer Signature: M Keane

Date: 20-07-22

The planning department in this case, consider there to be a substantial and built up frontage along the Rath Road in accordance with Policy CTY 8. The application should be considered as an exception to the presumption against ribbon development, as provided for under Policy CTY 8 of PPS 21, which is also provided for under Policy CTY 1 of PPS 21.

Under CTY 8, there are no prescribed upper or lower limits as to what represents a small gap site. Officers carried out an assessment that included a calculation of mathematical averages. Firstly, some of the measurement's officers have used have been contested by the applicant, meaning the averages have been distorted. Officers' measurements of the average width of plots on the "stretch" of road is 45metres. Officers have not considered the context the way the applicant sees this: Firstly, officers' calculations cannot actually rely upon the width of the plots opposite, for the purposes of this assessment. Secondly, officers have to realise that the church and garden actually occupy two substantial plots: the graveyard accompanies the church and lies within the same plot, and that is how one must assess the width of that plot; and the garden centre has an approved (but not yet completed car park) to the site, which has not been taken into account in judging how wide that plot is. So, when one objectively judges the pattern of development at the three plots that adjoin this site, it is inescapably typified by two 90-metre-wide plots and one x 70m wide plot (it is actually closer to 75 metres wide but officers rounded down to 70m). Now, when the pattern of development is looked at in that context, what has not been recognised is that with three wide plots, the building-to-building relationships are going to be commensurate. Given this building-to-building separation, it is now easy to see how the building-to-building separation distance across this gap is nothing other than "small", for the purposes of Policy CTY 8 i.e. if adjoining plots are 90 metres wide, and adjoining buildings are 90 metres apart, then this is clearly a two-dwelling gap site.

Officers feel this gap could accommodate more than two dwellings. Perhaps it could, but more than two dwellings would in turn NOT respect the pattern of development along THE FRONTAGE. The planning department have also placed unduly high weighting upon the widths of the plots OPPOSITE the frontage plots relied upon by the applicant.

Within the Duff Judicial Review, the Court confirmed that an expansionist approach applies to the application of this Policy. They also confirm interpretation of Policy can go beyond the ordinary and natural meaning of words quoted in policies, emphasising the scope for flexibility in decision-making. In the Duff judicial review, it was found that the policy-maker clearly envisaged gaps which provide a visual break nonetheless being infilled.... The likelihood of sites which could accommodate two houses being gaps which provide a visual break is high. Officers have not shown the requisite weight to the Duff judicial review and appear to have strayed from the expansionist approach recognised in the NI Courts. Policy CTY8 states "*Many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage.*" The planning department have acknowledged that the site lies within a substantial and continuously built up frontage. As previously stated under CTY 8, there are no prescribed upper or lower limits as to what represents a small gap site and it is not solely a mathematical exercise to determine same. If all plots of the substantial and continuously built up frontage are taken into consideration accurately, this application should therefore be considered to comply with the above segment from Policy CTY 8.

There is no denying the building will add to a ribbon of development however Policy CTY 8 contains an exception to the presumption against ribboning, so the Committee does not in fact have to rely upon this as a reason for refusal if the applicant's arguments regarding the pattern of development are conceded.

It is said the proposal will contribute to urban sprawl, and that it will mar the distinction between settlement and countryside. It is said the site is adjacent to the settlement limit when it is in fact not. However, there is in fact an opportunity for rounding off the unnatural edge to the settlement limit, which excluded significant sites including the garden centre (expanded since the settlement limit was drawn, and Clonallon Church). Approval of this application would actually consolidate development along this stretch of Rath Road and the proposal would therefore not offend CTY 15. It would not represent urban sprawl because development is already in place to each side of the site.

Officers need to show how the site is considered to lie in a flood plain that has not been mapped; and why permission should be refused when this is only an outline application and the strategic flood plain only partially encroaches into the site. The applicant's response to that issue is that given the frontage is characterised by generous spacing, it will be clearly to avoid development in the flood plain. The applicant is actually in the process of preparing a flood risk assessment, and anticipates being able to prove scientifically within weeks that the development will not impact or be impacted by the flood plain.

Little consideration has been shown by officers to the proper "expansionist" approach to the policy (that has been highlighted by Justice Scofield in the recent Duff judicial review). Officers' omission of any reference to this approach shows how the recommendation to refuse permission has not actually been cognisant of how the judiciary envisage this policy being applied.

Officers fail to acknowledge that even if the gap is a visual break, that the judiciary considers there will be a high likelihood that a two-dwelling gap will be a visual break but that policy still allows development in these visual breaks. It is only where a gap is "important" that development is precluded. The recent judicial review in question also involved development on a wide gap, but in that case the judiciary decided that even if the decision was considered by many to be bad, that would not be sufficient to make it unlawful to grant permission. A more pragmatic approach is needed as officers' views have been unduly influenced by the mathematical size of plots opposite (and which therefore are not as influential as the church or the garden centre, or indeed No. 35, when looking at the spatial relationships along this frontage).

Officers have taken too literal an approach to policy insofar as it relates to flooding, because they have applied the precautionary approach without having any regard to the physical improbability of lands on the frontage flooding before the back part of the site floods (which is what the strategic flood map indicates, even though the front part of the site is higher than the back part).

Officers feel the proposal would add to a ribbon of development and this in turn would further erode the rural character of this area of countryside. It should be noted that the rural character has already been eroded and the approval of this application could actually consolidate development at this location, which in turn would reinforce the physical settlement limit rather than persist with the present confusion caused by having development opposite and to each side of the site but not on it, even though Policy allows for development on gaps that comprise visual breaks and provide some relief between development along a frontage.

In closing Members have previously shown a greater willingness to recognise that permissions can be justified where proposals conform with the thrust, spirit and intent of a Policy but not the last letter and the same justification should be applied in this case and approval granted.

TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		PLANNING MEETING – 1 AUGUST 2018			
LA07/2017/1261/0	Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield	Defer application to enable the Council’s Legal Advisor to consider issues raised regarding ownership of the application site (Mr Thomas Mageean); the farm business in the name of Mr Bernard Mageean, who takes land in conacre from his brother and this farm business being altered by adding the applicant as an additional member of the business and in so doing have the applicants buildings at No. 20 Junction Road included within the farm business criterion © of CTY10	Annette McAlarney	Legal Advice received. Further information received from the agent.	N
PLANNING COMMITTEE MEETING 26 AUGUST 2020					
LA07/2019/1302/F	Provision of a dwelling with associated parking and amendment to application R/2011/0794/f to remove parking	Defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can	A McAlarney	Awaiting Consultee response.	N

	area for apartments and replace with shared amenity space - to rear of Nos 65-69 South Promenade, Newcastle.	be secured for this proposal.			
LA07/2019/1087/O	Replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney	Bat Survey submitted and consulted upon.	N
PLANNING COMMITTEE MEETING 09 MARCH 2022					
LA07/2020/1567/F	Proposed GAA training pitch, multi-use games area, ball wall along with associated lighting, fencing, ball stops and ground works (amended drawings) - Ballyholland Harps GAA grounds Bettys Hill Road Ballyholland Newry BT34 2PL	Removed from the schedule at the request of Planners – to be brought back to Committee	Patricia Manley		N
LA07/2017/0978/F and LA07/2017/0983/LBC	Demolition of side and rear extension. New rear and side extensions and rear dormer 50 Hilltown Road Bryansford Newcastle	Defer back to officers to see if agreement on design can be reached and delegate decision to officers	Annette McAlarney	Agent to submit revisions following meeting.	N
PLANNING COMMITTEE MEETING 06 APRIL 2022					
LA07/2021/1824/F	Replacement Dwelling House - 34 Ringdufferin Road Downpatrick	Removed from the schedule at the request of Planners	Annette McAlarney	Under consideration by Planning Office	N
PLANNING COMMITTEE MEETING 29 JUNE 2022					

LA07/2019/0868/F	Proposed commercial development comprising ground floor retail unit and first floor creche with associated site works - 107 Camlough Road, Newry, BT35 7EE.	Removed from the schedule at the request of Planners	Pat Rooney		
LA07/2021/2010/O	Farm dwelling and garage - Approx 100m West of 42 Crawfordstown Road Downpatrick	Defer for further consideration by Planners and take back to Planning Committee	Annette McAlarney	Under consideration by Planning Office	
PLANNING COMMITTEE MEETING 27 JULY 2022					
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	Defer – Dfi to attend Planning Committee Meeting when application is next scheduled	Anthony McKay	On agenda for Special meeting on 08-09-2022	
LA07/2020/1864/F	Proposed barbers shop / hairdressers - Between no.39 Church Street Rostrevor & no. 2 Water Street Rostrevor	Defer for a site visit	Pat Rooney	Site visit 10-08-2022 – on agenda for meeting on 24-08-2022 – defer to allow for further discussions to take place with the agent, applicant and planners	
PLANNING COMMITTEE MEETING 24 AUGUST 2022					
LA07/2022/0273/F	Change of use application from existing shop (Use Class A1) to proposed Amusement Arcade - 54 Market Street Downpatrick	Removed from the agenda at the request of Planners to consider a late objection received	Anthony McKay		

LA07/2021/1381/F	Proposed erection of a rural infill detached dwelling house and additional landscaping - Lands approximately 30m south of no. 59 Bavan Road Drumgath Mayobridge REFUSAL	Defer for a site visit	Pat Rooney	On agenda for meeting on 21-09-2022	
END					

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1. Live Applications

MONTH 2022/23	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April 2022	142	1,120	235
May 2022	132	1,070	248
June 2022	187	1,074	266
July 2022	129	1,070	265
August 2022	178	1,104	270

2. Live Applications by length of time in system

Month 2022/23	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April 2022	660	225	89	37	109	1,120
May 2022	609	213	94	43	111	1,070
June 2022	618	190	115	42	109	1,074
July 2022	609	196	112	43	110	1,070
August 2022	626	208	110	46	114	1,104

3. Live applications per Case Officer

Month 2022/23	Average number of Applications per Case Officer
April	69
May	66
June	66
July	70
August	72

Newry, Mourne & Down District Council – August 2022

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4. Decisions issued per month

Month 2022/23	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	151	139
May	159	152
June	168	162
July	117	110
August	126	126

5. Decisions Issued YTD

Month 2022/23	Number of Decisions Issued	Breakdown of Decisions	
April	151	Approvals (138)	91%
		Refusals (13)	9%
May	310	Approvals (287)	93%
		Refusals (23)	7%
June	478	Approvals (444)	93%
		Refusals (34)	7%
July	595	Approvals (554)	93%
		Refusals (41)	7%
August	721	Approvals (672)	93%
		Refusals (49)	7%

6. Enforcement Live cases

Month 2022/2023	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+yrs	Total
April	214	154	75	74	78	96	691
May	218	144	79	79	75	97	692
June	209	149	73	75	82	96	684
July	207	151	75	68	78	94	673
August	203	157	80	58	80	99	677

Newry, Mourne & Down District Council – August 2022

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7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/Deferred for future meeting	Number of Officer recommendation overturned
6 April 2022	10	7	3	1
11 May 2022	9	7	2	5
1 June 2022	9	6	3	3
29 June 2022	6	3	3	1
27 July 2022	3	0	3	0
24 August 2022	17	13	4	4
Totals	54	36	18	14

8. Appeals

Planning Appeal Commission Decisions issued during period 1 June 2022 to 31 August 2022

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	27	2	1	1	-
Down	40	3	0	3	
TOTAL	67	5	1	4	

Newry, Mourne & Down District Council – August 2022

Statutory targets monthly update - July 2022 (unvalidated management information)

Newry, Mourne and Down

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 30 weeks	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 15 weeks	Number opened	Number brought to conclusion ³	"70%" conclusion time ³	% of cases concluded within 39 weeks
April	0	1	303.8	0.0%	123	147	20.8	34.0%	30	46	98.9	45.7%
May	1	-	0.0	0.0%	127	142	19.5	31.7%	41	39	61.6	59.0%
June	1	-	0.0	0.0%	137	154	15.4	47.4%	27	33	79.5	45.5%
July	2	2	97.9	0.0%	76	99	17.4	37.4%	22	45	177.7	48.9%
August	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
September	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	4	3	128.4	0.0%	463	542	17.6	37.8%	120	163	99.8	49.7%

Source: NI Planning Portal

Notes:
 1. DCs, CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median is

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3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning appeal is determined; or a planning appeal is withdrawn. The time taken to conclude an enforcement case is then compared to the 50th percentile of the sequence.

Current Appeals

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AUTHORITY Newry, Mourne and Down

ITEM NO	1	PAC Ref:	2019 /A0248
Planning Ref:	LA07/2019/1130/	DEA	The Mournes
APPELLANT LOCATION	Mr James Rogan Site Adjacent To 33 Dunwellan Park Newcastle		
PROPOSAL	New end terrace Dwelling with associated site works		

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 10/03/2020

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

ITEM NO	2	PAC Ref:	2020/A0142
Planning Ref:	LA07/2020/1072/	DEA	Downpatrick
APPELLANT LOCATION	Chris Ball 67 St Patricks Avenue Downpatrick		
PROPOSAL	Change of use from commercial/office to a 2 bedroom dwelling		

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 15/02/2021

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

Current Appeals

203

ITEM NO	3		
Planning Ref:	LA07/2020/1485/	PAC Ref:	2020/A0145
APPELLANT	Leo Mcgrenaghan	DEA	Slieve Croob
LOCATION	Land Adjacent To 32 Teconnaught Road Downpatrick		
PROPOSAL	Dwelling House		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	12/02/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	4		
Planning Ref:	LA07/2018/0293/	PAC Ref:	2020/A0156
APPELLANT	Paul McEvoy	DEA	Rowallane
LOCATION	Opposite 49 And Adjacent To 56 Darragh Road Darraghcross		
PROPOSAL	Erection of housing development consisting of 3 pairs of semi-detached dwellings, 1 detached chalet dwelling and 1 detached bungalow fronting Darragh Road.		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	15/03/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

204

ITEM NO	5		
Planning Ref:	LA07/2018/1616/	PAC Ref:	2020/C002
APPELLANT	David Trevor Shields	DEA	The Mournes
LOCATION	Approximately 35 Metres South East Of 8 Ballinran New Road Kilkeel		
PROPOSAL	RT34 47N Retention of 2no. existing pig sheds with underground slurry tanks, 3no. feed silos and gravel yard, and extension to western gable of shed at rear of site, with loading bay.		
APPEAL TYPE	DC- EIA Determination - app ES is required		
Appeal Procedure	Formal Hearing	Date Appeal Lodged	11/08/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	6		
Planning Ref:	LA07/2021/0159/	PAC Ref:	2021/0153
APPELLANT	Mr & Mrs S Morrison	DEA	The Mournes
LOCATION	37 Ballagh Road Newcastle		
PROPOSAL	Proposed Replacement two-storey split level dwelling with retention of existing dwelling for ancillary use		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	01/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

205

ITEM NO	7		
Planning Ref:	LA07/2020/1568/	PAC Ref:	2021/A0009
APPELLANT	Mr & Mrs Pat Hayes	DEA	Slieve Croob
LOCATION	To The Rear And Immediately South West Of 62 Crawfordstown Road		
PROPOSAL	Drumaness Retrospective extension to domestic curtilage, construction of garden feature and greenhouse along with all associates hard and soft landscaping.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	18/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8		
Planning Ref:	LA07/2020/1360/	PAC Ref:	2021/A0022
APPELLANT	Charlie Magennis	DEA	The Mournes
LOCATION	Base And Morelli's 71-73 Central Promenade Newcastle		
PROPOSAL	Proposed erection of temporary retractable awning and lightweight structure		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	09/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

206

ITEM NO	9		
Planning Ref:	LA07/2020/1077/	PAC Ref:	2021/A0031
APPELLANT	Mr Eammon McAteer	DEA	Crotlieve
LOCATION	12 Cullion Road Mayobridge RT34 2H11		
PROPOSAL	Improvements to existing lorry parking area, erection of a building for the maintenance of lorries and collection and compacting of cardboard polystyrene for transfer to re cycling centers		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	25/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	10		
Planning Ref:	LA07/2021/0096/	PAC Ref:	2021/A0033
APPELLANT	Mr Bailey	DEA	Rowallane
LOCATION	18a Drumgivan Road Drumgivan Ballynahinch		
PROPOSAL	Extension and renovation of Schoolhouse to domestic dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

207

ITEM NO	11		
Planning Ref:	LA07/2020/0770/	PAC Ref:	2021/A0034
APPELLANT	Jamie McDonald	DEA	Newry
LOCATION	Lands Approx. 40m NE Of 29 Clontigora Hill Newry		
PROPOSAL	Infill dwelling and garage, associated landscaping and site works		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	25/05/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	12		
Planning Ref:	LA07/2020/0079/	PAC Ref:	2021/A0049
APPELLANT	M Farrell	DEA	Newry
LOCATION	Lands Approximately 50m North West Of No. 53 Ayalogue Road Newry		
PROPOSAL	Dwelling and garage on gap site		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	14/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

208

ITEM NO	13	PAC Ref:	2021/A0051
Planning Ref:	LA07/2020/1828/	DEA	Slieve Croob
APPELLANT	Richard Hall		
LOCATION	Adjacent And Immediately North Of 42 Old Belfast Road Dundrum Newcastle		
PROPOSAL	Infill site for dwelling with domestic garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14	PAC Ref:	2021/A0075
Planning Ref:	LA07/2021/0450/	DEA	The Mournes
APPELLANT	Paul Smith		
LOCATION	57 Castlewellan Road Newcastle		
PROPOSAL	Artist studio and study to existing dwelling, for domestic use associated with the dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	28/07/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

209

ITEM NO	15		
Planning Ref:	LA07/2020/0936/	PAC Ref:	2021/A0092
APPELLANT	Mr James Hughes	DEA	Crotlieve
LOCATION	Mountview Business Park Rathfriland Road		
PROPOSAL	New Replacement free standing vertical sign with logos to both faces		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	17/08/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16		
Planning Ref:	LA07/2021/0790/	PAC Ref:	2021/A0107
APPELLANT	Mr & Mrs Wayne Garrett	DEA	Rowallane
LOCATION	135m South Of 58 Carsonstown Road Saintfield		
PROPOSAL	Single dwelling and garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	14/09/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	17	PAC Ref:	2021/A0109
Planning Ref:	LA07/2021/0473/	DEA	The Mournes
APPELLANT LOCATION	Rhys Dowsall 5 Killowen Road Rostrevor		
PROPOSAL	Retention of mobile home on concrete hardstanding		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	16/09/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	18	PAC Ref:	2021/A0112
Planning Ref:	LA07/2020/1834/	DEA	Slieve Croob
APPELLANT LOCATION	Mr & Mrs Christopher Kelly Approx. 200m SE Of No. 36 Mountain Road Ballynahinch		
PROPOSAL	Dwelling on a Farm		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	28/09/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	19		
Planning Ref:	LA07/2021/1088/	PAC Ref:	2021/A0113
APPELLANT	MPG Wind	DEA	Croilieve
LOCATION	Lands Approximately 230m To The North West Of 15 Barnmeen Road		
PROPOSAL	Rathfriland Proposed retention of existing turbine tower, replacement of existing turbine nacelle and blades with new nacelle and blades. The replacement nacelle and blades will create a hub height of 40m with a maximum rotor diameter of 31m and tip height of 55.5m (up to 250kW)		
APPEAL TYPE	DC - Non Determination of a Planning Application		
Appeal Procedure	Written Reps	Date Appeal Lodged	09/11/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	20		
Planning Ref:	LA07/2018/0932/	PAC Ref:	2021/A0116
APPELLANT	Dynes Bros	DEA	Downpatrick
LOCATION	No's 12 And 14 St Patrick's Way And Lands Between 12 And 14 St Patrick's Way Ballyhornan Road Ballyalton Downpatrick (amended Address)		
PROPOSAL	Detached dwelling on lands between 12 and 14 St Patrick's Way and amendments to existing dwellings 12 and 14 to provide additional lands, landscaping and amendments to previously approved parking arrangements. (Amended Proposal)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/10/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	21		
Planning Ref:	LA07/2019/1206/	PAC Ref:	2021/A0118
APPELLANT	Kilbroney Timberframe Limited	DEA	Newry
LOCATION	Land At 76 Canal Street Newry And Lands 15 Metres North Of 31-43 Catherine Street		
PROPOSAL	Proposed 8 dwellings (2 blocks of four terrace dwellings)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	13/10/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	22		
Planning Ref:	LA07/2021/0762/	PAC Ref:	2021/A0120
APPELLANT	Mr B McCallister	DEA	Rowallane
LOCATION	70 Old Belfast Road Saintfield		
PROPOSAL	Extension to curtilage of dwelling to provide additional access to rear of dwelling, double garage/garden store with games room over.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	15/10/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

213

ITEM NO	23	PAC Ref:	2021/A0122
Planning Ref:	LA07/2020/0921/	DEA	Downpatrick
APPELLANT	Alan Humphries		
LOCATION	Adjacent To 127a Shore Road Kilclief		
PROPOSAL	Dwelling and garage		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	18/10/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	24	PAC Ref:	2021/A0137
Planning Ref:	LA07/2021/0092/	DEA	Crotlieve
APPELLANT	Mr Paul Henry Murney		
LOCATION	39 Chapel Hill Road Mayobridge		
PROPOSAL	^{Newry} Retention of agricultural shed used for the wintering of animals and the storage of fodder and farm machinery		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	04/11/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

214

ITEM NO	25		
Planning Ref:	LA07/2021/0174/	PAC Ref:	2021/A0138
APPELLANT	Mary Boal	DEA	Crolieve
LOCATION	To The Rear Of No. 56 Milltown Street Burren		
PROPOSAL	Warrenpoint Proposed dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	04/11/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	26		
Planning Ref:	LA07/2021/1066/	PAC Ref:	2021/A0141
APPELLANT	Sean & Linda Tumelty	DEA	Slieve Croob
LOCATION	Adjacent To And North West Of 150A Vianstown Road Downpatrick		
PROPOSAL	Single Dwelling House		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	10/11/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

215

ITEM NO	27		
Planning Ref:	LA07/2020/0518/	PAC Ref:	2021/A0143
APPELLANT	Mr Alan Milne	DEA	Slieve Gullion
LOCATION	100m North Of 245 Armagh Road Tullyhappy		
PROPOSAL	Newry Retention of replacement agricultural store		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	17/11/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	29		
Planning Ref:	LA07/2021/1061/	PAC Ref:	2021/A0150
APPELLANT	Mr Dermot O'Hare	DEA	Crotlieve
LOCATION	Lands Between 17A And 17B Hilltown Road Mayobridge RT34 2A.1		
PROPOSAL	Proposed dwelling and garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	02/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	30		
Planning Ref:	LA07/2019/1490/	PAC Ref:	2021/A0154
APPELLANT	Castleinch Ltd	DEA	Rowallane
LOCATION	North Of 7 And 9 Saintfield Road Ballynahinch		
PROPOSAL	Vary condition 10 of planning approval R/2011/0648/F: Condition 10: No other development hereby permitted shall be commenced until the works necessary for the improvement of a public		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	02/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	31	PAC Ref:	2021/A0156
Planning Ref:	LA07/2021/0502/	DEA	Rowallane
APPELLANT LOCATION	Mr & Mrs J Wade 71 Lisburn Road Lisdalgaun Saintfield		
PROPOSAL	Replacement dwelling and conversion of existing dwelling to domestic store.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	01/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	32	PAC Ref:	2021/A0158
Planning Ref:	LA07/2019/1262/	DEA	Rowallane
APPELLANT LOCATION	SJ Anderson & Sons 11 Lisburn Road Ballynahinch		
PROPOSAL	Replacement of existing dwelling with 4 townhouses and associated site works		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	03/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

218

ITEM NO	33		
Planning Ref:	LA07/2021/0639/	PAC Ref:	2021/A0161
APPELLANT	Declan Clarke	DEA	Newry
LOCATION	Located Upon Lands Approximately 50 Meters North Of No 33 Ferryhill Road Clontarf		
PROPOSAL	Proposed Erection of outline rural detached infill dwelling house and detached domestic garage, site works and associated landscaping		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	14/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	34		
Planning Ref:	LA07/2021/0578/	PAC Ref:	2021/A0162
APPELLANT	Mr Brendan Quinn	DEA	Slieve Gullion
LOCATION	Located Upon Lands Approximately 40m South East Of No. 20 Creamery Road Carran		
PROPOSAL	Proposed erection of a rural infill detached dwelling house together with detached domestic garage, site works and associated landscaping		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	14/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

219

ITEM NO 35
Planning Ref: LA07/2021/0361/ **PAC Ref:** 2021/A0163
APPELLANT Gerard Murphy **DEA** Slieve Gullion
LOCATION Approximately 84 Metres North East Of No. 2 Milltown Road
 Lislea
PROPOSAL ^{Cn Armanh}
 Proposed erection of an agricultural storage building and associated
 site works

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Written Reps** **Date Appeal Lodged** 14/12/2021
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

ITEM NO 36
Planning Ref: LA07/2020/1025/ **PAC Ref:** 2021/A0168
APPELLANT Patrick Fitzsimons **DEA** Downpatrick
LOCATION Adjacent To And North West Of 59 Annacloy Road
 Downpatrick
PROPOSAL ^{RT30 9A0}
 Proposed dwelling accessed by existing entrance and proposed new
 entrance for 59 Annacloy Road, Downpatrick

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 14/12/2021
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

220

ITEM NO	37		
Planning Ref:	LA07/2021/0066/	PAC Ref:	2021/A0169
APPELLANT	Mr Peter Connolly	DEA	Newry
LOCATION	3 River Street Newry BT34 1DQ		
PROPOSAL	Conversion of commercial property to four number self contained one bedroom apartments		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	15/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	38		
Planning Ref:	LA07/2021/0552/	PAC Ref:	2021/A0173
APPELLANT	Stephen Grogan	DEA	Crotlieve
LOCATION	Between 1a And 1b Mullavat Road Newry		
PROPOSAL	Go Down Private dwelling on gap/infill site (two storey requested)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	17/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

221

ITEM NO	39		
Planning Ref:	LA07/2021/0408/	PAC Ref:	2021/A0177
APPELLANT	Irwin Carr Consulting Ltd	DEA	Crotlieve
LOCATION	Lands Located To The Rear Of No. 7 Osbourne Promenade (together With Rear Access And Parking From Great Georges Street Smith)		
PROPOSAL	Proposed Retention of Existing Office/Storage Building to be used in conjunction with No. 7 Osbourne Promenade (amended description)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	20/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	40		
Planning Ref:	LA07/2020/0982/	PAC Ref:	2021/A0178
APPELLANT	Mr Noel McKeivitt	DEA	Newry
LOCATION	Lands Approximately 55 Metres North West Of No.5 Upper Fathom Road		
PROPOSAL	Fathom Lower: Proposed erection of 2 No. Rural infill detached dwelling houses and detached garages, rural entrance pillars and gates, additional landscaping and associated site works.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	20/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	41		
Planning Ref:	LA07/2021/0598/	PAC Ref:	2021/A0179
APPELLANT	Ryan Kelly	DEA	Slieve Croob
LOCATION	Adjacent To 104 Downpatrick Road Ballynahinch		
PROPOSAL	Farm dwelling, detached garage and site works		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	22/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	42		
Planning Ref:	LA07/2021/0246/	PAC Ref:	2021/A0182
APPELLANT	Gerard Milligan	DEA	The Mournes
LOCATION	Immediately North-west Of 102 Tullybrannigan Road Newcastle		
PROPOSAL	Proposed 3no. self contained tourism units		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	05/01/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	43		
Planning Ref:	LA07/2021/0428/	PAC Ref:	2021/A0185
APPELLANT	Michael Berrill	DEA	Newry
LOCATION	Casa Bella Interiors 4 The Mall		
PROPOSAL	Newry Replacement of existing shop front sign		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	06/01/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	44		
Planning Ref:	LA07/2021/1747/	PAC Ref:	2021/A0186
APPELLANT	Walter Watson	DEA	Slieve Croob
LOCATION	Site Between 121 And 121a Ballylough Road Castlewellan		
PROPOSAL	New Infill Dwelling (CTY 8)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	10/01/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

224

ITEM NO	45		
Planning Ref:	LA07/2021/0339/	PAC Ref:	2021/A0192
APPELLANT	Mr Daniel Clarke	DEA	Rowallane
LOCATION	Lands Approx. 30m To North East Of No 16 Ringhaddy Road Killinchy		
PROPOSAL	Proposed site for dwelling in accordance with Policy CTY8 of PPS21		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	14/01/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	46		
Planning Ref:	LA07/2020/1796/	PAC Ref:	2021/A0196
APPELLANT	Joseph McKeivitt	DEA	Crotlieve
LOCATION	Immediately North West Of No. 4 Aughnamoira Road Warrenpoint BT34 2PR		
PROPOSAL	Erection of dwelling (amended address)		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	14/01/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

225

ITEM NO	47		
Planning Ref:	LA07/2021/1407/	PAC Ref:	2021/A0197
APPELLANT	Mr & Mrs Orr	DEA	Rowallane
LOCATION	Adjacent To 60 Carsonstown Road Carsonstown		
PROPOSAL	Saintfield Erection of Replacement Dwelling and Retention of existing building as outbuilding		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	18/01/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	48		
Planning Ref:	LA07/2021/0956/	PAC Ref:	2021/A0200
APPELLANT	David Og Downey	DEA	Newry
LOCATION	101m North West Of No.60 Lower Foughill Road Jonesborough		
PROPOSAL	Newry Proposed off site replacement dwelling and associated site works		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	24/01/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

226

ITEM NO	49		
Planning Ref:	LA07/2021/0620/	PAC Ref:	2021/A0203
APPELLANT	Mr Martin Russell	DEA	Slieve Croob
LOCATION	Magheralagan Corn Mill Opposite 68 Drumcullan Road		
PROPOSAL	Downnatrix Restoration and Conversion of Magheralagan Corn Mill to single dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/01/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	50		
Planning Ref:	LA07/2021/1079/	PAC Ref:	2021/A0211
APPELLANT	Bridgeen King	DEA	Slieve Croob
LOCATION	7 Woodgrove Castlewellan		
PROPOSAL	Use of building as salon for home-working (retrospective)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	07/02/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

227

ITEM NO	51	PAC Ref:	2021/A0225
Planning Ref:	LA07/2021/1123/	DEA	Slieve Croob
APPELLANT LOCATION	Mr & Mrs Malone Lands Approx. 50m South East Of 55 Leitrim Road Castlewellan		
PROPOSAL	Proposed Site for erection of 1no detached off site Replacement Dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	21/02/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	52	PAC Ref:	2021/A0229
Planning Ref:	LA07/2021/1188/	DEA	Crotlieve
APPELLANT LOCATION	Frank Clerkin 170 Metres North West Of 107 Kilbroney Road Rostrevor		
PROPOSAL	RT34 3RW Proposed extension to existing farm yard		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	25/02/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

228

ITEM NO	53		
Planning Ref:	LA07/2021/1091/	PAC Ref:	2021A0234
APPELLANT	Mr Garth & Mrs Kathryn Belshaw	DEA	Rowallane
LOCATION	Land Adjoining 26 Windmill Avenue Ballynahinch		
PROPOSAL	Single Dwelling House		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	14/03/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	54		
Planning Ref:	LA07/2021/0251/	PAC Ref:	2021/A0235
APPELLANT	Robin Dalzell	DEA	The Mournes
LOCATION	Site Adjacent To 57 Castlewellan Road Newcastle		
PROPOSAL	Single Dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	14/03/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

229

ITEM NO	55		
Planning Ref:	LA07/2021/0368/	PAC Ref:	2021/A0239
APPELLANT	Mr & Mrs L Venney	DEA	Downpatrick
LOCATION	Lands Contained Between 1 Minerstown Road And 55 Rossglass Road		
PROPOSAL	Downpatrick 2 no. Infill dwellings and detached garages		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	15/03/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	56		
Planning Ref:	LA07/2021/1640/	PAC Ref:	2021/A0244
APPELLANT	Luke Rea & Claire McIlwaine	DEA	Rowallane
LOCATION	Lands Adjacent To And 35m West Of 73 Lisbane Road Ballynahinch		
PROPOSAL	Proposed Site for a Single Infill Dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	21/03/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

230

ITEM NO	57		
Planning Ref:	LA07/2020/1906/	PAC Ref:	2021/E0010
APPELLANT	Eamonn McAteer McAteer Recyclin	DEA	Crotlieve
LOCATION	Lands At And To The Rear Of No. 12 Cullion Road Mayobridge		
PROPOSAL	Newrv Existing area, yard and access, for storage, parking and circulation of vehicles associated with McAteer Recycling Ltd, and all associated site works and infrastructure		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	10/06/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	58		
Planning Ref:	LA07/2021/0778/	PAC Ref:	2021/E0057
APPELLANT	Norman Graham	DEA	Rowallane
LOCATION	50m North To Rear Of 46 Riverside Road Ballynahinch		
PROPOSAL	Erection and use of two agricultural sheds for agricultural uses for storing farm machinery and equipment for active farm and provide lambing/calving, TB Testing onsite facilities with crush		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure	Written Reps	Date Appeal Lodged	21/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

231

ITEM NO	59		
Planning Ref:	LA07/2021/0780/	PAC Ref:	2021/E0058
APPELLANT	Norman Graham	DEA	Rowallane
LOCATION	50m North To Rear Of 46 Riverside Road Ballynahinch		
PROPOSAL	Erection and Use of Dwelling House		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure	Written Reps	Date Appeal Lodged	22/12/2021
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	60		
Planning Ref:	LA07/2021/1361/	PAC Ref:	2021/E0069 LDC
APPELLANT	Mr Christopher Skelly	DEA	Slieve Croob
LOCATION	Land Adjacent And NW Of 50 Flush Road Ballyward Castlewella		
PROPOSAL	The formation of a laneway to the site and the digging of foundations		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	22/02/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

232

ITEM NO	61	PAC Ref:	2021/E0074 LDC
Planning Ref:	LA07/2021/0990/	DEA	Downpatrick
APPELLANT LOCATION	Mr Brendan Starkey Approx 90m East Of 27 Bright Road Downpatrick		
PROPOSAL	The digging of foundations, the lying of concrete and the construction of a portion of block-work		

APPEAL TYPE	DC- Refusal of CLUD	Date Appeal Lodged	16/03/2022
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	62	PAC Ref:	2022/A0019
Planning Ref:	LA07/2021/1781/	DEA	Rowallane
APPELLANT LOCATION	Trevor Lindsay Between 5 & 7 The Nursery Killyleagh		
PROPOSAL	Site for Dwelling and Garage		

APPEAL TYPE	DC- Refusal of Planning Permission	Date Appeal Lodged	26/04/2022
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

233

ITEM NO	63	PAC Ref:	2022/A0020
Planning Ref:	LA07/2022/0021/	DEA	The Mournes
APPELLANT LOCATION	Terence O'Hanlon 161 Bryansford Road Cross Kilronn		
PROPOSAL	Retrospective application for Garage building, also accommodating Home office and Gymnasium on hardstanding on increased Dwelling Curtilage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	27/04/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	64	PAC Ref:	2022/A0024
Planning Ref:	LA07/2021/1011/	DEA	The Mournes
APPELLANT LOCATION	Gary Gordon 14 Church Road Kilkeel County Down		
PROPOSAL	Proposal for the erection of a shed for equestrian use and retention of extension to domestic curtilage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	03/05/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

234

ITEM NO	65	PAC Ref:	2022/A0028
Planning Ref:	LA07/2019/1084/	DEA	Slieve Gullion
APPELLANT	CP & A Supplies Ltd		
LOCATION	110m South West Of No. 1 Carrickcroppan Road Camlough		
PROPOSAL	RT35 7HA Extension to the existing commercial yard		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	06/05/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	66	PAC Ref:	2022/A0029
Planning Ref:	LA07/2021/1982/	DEA	Slieve Croob
APPELLANT	Mr Trevor Nelson		
LOCATION	70m SE Of 5 Coach Lane Cottage Road Seaford		
PROPOSAL	New agricultural shed		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	09/05/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

235

ITEM NO	67	PAC Ref:	2022/A0046
Planning Ref:	LA07/2021/1041/	DEA	Slieve Croob
APPELLANT LOCATION	Mr & Mrs Anthony & Mary O'Prey To The Rear Of 9 Wateresk Road Dundrum		
PROPOSAL	Dwelling and detached garage with associated site works, including improvements to existing vehicular access		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	17/06/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	68	PAC Ref:	2022/A0072
Planning Ref:	LA07/2021/2178/	DEA	Crotlieve
APPELLANT LOCATION	Ms Kerry Boyle 3 Forest Hills Newry BT34 2FI		
PROPOSAL			

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	05/07/2022
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Appeal Decision

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

Appeal Reference:	2021/A0008
Appeal by:	Mr Johnny Farrell.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Retention of the construction of an access with new improved sightlines previously approved under P/2011/0702/F.
Location:	Land at 49a Greenan Road Newry.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne and Down District Council.
Application Reference:	LA07/2020/0115/F
Procedure:	Remote Hearing on 18 th July 2022.
Decision by:	Commissioner Damien Hannon, dated 10 th August 2022.

Decision

1. The appeal is allowed, and full planning permission is granted subject to the condition detailed below.

Reasons

2. The issue in this case is that of road safety.
3. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) is the statutory Local Development Plan relevant to the appeal proposal. The plan designates the appeal site as situated within the countryside. Otherwise, the plan contains no provisions relevant to the appeal proposal. Furthermore, no conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policy. Consequently, the relevant policy context is provided by Planning Policy Statement 3 – Access, Movement and Parking (PPS 3 Revised).
4. Policy AMP 2 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 or significantly inconvenience the flow of traffic. The appeal site comprises the curtilage of No. 49a, a recently constructed, detached dwelling fronting Greenan Road. While the principle of a dwelling on this countryside site is established by planning permission P/2011/0702/F, the access arrangements specified in that approval were not implemented. Rather the appellant constructed an alternative access scheme for which retrospective permission is now sought.

5. During my site visit on 13th July 2022, I observed the dwelling to be occupied and the access arrangements, as proposed, to be substantially complete and in use. At the hearing, the Council accepted that a third party had confirmed that they had no longer any objection to the use of land within their ownership and adjacent to the appeal site, to accommodate the proposed visibility splays and access arrangements. The Council further stated that amendments to the existing arrangements would render the proposal acceptable. These changes included repositioning of telegraph poles behind sightlines and the lowering of stone walls behind sightlines to 25 cm above existing road level for 10m either side of the existing access.
6. As agreed by the parties at the hearing, an amended drawing illustrating these amendments was received, as post hearing evidence, by the Commission on 5th August 2022. Provided the works as illustrated in this drawing are carried out, the proposal will not prejudice road safety or significantly inconvenience the flow of traffic. Timely implementation of these arrangements, which can be appropriately secured by condition would ensure that the proposal complies with Policy AMP 2. I conclude that the proposal, if conditioned, would have no detrimental impact on road safety. In the absence of sustained objection, the appeal succeeds, and full planning permission is granted subject to the condition detailed below.

Condition

- (1) The access arrangements, including visibility splays as shown on the drawing numbered 11540-02-Rev 5, received by the Commission on 5th August 2022, shall be laid out within 3 months of the date of this decision and thereafter permanently retained.

This decision is based on the drawing numbered 11540-02-Rev 5, received by the Commission on 5th August 2022.

COMMISSIONER DAMIEN HANNON

List of Appearances

Planning Authority:- Mr Eamonn McArdle

Appellant:- Mr John Collins (Collins & Collins & Co)
Mr Johnny Farrell

List of Documents

Planning Authority:-	COU 1	Statement of Case
Appellant:-	APP 2	Rebuttal Statement



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2021/A0074
Appeal by:	Mr C O'Connor
Appeal against:	The refusal of full planning permission
Proposed Development:	Change of house type and siting in substitution for planning permission LA07/2018/1590/F
Location:	59 Drumnaquoile Road, Castlewellan
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2020/0387/F
Procedure:	Written representations and Commissioner's site visit on 21 April 2022
Decision by:	Commissioner McShane, dated 1 August 2022.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are the impact of the appeal proposal on visual amenity and rural character.
3. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Ards and Down Area Plan 2015 (ADAP) operates as a LDP. The appeal site is located outside any settlement development limit designated in the plan. There are no plan policies pertinent to this specific proposal, therefore, I turn to other material considerations.
4. The appeal site is in the open countryside, therefore Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) provides the relevant policy context. PPS 21 is identified by the Strategic Planning Policy Statement for NI (SPPS) as a retained policy document.
5. Policy CTY 1 of PPS 21 lists 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. The appeal proposal does not comprise permitted agricultural development. A number of instances when planning permission will be granted for an individual dwelling are listed. This includes a dwelling on a farm in accordance with Policy CTY 10 of PPS 21.
6. In January 2019, the Council granted planning permission for a dwelling on the farm (LA07/2018/1590/F). The Appellant proposes to substitute the proposed

development for the extant approval. As such, the issue is whether the appeal proposal, on the basis of the stated reasons for refusal, would be equal to, or superior to, the approved proposal.

7. The approved site, approximately 0.18 has, is located north-east and to the rear of a roadside bungalow (No.59) and 2 large associated farm sheds. Site boundaries comprise mature vegetation to the north-west and an 1m high stone wall to the south-west marking the boundary with No.59. The north-eastern and south-eastern boundaries are undefined. The approved access point and driveway is adjacent to the south-eastern curtilage of No.59. Topography within the site falls from the north-west to the south-east and rises significantly beyond the site to the north.
8. The approved dwelling, which would stand to the rear of No.59, comprises a 5.9m high dwelling (above finished floor level), which is 17.5m wide and 8.3m deep. Providing accommodation over two levels, approved finishes include traditional blue / black roof slate, smooth render painted walls, cream U-PVC or timber/aluminium windows and black cast aluminium rainwater goods.
9. The red line of the appeal site (circa 0.38has) incorporates the approved site as well as additional land that is located adjacent to and south of No.59. It has a 35m wide frontage to the road. The site boundaries of the new portion of land comprise the 1m high stone boundary wall of No.59 to the north and a roadside bank and hedging, which would be removed to provide visibility splays; the remaining boundaries are undefined. Topography within the site is relatively flat while beyond the site to the north it rises significantly.
10. Policy CTY 1 states that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations. Policy CTY 10, which relates to dwellings on farms, requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm to help minimise impact on the character and appearance of the landscape. Compliance with Policy CTY 10 does not provide an exemption from compliance with other policies. Policy CTY 10 refers to the need for a proposal to meet the tests of Policies CTY 13 and CTY 14.
11. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. Notwithstanding that the description of the appeal development refers to a "change of house type", the proposed appeal dwelling is an identical house type to that already approved. The design has already been found to be appropriate.
12. The parties dispute whether the proposed development would be visually integrated into the landscape. Travelling from the south-east along Drumnaquoile Road the proposed dwelling, which would be setback approximately 10m from the road, would read against No.59, two large agricultural buildings and steeply rising land beyond. These features would provide suitable enclosure. Notwithstanding this, the proposed dwelling would not be as well integrated as the approved dwelling, which is setback 70m from the road to the rear of the farm complex.

13. Travelling from the north-west and although the view is short, the proposed roadside dwelling, notwithstanding that it is visually linked with an established group of buildings on the farm, would stand in an open field. Neither the field boundary nor gently rising topography to the south would provide a suitable level of enclosure. Furthermore, topography to the east falls away and although it rises gently in the far distance, this would not provide a suitable degree of enclosure for the proposed dwelling to integrate into the landscape. By comparison, there would be limited filtered views of the approved dwelling, given setback, existing vegetation along field boundaries and the farm buildings.
14. Consequently, in terms of integration, notwithstanding that its need for new boundary vegetation would be less, the appeal proposal is not equal to, or superior to the approved development. The Council has sustained its first reason for refusal based upon Policy CTY 13 of PPS 21.
15. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Five criteria are listed wherein a new building will be unacceptable. Criterion (d) relates to the creation of or addition to a ribbon of development and references Policy CTY 8.
16. Ribbon development has been consistently opposed as it creates and reinforces a built-up appearance to roads and private laneways. A "ribbon" does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.
17. From Drumnaquoile Road, a dwelling on this road frontage plot would have common frontage and visually link with No.59 and two farm sheds. This would extend development along the road frontage and result in a built-up appearance that would have a negative impact on the rural area. By comparison, the approved development, which stands to the rear of No.59, does not add to a ribbon of development.
18. The proposed dwelling would not be equal to, or superior to, the approved development in terms of its impact on rural character. The Council has sustained its second and third reasons for refusal based upon Policies CTY 8 and CTY 14 of PPS 21.
19. In his rebuttal Statement, the Appellant refers to planning approvals for dwellings on farms (LA07/2020/1766/F and LA07/2019/1641/O and LA07/2021/0802/RM respectively). The raising of new evidence in rebuttal submissions does not constitute good practice; nonetheless the evidence is before me.
20. The Appellant argues that these approvals demonstrate that the Council has been inconsistent in its decision making. However, these cases do not relate to applications to change siting in substitution for an extant planning permission. The circumstances are not directly comparable with the appeal proposal. Their approval does not alter my conclusions in this appeal.

21. The Council has sustained its three reasons for refusal based upon Polices CTY 8, 13 and 14 of PPS 21 and the appeal must fail.

This decision is based on the following drawing:-

- LPA Drwg No.01: Site Location Map (Scale 1:2500)
Existing Site Plan (Scale 1:1000)
Proposed Site Layout (Scale 1:500)
Proposed Elevations (Scale 1:100)
Proposed Ground Floor Plan (Scale 1:100)

COMMISSIONER MCSHANE

2021/A0074

List of Documents

Planning Authority:-

"LPA 1" Statement of Case and Appendices

Appellant:-

"APP 1" Statement of Case and Appendices

"APP 2" Rebuttal Statement and Appendices



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2021/A0149
Appeal by:	Mr McEvoy of Cacola Ltd.
Appeal against:	The refusal of full planning permission
Proposed Development:	Erection of two dwellings
Location:	Immediately south of 17 Leitrim Road, Ballymaginaghy, Castlewellan Co. Down
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2019/1375/ F
Procedure:	Informal Hearing 26 th May 2022
Decision by:	The Commission dated 16 th August 2022

The Commission has considered the report by Commissioner Laura Roddy and accepts her analysis of the issues and recommendation that the appeal should be dismissed. The Commission agrees that the Council's reasons for refusal have been sustained.

Decision – the appeal is dismissed and full planning permission is refused.

This decision is based on the following drawings:-

Drawing No.	Title	Scale	Date Received by Council
P01	Site Location Plan	1:2500	13 th November 2019
SV01	Site Survey	1:500	13 th November 2019
P02c	<u>Site Sections and House Type 1</u> Proposed Site Layout Proposed Elevations (front, rear, side x 2 and cross section elevations x 2) Proposed ground floor plans	1:500 1:100 1:100	12 th October 2020
P03a	<u>Site Sections and House Type 2</u> Proposed Elevations (front, rear, side x 2 and partial elevations A-A and B-B) Proposed ground floor plan Proposed site sections A-A and B-B	1:100 1:250	12 th October 2020

HELEN FITZSIMONS
Principal Commissioner

Note: The validity of this decision may be challenged by applying to the High Court for a judicial review. This must be done within three months of the date of the decision.

PLANNING APPEALS COMMISSION

**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 58**

Appeal by

Mr Paul McEvoy of Cacola Ltd.

against the refusal of full planning permission for proposed erection of two dwellings on lands immediately south of 17 Leitrim Road, Ballymaginaghy, Castlewellan, Co. Down.

Report

by

Commissioner Laura Roddy

Planning Authority Reference: LA07/2019/1375/F

Procedure: Informal Hearing

Hearing Date: 26th May 2022

Report Date: 23rd June 2022

1.0 **BACKGROUND**

- 1.1 Newry, Mourne and Down District Council received an application for full planning permission on 16th September 2019 for the 'erection of two dwellings'. By notice dated 30th July 2021 the Council refused planning permission giving the following reasons:-
1. **The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.**
 2. **The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed site cannot accommodate 2 infill dwellings whilst respecting the development pattern along the frontage.**
 3. **The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed dwellings are inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape.**
- 1.2 The Commission received the appeal on 23rd November 2021 and advertised it in the local press on 8th December 2021. One representation was received from a third party.

2.0 **SITE AND SURROUNDINGS**

- 2.1 The appeal site is a 0.25ha roadside plot located on the eastern side of Leitrim Road, approximately 3km northwest of Castlewellan, in the countryside. The roadside (western) boundary is defined by mature vegetation. The lean to garage of no. 17 Leitrim Road which is adjacent to the roadside defines part of the northern boundary. The remainder of the northern boundary is defined by low bushes and vegetation. The southern boundary of the appeal site is defined by an agricultural laneway which separates the site from the dwelling at 15 Leitrim Road. As the appeal site is cut out of a larger field, the eastern boundary is undefined.
- 2.2 The appeal site is level with the road at its roadside boundary and slopes steeply upwards, by some 9m within the site, in an easterly direction. Land continues to rise to the east beyond the appeal site boundary. The site is steepest along its northern boundary, with a gentler gradient towards its southern boundary.
- 2.3 Immediately north of the appeal site is no. 17 Leitrim Road, a two storey roadside dwelling. To the immediate south of the appeal site is no. 15 Leitrim Road, a detached split level dwelling set back from the roadside with a large front garden. It is defined to the roadside by a low stone retaining wall. Immediately south again is no. 11 Leitrim Road, a detached storey and a half dwelling, also set back from the roadside with a large front garden.

3.0 PLANNING AUTHORITY'S CASE

- 3.1 The Ards and Down Area Plan 2015 has identified the appeal site as falling within the open countryside. The plan does not contain any policies or provisions relevant to the proposal.
- 3.2 The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. It also retains certain existing Planning Policy Statements including Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21). The SPPS is no more prescriptive than PPS 21 on the issues raised in this appeal. Thus the retained policies take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS. Policy CTY1 of PPS 21 states there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is development of a gap site in accordance with Policy CTY8.
- 3.3 Policy CTY8 of PPS 21 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.
- 3.4 For the purposes of Policy CTY8 the policy defines a substantial and continuously built up frontage as a line of 3 or more buildings along a road frontage without accompanying development to the rear. The site has a common frontage with numbers 11, 15 and 17 Leitrim Road. A substantial and continuously built up frontage therefore exists.
- 3.5 The appeal site has a frontage of approximately 47.5m. Those plots adjacent at Nos 11, 15 and 17 have frontages of approximately 40m, 47m and 26m respectively. The average frontage therefore of all four plots is 40m. The proposed site layout indicates that the dwellings will have frontages of approximately 22.5m and 28.5m. The plot sizes have also been assessed and those proposed are not in keeping with the adjacent plots. Measurements were taken from up to date ortho imagery. No. 17 Leitrim Road has a plot size of 420m², no. 15 has a plot size of 2311m² and no. 11 has a plot size of 2272m². The proposed, at 1740m² and 1363m², are not in keeping.
- 3.6 It is clear from this assessment that the proposed division of site into two plots would not be in keeping with those immediately adjacent. In order to maintain the existing pattern of development in terms of frontage the site could only accommodate one dwelling successfully. The proposal for 2 dwellings does not comply with Policy CTY8 and consequently there is no justification for it in principle, it therefore also fails to comply with the requirements of Policy CTY1.
- 3.7 In assessment of the design, siting and integration of the proposal, Policy CTY13 of PPS 21 is applicable which states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding

landscape and it is of an appropriate design. 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.

- 3.8 The dwellings proposed in this scheme are single storey with a link section leading to an elevated return to the rear. Given the levels of the site and in order to construct this dwelling type, significant groundworks would be required in excess of 2m in parts of the site. Paragraph 5.64 in the justification and amplification section of Policy CTY13 states that a new building that relies on significant earth works such as mounding or cut and fill for integration will be unacceptable. Whilst there is concern regarding the level of cut required, the Council confirmed at the hearing that the ancillary works would be acceptable in relation to criterion (d) of Policy CTY13.
- 3.9 In assessment of the design, the split-level dwellings proposed are not considered to be appropriate for the site, particularly due to the position of the rear return appearing above the ridge of the main dwelling section. Rear returns should be subordinate to the main dwelling and the lack of such in this case would lead to the dwellings appearing incongruous in the local landscape. Application LA07/2020/1126/F has a different site context as the site levels are not the same and dwellings are closer together. When travelling along Leitrim Road, on approach from the south, the depth of the building (up to 19.5m) would be apparent.
- 3.10 On the basis of the above, the Council considers that the requirements of Policies CTY1, 8 and 13 have not been met.
- 3.11 The proposed access and visibility splays are acceptable and would not encroach on the neighbouring lands at 15 Leitrim Road.
- 3.12 If the appeal is allowed, the following conditions are suggested on a without prejudice basis:
- Time limit;
 - Vehicle access and sight lines to be constructed in accordance with Drawing 02C prior to commencement;
 - Access gradient not to exceed 8% (1 in 12.5) over the first 5m outside the road boundary and must be between 2.5% and 4% where the access crosses the footway.
 - All hard and soft landscaping to be carried out in accordance with Drawing 02C prior to the occupation of the development. Any tree, shrub or hedge which is removed, uprooted, dies or is destroyed within five years shall be replaced.

4.0 THIRD PARTY'S CASE

- 4.1 The appeal site is on a very bad corner beside a steep 'blind hill'. Vehicles coming from Leitrim village cannot see the vehicles on the other side of the road, heading towards the village, until they reach the top of the hill next to the appeal site. The appeal proposal, when combined with the existing house, would mean six vehicles would be trying to get onto this very dangerous fast part of the road. The appellant will not have the sight line across the property at no. 15 Leitrim Road as indicated in their drawings.
- 4.2 The appeal site is in an Area of Outstanding Natural Beauty (AONB). Policy protects the natural beauty of the area, surely this parcel of land is protected by the Countryside & Rights of Way Act 2003. The proposal does nothing to enhance or conserve the landscape and countryside in this area.

5.0 APPELLANT'S CASE

- 5.1 The site is located in a rural area that is generally characterised by a dispersed pattern of settlement. This particular part of Leitrim Road is characterised by a linear belt of road fronting development with a small gap between a two-storey house at the roadside (to the north) and a bungalow set back, above the road, to the south.
- 5.2 Policy CTY1 of PPS 21 outlines the provision for single houses in the countryside. This includes the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8. Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage 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. This proposal is advanced as an exception to the presumption against ribbon development. There are four steps to be followed in assessing applications of this nature.
- 5.3 The Council recognises that there is a substantial and continuously built up frontage, which includes 11, 15 and 17 Leitrim Road. The Council also recognises that there is a small gap site, sufficient only to accommodate a maximum of two dwellings.
- 5.4 Any assessment of a proposed 'gap site' against the existing settlement pattern, must also include a detailed analysis of the associated characteristics of the site and its immediate context on the ground. It is only through such a broad-based assessment, including a site visit that a sound, robust and reliable assessment of the proposal can be made against the requirements of Policy CTY8 in terms of size, scale, siting and plot size. In relation to the existing development pattern, the settlement pattern along the frontage is defined by:

- Detached houses on individual plots – there are two suburban-style bungalows and one traditional two-storey cottage.
 - Varying setback - two elevated set back bungalows and one two-storey dwelling at road level, with little set back.
 - The elevated bungalows (nos. 15 and 11) have retaining walls and other ancillary works to their fronts. Flattening has been necessary to create a wider shelf to build a two-room deep house.
 - The roadside house (no. 17) is so close to the road that it has little privacy to the front and no turning facilities. It has little by way of amenity space.
 - Mixture of plot sizes, with no uniformity. Plot sizes measure 400m² (no. 17), 1955m² (no. 11) and 2200m² (no. 15).
 - Mixture of plot width, with no uniformity (28, 38 and 45 metres).
- 5.5 The Council has concentrated on the issue of plot width alone in their assessment of Policy CTY8. They have focused on numbers. In light of various Planning Appeals Commission (PAC) decisions, this approach is not warranted. The PAC approach is that "a measure such as average frontage width can inform assessment of the existing frontage development pattern, the policy does not necessitate duplication of such a mathematical factor in respect of proposals for infill development. The assessment of whether a proposal would respect the existing development pattern along the frontage requires consideration of the matters of size, scale, siting and plot size in the round" e.g. (PAC Ref. 2019/A0027). Further, in application LA07/2021/0755/O the Council considered such assessment, where the plot widths were in line with the average on the frontage, to be flawed as a narrow mathematical exercise, and does not represent a valid planning approach.
- 5.6 Due regard has been shown to the size of the other houses. The proposed houses are comparable in terms of width to the bungalows. They are comparable in terms of ridge height, and in scale, to the bungalows. They show respect to the two-storey house but do not tower above it. They show respect to the fact that one house has virtually no setback while two are set back so far they appear heavily suburbanised.
- 5.7 The appellant has also shown due regard to the size of the adjoining plots. The average size of the adjacent plots is approximately 1500m². The proposed plots would be approximately 1250m² apiece. While respecting the mathematical average, alone, is not the optimum means of determining how respectful this proposal is, one cannot ignore that the appellant has shown due regard to the size of the other plots. He has not restricted his plot to 400m², like that of no. 17, so that the houses will have an appropriate level of amenity space and off-street parking and turning facilities. Equally, he has chosen not to create a single plot in excess of 2000m², because to do so would result in a suburbanised environment due to the amount of open space that would have been left to be landscaped within the plot.
- 5.8 At the hearing the appellant's representative was providing measurements from the computer software containing the site layout. Arguably, plot width is the only aspect of this proposal that is in any way divergent from the others. Just because the proposal will involve two dwellings in a field with a 47.5m frontage does not mean the proposal has not shown due regard to adjoining plot frontages of 38m, 45m and 28m. The layout and positioning of the dwellings within this gap is a more

appropriate way of managing the change from the small roadside plot at no. 17 and the two suburban bungalows beyond. These plots are of comparable depth to the two bungalows to the south.

- 5.9 The Council have given undue weight to the word 'respect' in the policy. To respect is not to replicate. It would be inappropriate to replicate the mistakes of the past e.g., by siting this development so close to the road that visitors could not enter and exit in forward gear, or by siting it so far back that it would necessitate more significant ancillary works than would be desirable in this location (or siting it so far back that the area between the house and the road would be transformed into a suburban-style manicured garden). The appeal proposal is considered to have shown due regard and respect to the size, scale, siting and plot sizes of the other developments on the frontage. Where there is any divergence from same, it has been for the purposes of ameliorating the consolidation of an existing ribbon of development.
- 5.10 A crest in the road just to the north of the site is the major inhibiting factor in relation to the appeal proposal. The access has to be positioned where exiting traffic can see traffic approaching from either direction, but also where traffic waiting to enter the site can be seen by other traffic approaching from either direction. The planning history to this site shows that finding an optimum design solution is challenging. There have been two previous unsuccessful applications on this site. While the first was returned invalid, the second application was refused on road safety grounds. In the aftermath of that application, it became apparent that there was only one possible position on the site frontage that the access to any new development could be located. The appeal application was submitted on that basis. The access must be positioned centrally, because to move it even two metres one side or the other will necessitate interference with third party lands either to facilitate visibility splays or forward visibility on the road. The adjacent third party's consent will not be forthcoming despite a previous indication this could be delivered.
- 5.11 After the appeal application was refused, the applicant submitted an application for a single dwelling on the appeal site. That application (LA07/2021/1860/F) has since been approved. However, the appeal proposal is better as it is less suburban. The Council's preferred solution of one dwelling located centrally within the site is not actually the appropriate approach because it would create other less desirable effects. To develop the site in this manner, the access would have to be excessively steep. The gradient would not enable residents or visitors an opportunity to turn a vehicle, causing a risk of traffic having to reverse out onto the public road, which would be a road safety hazard. Otherwise, to avoid that risk, a complex hard standing would need to be created somewhere along the front and side of the site. To create such an area, new retaining structures would be required in order to support the hard standing. This would commonly be deemed "inappropriate ancillary work"
- 5.12 In relation to other planning and environmental requirements (typically, integration and impact on rural character) the key issues are whether the design is appropriate for this site and this locality and if the proposal integrates into the surrounding landscape. The Council has failed to adequately demonstrate how this design is inappropriate for this locality and it has not recognised that it has been accepted elsewhere, in another sensitive part of the District.

- 5.13 The Council relies upon the fact that paragraph 5.64 of the justification and amplification section of Policy CTY13 states that a new building that relies on significant earth works such as mounding or cut and fill, for integration, will be unacceptable. The Council fails to appreciate that this expression of guidance is not and cannot be elevated to the same standing as the bold text in a policy headnote. Whereas there is an inference that the excavations are significant, there is no suggestion they are excessive. Due to the gradients within the site, it is inevitable that some excavations would be required to create a level platform for building. In planning terms, it is always best to build across contours rather than into them. Because of the tradition for linear houses, with narrow gable depth, in the countryside, a replication of this would be excessive across the frontage. The alternative would be to increase the gable depth, but this would necessitate digging into additional contours. The optimum solution is therefore to build two sections, one behind the other, and both of narrow gable depth. This minimises the amount of excavation necessary.
- 5.14 The only criticism of the dwellings' design is that the split-level dwellings proposed are not considered to be appropriate for the site, particularly due to the position of the rear return appearing above the ridge of the main dwelling section. Aesthetically, the dwellings have been designed to pay homage to the traditional vernacular but with a contemporary means of combining what presents as a traditional cottage at the front with what presents as a rural outbuilding (with barrel-roof) to the rear. The section of the building that links the front section to the rear has been designed to ensure that it is set in from all gables, to create a shadowing effect, that will visually separate the front from the rear sections, significantly reducing the scale, bulk and overall massing of the design.
- 5.15 The critical viewpoints, from the site frontage along the Leitrim Road, are all below the level of the building. There will be little if any appreciation of the rear element standing proud of the front one. The dwellings would not be prominent on approach. There is no acceptance from the Council that this design feature will not be readily apparent when viewed from the majority of the surrounding countryside. Any long distance views will read in context as it will be perceived as a traditional rural grouping with buildings closely spaced. The dwellings are broken up into different elements and will not be seen as a single block.
- 5.16 The Council's comments on the design are subjective and there has been no attempt to show how this is an inappropriate design trait that offends any specific policy guidance (it does not). The Council's stance on this issue is inconsistent with the fact it granted permission for an identical design arrangement at Cottage Road, Killeen (LA07/2020/1126/F). The site contexts are similar as both are gap sites within AONB locations in the same Council area. This shows policy is not a barrier to this type of design feature.
- 5.17 The Council argues Policy CTY13 is offended only because of a design characteristic that does not offend any planning policy or guidance, and which is merely replicating what was recently approved by the Council elsewhere (also in a sensitive rural area). On that basis, we would respectfully request the Commission to set aside this, and indeed all reasons for refusal.

5.18 In relation to the third party comments on the AONB, the proposal has been designed to take respect the development pattern and be sympathetic to its AONB location. The proposal has a narrow gable and has one block set behind the other. Historically, development has been built along or into the hillside. In relation to access, the appeal proposal has visibility splays of 70m to the south and 60m to the north. These are accepted by the Council. The line of sight to the south already exists and no interference with third party lands at 15 Leitrim Road are required.

6.0 CONSIDERATION

6.1 The main issues in this appeal are whether:

- the appeal proposal is acceptable in principle in the countryside;
- the design of the building is appropriate in this rural and AONB location; and
- a safe access can be provided.

6.2 Section 45(1) of the Planning (Northern Ireland) Act 2011 states that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

6.3 The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) acts as the local development plan for the area in which the appeal site lies as Newry, Mourne and Down District Council has not, as yet, adopted a Plan Strategy for the district. The appeal site is in the countryside outside of any settlement limit. It is also within an AONB. BNMAP has no policies, proposals or designations material to the appeal proposal.

6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will apply until a local authority has adopted a Plan Strategy for its council area. The SPPS retains certain existing Planning Policy Statements (PPSs) including Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21). There is no conflict between the provisions of the SPPS and those of retained policy regarding issues relevant to this appeal. Therefore, in accordance with the transitional arrangements set out in the SPPS, the appeal should be determined in accordance with the retained policies of PPS21.

6.5 Policy CTY1 of PPS21 states that there are a range of types of development which are acceptable in the countryside in principle. One of these is the development of a small gap site sufficient only to accommodate up to two houses within an otherwise substantial and continuously built up frontage, in accordance with Policy CTY8 of PPS21.

6.6 Policy CTY8 'Ribbon Development' states that planning permission will be refused for a building which creates or adds to a ribbon of development. It continues 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.

- 6.7 The appeal proposal is for two single storey dwellings within a 0.25ha plot of land. The main block to the front of each dwelling would be of traditional, linear form, be single room deep and have a small front projection. Both would have a pitched roof finished in natural slate with a ridge height of approximately 5.3m. A second block would sit behind, and above, the main block of each. The second block would be of a similar size and ridge height to the main block, although it would be approximately 3m shorter in length. Each would have a barrel style roof finished in red zinc cladding. The two blocks would be connected by a narrow link, set back from all gables, with the links having a pitched roof of a slightly lower ridge height than the main blocks.
- 6.8 Parties agree that the appeal site constitutes a small gap site, between nos. 11, 15 and 17 Leitrim Road. However, parties disagree in relation to whether the proposal respects the existing development pattern along the frontage. The existing development pattern is to be assessed, as required by policy, in terms of size, scale, siting and plot size. This is not solely a mathematical exercise, but also based on a visual inspection on the ground.
- 6.9 The existing development pattern comprises two large plots at no. 11 and no. 15 Leitrim Road and the small roadside plot at no. 17. The large dwellings at nos. 11 and 15 are sited back from, and sit above, the road, with substantial front gardens. The small two storey house at no. 17 sits close to and level with the road and has limited amenity space to the front and rear. The parties' figures in relation to the road frontage and plot sizes of these dwellings differ. However, given the methods used to calculate these figures, I take the appellant's measurements to be more accurate. No. 11 has a frontage of approximately 38m and a plot size of 1955m²; no. 15 has a frontage of approximately 45m and a plot size of 2200m²; and no. 17 has a frontage of 28m and a plot size of 400m².
- 6.10 The established development pattern varies between the three houses along the substantial and continuously built up frontage. However, there is a clear difference between the large suburban bungalows at nos. 15 and 11 Leitrim Road and the small roadside dwelling at no. 17. When travelling along Leitrim Road in both directions no. 17 is somewhat visually detached from nos. 11 and 15 due to the topography and intervening vegetation. Consequently, the appeal site has a strong visual relationship with nos. 11 and 15, particularly travelling north along the road towards the appeal site. This is particularly evident at the crest of the hill adjacent to no. 11 Leitrim Road.
- 6.11 The appeal site itself, which contains rising land, has a road frontage of 47.5m and with an overall area of approximately 2500m². It is proposed to accommodate two dwellings within it. Whilst the size of the road frontage of each proposed plot would be similar or less than that at no. 17 Leitrim Road, the size and scale of the proposed dwellings would be much larger than it. The proposed dwellings would be similar in size to those at no. 15 and no. 11, but on significantly smaller plots.

- 6.12 Further, the consequence of siting two dwellings on the appeal site would be that the space between the existing dwellings would be significantly reduced. In my view, rather than consolidating the existing pattern of development, the proposed dwellings would result in a form of development that would appear cramped in and be out of keeping with the existing development pattern along the frontage. This would be unacceptable.
- 6.13 Whilst the appellant has planning permission for a single dwelling on the appeal site (LA07/2021/1860/F), I consider the size of the two plots and frontage proposed, combined with the size and scale of the proposed dwellings, and their close physical relationship to the adjacent buildings, make the appeal proposal unacceptable and would not result in betterment as argued by the appellant.
- 6.14 Taking all of the above into account, I consider that the appeal proposal would not respect the existing development pattern along the frontage. The appeal proposal does not comply with Policy CTY8 of PPS21. I acknowledge the design constraints on the site, specifically the difficulty the access and site levels cause in relation to site design. However, the access issue is, in part, related to landownership. This is something that could potentially be resolved and, in any case, I do not consider these factors overcome the non-compliance with policy. Consequently, the Council has sustained its second reason for refusal.
- 6.15 The appeal proposal is therefore not one of the types of development which are acceptable in principle in the countryside in accordance with Policy CTY1 of PPS21. I was provided with no overriding reasons why the development is essential and could not be located in a settlement. As a consequence, the proposal also fails to comply with Policy CTY1 of PPS21 and the Council has sustained its first reason for refusal.
- 6.16 Policy CTY13 of PPS21 'Integration and Design of Buildings in the Countryside' states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. It states that a new building will be unacceptable in seven circumstances. The Council have raised concerns in relation to criterion (e) in that the design of the proposed dwelling is inappropriate for the site and its locality.
- 6.17 The assessment of design is, by nature, subjective. The main block of each dwelling would be vernacular in design, with a linear form. Its height would be in keeping with the surrounding dwellings. However, the rear block would have a red zinc barrel style roof, sitting almost 2.5m above the front block. Whilst it may be similar in design to an agricultural building, there are no such similar buildings in the immediate locality. While this design in general may be appropriate in the rural area, I do not consider it would be appropriate for this particular elevated site or locality, especially given its prominent position sitting over 2m above the main block.
- 6.18 Travelling north along Leitrim Road, due to the positioning of the proposed dwellings, the scale and depth (approximately 19.5m) of the proposed dwellings would be readily apparent particularly coming over the crest of the hill near no. 11. They would appear out of keeping in this locality where dwellings have a traditionally narrow linear form with a limited scale and bulk.

- 6.19 The appellant pointed to a planning approval at Cottage Road, Killeen (LA07/2020/1126/F) for a house of similar design. That house was an infill dwelling, also within an AONB. However, that permission related only to a single dwelling, on a more gently sloping site where the second block would be predominantly screened from view due to the orientation of the dwelling and the alignment of the road. For these reasons, the depth of that dwelling would not be readily apparent from the roadside. Consequently, I do not consider that decision demonstrates inconsistency in decision making, nor lends support to the appeal proposal. Taking all of the above into account, I consider the proposed dwellings would not visually integrate into the surrounding landscape due to their inappropriate design. The Council has sustained its third reason for refusal.
- 6.20 The third party has raised concerns regarding the impact on the AONB. I have already concluded that the design of the appeal proposal is inappropriate for the site and its locality. By extension, the design is also inappropriate for this part of the AONB. Consequently, the third party concerns are upheld in this respect.
- 6.21 Concerns regarding access and visibility splays have also been raised by the third party. However, the appellant has shown visibility splays of 2m x 60m and 2m x 70m, which the Council consider to be acceptable. I consider the visibility splays indicated would be sufficient to provide a safe access to and from the appeal site. I am reinforced in this view as visibility splays of similar dimensions have been approved for a single dwelling on the appeal site. I have no persuasive evidence that the visibility splays would encroach on the third party lands. The third party concerns in this regard are not sustained.
- 6.22 As I have found the two proposed dwellings at this location would not be in keeping with the established development pattern along the substantial and continuously built up frontage, the appeal proposal is contrary to Policy CTY8 of PPS21. It is also contrary to Policy CTY1 of PPS21. Therefore, the appeal proposal is not acceptable in principle in the countryside. Furthermore, its design is inappropriate for its rural location. It is contrary to Policy CTY13 of PPS21. The third party concerns in respect of the AONB are also upheld. There are no material considerations which outweigh the failure to comply with policy. For these reasons, and as the Council have sustained all three of its reasons for refusal, the appeal must fail.

7.0 **RECOMMENDATION**

7.1 I recommend to the Commission that the appeal be dismissed.

7.2 This recommendation relates to the following drawings:-

Drawing No.	Title	Scale	Date Received by Council
P01	Site Location Plan	1:2500	13 th November 2019
SV01	Site Survey	1:500	13 th November 2019
P02c	<u>Site Sections and House Type 1</u> Proposed Site Layout Proposed Elevations (front, rear, side x 2 and cross section elevations x 2) Proposed ground floor plans	1:500 1:100	12 th October 2020

		1:100	
P03a	<u>Site Sections and House Type 2</u>		12 th October 2020
	Proposed Elevations (front, rear, side x 2 and partial elevations A-A and B-B)	1:100	
	Proposed ground floor plan	1:250	
	Proposed site sections A-A and B-B		

COMMISSIONER LAURA RODDY

List of Documents

Planning Authority:-	"A1" Statement of Case by Newry, Mourne and Down District Council
Appellant:-	"B1" Statement of Case by O'Callaghan Planning "B2" Post Hearing Evidence – copy of planning permission LA07/2021/1860/F
Third Party:-	"C1" Statement of Case by L. Rimell

List of Appearances

Planning Authority:-	Ms Claire Cooney, Newry, Mourne and Down District Council
Appellant:-	Mr Colin O'Callaghan, Agent



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2021/A0128
Appeal by:	Cathal Mc Groder and Moira Fegan
Appeal against:	The refusal of full planning permission
Proposed Development:	Erection of a dwelling house and garage
Location:	50m west of 15 O'Callaghan Road, Tullydonnell, Silverbridge, Newry BT35 9LX
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2020/1002/F
Procedure:	Written Representations with Commissioner's site visit on 29 th April 2022
Decision by:	The Commission dated 16 th August 2022

The Commission has considered the report by Commissioner Laura Roddy and accepts her analysis of the issues and recommendation that the appeal should be dismissed. The Commission agrees that the Council's first and second reasons for refusal have been sustained.

Decision – the appeal is dismissed and full planning permission is refused.

This decision is based on the following drawings:-

Drawing No.	Title	Scale	Date Received by Council
19010-100	1. Site Location Map	1:2500	22 nd July 2020
	2. Existing Site Survey	1:1000	
	3. Proposed Site Plan	1:500	
	4. Proposed Ground Floor Plan	1:100	
	5. North East Elevation	1:100	
	6. North West Elevation	1:100	
	7. South West Elevation	1:100	
	8. South East Elevation	1:100	
	9. Proposed Front 3D View	-	
	10. Proposed Rear 3D View	-	
	11. Proposed Garage Layout	1:100	
	12. Garage Side Elevation 1	1:100	
	13. Garage Front Elevation	1:100	
	14. Garage Rear Elevation	1:100	
	15. Garage Side Elevation 2	1:100	

HELEN FITZSIMONS
Principal Commissioner

Note: The validity of this decision may be challenged by applying to the High Court for a judicial review. This must be done within three months of the date of the decision.

PLANNING APPEALS COMMISSION

THE PLANNING ACT (NORTHERN IRELAND) 2011

SECTION 58

Appeal by
Cathal McGroder and Moira Fegan
against the refusal of full planning permission for proposed erection of a dwelling
house and garage on a site 50m west of 15 O'Callaghan Road, Tullydonnell,
Silverbridge, Newry, BT35 9LX.

Report
by
Commissioner Laura Roddy

Planning Authority Reference: LA07/2020/1002/F
Procedure: Written Representations
Commissioner's site visit: 29th April 2022
Report Date: 14th June 2022

1.0 **BACKGROUND**

1.1 Newry, Mourne and Down District Council received an application for full planning permission on 22nd July 2020 for 'proposed erection of a dwelling house and garage'. By notice dated 9th July 2021 the Council refused planning permission giving the following reasons:-

1. **The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.**
2. **The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not considered an infill opportunity as the site is not seen as being a gap site within a substantial and continuously built up frontage and does not represent an exception of 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 design of the proposed dwelling is considered inappropriate for the site and its locality.**
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 result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to and further erode the rural character of the countryside.**
5. **The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) 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.**

1.2 The Commission received the appeal on 24th October 2021 and advertised it in the local press on 10th November 2021. No representations were received from third parties.

2.0 **SITE AND SURROUNDINGS**

2.1 The appeal site is located in the countryside, on the eastern side of O'Callaghan Road. It is rectangular in shape and is well defined by trees and mature vegetation on all its boundaries.

2.2 Immediately northwest of the appeal site is an agricultural field, part of which is stoned and gated. To the immediate northwest of this field is no. 19 O'Callaghan Road, a detached single storey dwelling.

- 2.3 Southeast of the appeal site is a roadside field roughly laid in stone which contains a mobile home and a container. This field is bound on all sides by tall trees and mature vegetation, with the exception of the access. No. 15 O'Callaghan Road lies behind this field and is accessed from the road by two laneways, one on either side of the field. No. 15 and its associated outbuildings are not visible from the roadside, although glimpses of the buildings are possible at the junction of the laneways with the road.

3.0 PLANNING AUTHORITY'S CASE

- 3.1 Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. PPS21 states that planning permission will be granted for a gap site which is accordance with Policy CTY8.
- 3.2 Policy CTY8 states that there is an exception to develop a small site sufficient only to accommodate a maximum of two dwellings. The distance between no. 19 to the west and no. 15 to the east is approximately 80 metres. This gap includes an area of agricultural land adjacent to the appeal site to the west, not included as part of the appeal site. Given the distance between the buildings it is considered that this gap is sufficient to accommodate 2 dwellings, with the appeal proposal to provide one of those dwellings. The proposed plot size and siting would be considered acceptable given other properties in the area.
- 3.3 To the west of the appeal site is an area of agricultural land, beyond which lies no. 19 O'Callaghan Road. This dwelling is considered to have a frontage to the public road as the site and its amenity area extends to the road edge. To the east of the site is what has been identified as no. 15 O'Callaghan Road and its associated buildings including a farm cottage and outbuildings. Although there are buildings to the east of the appeal site these are set back from the public road with a large area between the road and the buildings. The buildings are accessed by two laneways, with only one visible. It is narrow and overgrown and has the appearance of an agricultural lane or track. As such the buildings are not considered to have a frontage with the road given their position set back from the public road. The agricultural lane that serves the building would not be considered as providing a frontage given its narrow and overgrown state.
- 3.4 As such, the appeal site is not considered to be a gap within an otherwise substantial and continuously built up frontage. The proposal is not considered an exception to policy under Policy CTY8. As there are no reasons why the development is essential in this rural location it is also contrary to Policy CTY1.
- 3.5 Policy CTY13 - Integration and Design of Buildings in the Countryside, requires a new building in the countryside to be able to integrate visually within the landscape in which it is set. In terms of Policy CTY13 the proposal would make use of some existing mature trees along its western boundary which would provide screening. As such, the proposal would not be a prominent feature in the landscape given the established natural boundaries that will provide a suitable degree of enclosure for the proposed dwelling and garage to integrate. The proposal will not rely primarily on the use of new landscaping as existing retained vegetation will aid integration. The proposed design is considered inappropriate for the site and its locality and as such the proposal is considered contrary to Policy CTY13 part (e).

- 3.6 Policy CTY14 requires that buildings in the countryside do not cause a detrimental change to, or further erode, the rural character of the area. Although the proposal is not considered an infill opportunity and there are buildings to the east of the site it is not considered that the proposal would lead to the creation of ribbon development as the buildings to the east are set back from the public road and not considered to have a frontage with the public road. The proposal would not be considered unduly prominent in the landscape but, given other development in the area, it is considered that the proposal would result in a suburban style build-up. The proposal is considered to be contrary to Policy CTY14 part (b).
- 3.7 Planning Policy Statement 2 Policy NH6 is applicable due to the location in the Area of Outstanding Natural Beauty (AONB). The siting (for the reasons noted) is considered unsympathetic to the special character of the AONB and therefore fails this policy criterion.
- 3.8 No conditions were put forward on a without prejudice basis, should the appeal be allowed.

4.0 APPELLANTS' CASE

- 4.1 Planning Policy Statement 21, Sustainable Development in the Countryside, Policy CTY1 sets out a range of types of development which, in principle, are considered to be acceptable in the countryside and will contribute to the aims of sustainable development. Policy CTY1 of PPS21 states that planning permission will be granted for an individual dwelling house in the countryside for the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY8.
- 4.2 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 it 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.
- 4.3 The main issues raised in this appeal hinge on whether the existing buildings at no. 15 O'Callaghan Road, east of the appeal site, have a road frontage in accordance with Policy CTY8 and therefore PPS21.
- 4.4 The planning authority does not consider no.15 O'Callaghan Road (and its associated buildings) to have a frontage to the public road. They consider common frontage does not exist at 15 O'Callaghan Road due to its position set back from the public road and, as the lanes serving these buildings are narrow and overgrown, they do not result in the buildings having a frontage to the road.
- 4.5 It is clear that Policy CTY8 has been misinterpreted. Policy CTY8, at paragraph 5.33, states that "buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development if they have a common frontage". Furthermore, paragraph 5.33 also states that "for the purposes of this

policy a road frontage includes a footpath or private lane". Additionally, it also states that a ribbon "does not necessarily have to be served by individual accesses".

- 4.6 Policy CTY8 does not discriminate against buildings which are sited back but in fact includes them as still representing ribbon development providing they have common frontage. A building has a frontage to a road, footpath or lane if the plot on which it stands abuts or shares a boundary with that road, footpath or lane. The common frontage in the case of no. 15 is the private lanes. The main private lane directly fronting no.15 Farmhouse is at its narrowest central point, approximately 2.7m width which is acceptable by DfI Roads under planning policy requirements and guidance. It was also acknowledged in the previous planning permission for no.15 (P/2010/0605/F) that the site is accessed from O'Callaghan Road via two separate lane ways which acknowledges the common frontage. Additionally, no.15 is not fully screened from the public road and can be visually seen from the ground at both the proposed site and private lane fronting the main farm dwelling. It also has amenity areas associated with each dwelling that share the same public road boundary.
- 4.7 There are several other contributing factors that further support the main principle of development in accordance with Policy CTY8 as stated by the planning authority in the 'Planners Professional Report' as follows:
- Given the distance between buildings it is considered that this is a gap sufficient to accommodate 2 dwellings with the application being to provide one of those dwellings;
 - The proposed plot size and sitting would be considered acceptable given other properties in the area; and
 - The overall layout would be considered acceptable with the property centrally located and sufficient amenity and parking provision shown.
- 4.8 In August 2020 the Council granted planning permission for another infill site with similar road frontage and similar conditions (Planning Ref. LA07/2020/0508/O, Greenan Lough Road, Newry). The Professional Planning Report for that application expresses the same principle of development under Policy CTY8, whereby a substantial and continuous built-up frontage was found under similar circumstances to that of no. 15 of the present appeal site. The drawings submitted with that application show the existing buildings to the southeast were sited back from the public road. However, the curtilage, despite being overgrown in foliage as a result of still having extended to the road via private lane(s) had been identified as having a frontage to the public road in accordance with Policy CTY8. The planning report also refers to a previous PAC appeal decision (2016/A0040) which illustrates how an "infill" has been identified in line with a substantial and continuously build up frontage in accordance with the main principle of development (Policy CTY8).
- 4.9 In relation to Policy CTY1, the appeal site is family owned and the appellants are a married couple with 4 young kids from 8 years and under. The appellants do not have any other property in their possession, nor do they have any other opportunity, or plan to re-locate their young family to within a settlement elsewhere. The appellants are currently renting a countryside home local to the appeal site to remain close to the family farm, community and local schools and

childcare which they depend upon each day. It is the appellants' intention to remain in this local community in which they have lived their lives to date, and this could also be taken into consideration when considering reasons why this development is essential to this family at this location.

- 4.10 In reference to refusal reason 3, the proposed dwelling was designed to mimic, and not have a visual impact greater than, the existing dwellings and outbuildings within the curtilage of no.15. It was also designed considering the previous approval (P/2010/0605/F). That approval sought to replace all existing buildings within no.15 and merge into one. That application was accepted based on the existing building layout and was considered acceptable within the locality.
- 4.11 The planning authorities concern raised regarding the design of the appeal proposal was that the dwelling includes substantial front projections to each end of the property which it considered out of keeping with the location. The front projections would extend no greater than approximately 5.5m wide and protrude 6.7m from the main living area of the proposal. The previous approval has projections up to 8m wide and protruding up to 21m. When considering the existing building layout and previous planning approval, it can only be interpreted as the planning authority did not recognise or consider the existing buildings at no.15 as relevant to the proposed site. No. 15 has failed to be recognised with regard to the locality by the planning authority.
- 4.12 The appellants were also willing to change the house type to a more traditional rural design, and this was indicated at application stage. The agent proposed a much more vernacular form could be submitted with a more sustainable modern style. However, the planning authority did not respond and an official recommendation for refusal followed. The planners report stated "no amended drawings were submitted and as such only the existing drawings can be considered." The latest response by the planning authority to a local councillor and the appellants confirmed even though the planning authority did not accept the principle of development it was acknowledged that the issue surrounding design could be resolved.
- 4.13 There are several other contributing factors that further support the appeal regarding Policy CTY13 (e) as stated in the 'Planners Professional Report' as follows:
- The overall layout would be considered acceptable with the property centrally located and sufficient amenity and parking provision shown; and
 - In terms of Policy CTY13 the proposal will make use of some existing mature trees along its western boundary which will provide screening and as such the proposal will not be a prominent feature in the landscape given the established natural boundaries that will provide a suitable degree of enclosure for the proposed dwelling and garage to integrate.
- 4.14 In reference to refusal reason 4, the appeal proposal should be recognised as complying with the permitted exception of Policy CTY8. This will not lead to a suburban style build up of development when viewed with the existing buildings under the main principle of development. It should therefore be considered that the appeal proposal is not contrary with Policy CTY14 part (b). It has been acknowledged in the 'professional planning report' that the proposal is not

considered unduly prominent in the landscape, the plot size and siting is acceptable in the area, the overall layout would be considered acceptable with the property centrally located and that the established natural boundaries will provide a suitable degree of enclosure for the proposed dwelling and garage to integrate. Furthermore, in association with the adjacent no.15, the proposal is believed to integrate sensitively along with a group of existing buildings such as that of a farm complex as stated in Policy CTY14, paragraph 5.79, point two.

- 4.15 Additionally, the proposed dwelling aims to centrally align with the adjacent buildings at no.19 and no.15 outbuildings and farm cottage. Each dwelling, including the proposal, would have a common frontage by way of private lane access and amenity areas which extent to the road edge.
- 4.16 In reference to refusal reason 5, it is recognised that new development within an AONB will be granted where it is of appropriate design, size and scale for the locality. Design is addressed as above. As acknowledged within the planning authorities report the overall layout would be considered acceptable when centrally located and the plot size and siting would be considered acceptable given other properties in the area. The appeal site is well vegetated and enclosed from public view beyond its existing entrance to the public road and it has also been acknowledged by the planning authority that the proposal will make use of existing mature trees along its boundary to provide screening and as such it would not be a prominent feature in the landscape. The established natural boundaries will provide suitable enclosure for the dwelling and garage to integrate. The proposal also sets out to retain mature trees and vegetation including supplementary vegetation along its boundary providing additional screening. The proposal sets out to restore existing dry-stone walls and there is a willingness to exceed normal building control standards to reduce energy consumption and overall carbon footprint.
- 4.17 In additional, there are a number of concerns relating to the processing of the planning application, including:
- An unusual number of changes in case officer;
 - Failure to let the agent/appellants know prior to their site visit when it was taking place and who was in attendance;
 - No prior notification was given on the recommendation for refusal; and
 - Issues with the unsuccessful call-in to Planning Committee application.

5.0 CONSIDERATION

- 5.1 The main issues in this appeal are whether appeal proposal;
- is acceptable in principle in the countryside;
 - would erode the rural character of the area; and
 - would be unsympathetic to the special character of the AONB.
- 5.2 Section 45(1) of the Planning (Northern Ireland) Act 2011 states that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

- 5.3 The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) acts as the local development plan for the area in which the appeal site lies as Newry, Mourne and Down District Council has not, as yet, adopted a Plan Strategy for the district. The appeal site is in the countryside outside of any settlement limit. It is also within an AONB. BNMAP has no policies, proposals or designations material to the appeal proposal.
- 5.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will apply until a local authority has adopted a Plan Strategy for its council area. The SPPS retains certain existing Planning Policy Statements (PPSs) including Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) and Planning Policy Statement 2: Natural Heritage (PPS2). There is no conflict between the provisions of the SPPS and those of retained policy regarding issues relevant to this appeal. Therefore, in accordance with the transitional arrangements set out in the SPPS, the appeal should be considered in accordance with the retained policies of PPS21 and PPS2.
- 5.5 Policy CTY1 of PPS21 states that there are a range of types of development which are acceptable in the countryside in principle. One of these is the development of a small gap site sufficient only to accommodate up to two houses within an otherwise substantial and continuously built up frontage, in accordance with Policy CTY8 of PPS21.
- 5.6 Policy CTY8 'Ribbon Development' states that planning permission will be refused for a building which creates or adds to a ribbon of development. The appellants argued that there is an existing ribbon of development along this part of O'Callaghan Road, consisting of no. 19 and no. 15 and its associated outbuildings and laneways. They consider the appeal site forms an exception to the policy which otherwise seeks to restrict ribbon development. Paragraph 5.33 of the justification and amplification to Policy CTY8 advises as to what ribbon development can be. It states 'buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked'. No. 19 O'Callaghan Road is adjacent to the public road, set back approximately 55m. It is visible from the roadside. However, the buildings at no. 15 O'Callaghan Road, due to their set back position and surrounding vegetation, are not visible from the roadside. The buildings are only visible in part from the gates to their respective laneways. They are not visually linked with no. 19 O'Callaghan Road and therefore there is no ribbon of development.
- 5.7 Policy CTY8 continues 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.

- 5.8 The appellants made arguments that the laneways to no. 15 O'Callaghan Road constitute frontage to the road and therefore a substantial and built up frontage exists. 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. None of the buildings at no. 15 O'Callaghan Road abut or share a boundary with O'Callaghan Road as they sit behind a roadside plot. For these reasons, I consider the buildings at no. 15 O'Callaghan Road do not have frontage to the road.
- 5.9 Immediately east of the appeal site, in front of no. 15 O'Callaghan Road, is a roadside field containing a mobile home and a container. I was given no information on the planning status of these structures and cannot take them into account in my analysis. In any event, I note the appellants' do not seek to rely on them to demonstrate there is a substantial and built up frontage within which the appeal site lies.
- 5.10 No. 19 O'Callaghan Road to the northwest has frontage to the road, and parties agree this is the case. As I have concluded no. 15 O'Callaghan Road does not have frontage to the road, there is no substantial and continuously built up frontage along this part of O'Callaghan Road. Given this, the appeal site is not a small gap site for the purposes of policy. The Council has sustained its second reason for refusal.
- 5.11 Policy CTY1 permits other types of development where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. The appellants' argue they are well integrated in the local community, having grown up there and with a family farm in the locality. They currently rent a dwelling near the appeal site and their children attend school and childcare locally. They wish to continue to reside in the area. However, I was given no evidence that their current rental arrangement is not sustainable in the long term, or other accommodation is not available in the vicinity. I am not persuaded; either individually or in combination, that the generalised arguments provided amount to an overriding reason why the proposed dwelling is essential. On the evidence before me, I am not persuaded that the appeal proposal could not be located in a settlement. Consequently, the appeal proposal does not comply with Policy CTY1 of PPS21 and the Council has sustained its first reason for refusal.
- 5.12 Policy CTY13 of PPS21 'Integration and Design of Buildings in the Countryside' states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. It states that a new building will be unacceptable in seven circumstances. The Council have raised concerns in relation to criterion (e) in that the design of the proposed dwelling is inappropriate for the site and its locality.

- 5.13 The appellants argued that the appeal proposal has been designed to mimic, and not have a greater visual impact than the existing dwellings and outbuildings within the curtilage of no. 15 O'Callaghan Road. No. 15 O'Callaghan Road sits behind a roadside plot and is well screened from public view. The appeal site on the other hand sits adjacent to the public road at a similar setback to no. 19 O'Callaghan Road and, despite the existing and proposed landscaping, with a length of approximately 23m and ridge height of approximately 5.2m, would be clearly visible from the roadside. Whilst the main linear element of the building is of a vernacular style, I consider the large projections to the front elevation are inappropriate and suburban in design and would be out of keeping with the area. In relation to the approval on the adjacent site of no. 15 O'Callaghan Road (P/2010/0605/F), whilst it has a similar u-shaped layout, it was orientated with the gable end facing the road rather than the main elevation. The projections were also to the rear of the property rather than to the front, in contrast to the appeal proposal where the projections dominate the front elevation. For these reasons, and despite the proposal to restore existing dry-stone walls, I find the design of the proposed dwelling to be inappropriate for the site and locality. The Council has sustained its third reason for refusal. Whilst an amended and more vernacular design may resolve such concerns, as this is an appeal for full planning permission I can only determine the appeal on the plans before me.
- 5.14 Policy CTY14 of PPS21 '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 the area. Five circumstances are listed where a new building will be unacceptable. The Council have raised concerns under criterion (b) which states that a new building will be unacceptable where it results in a sub-urban style build-up of development when viewed with existing and approved buildings. As there is only one building in close proximity to the appeal site, which would be seen in conjunction with the appeal proposal, I do not consider that the appeal proposal would result in a suburban style build-up of development. The Council has not sustained its fourth reason for refusal.
- 5.15 Policy NH6 of PPS2 states planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality and provided three additional criteria are met. One of the additional criteria requires the siting and scale of the proposal to be sympathetic to the special character of the AONB in general and of the particular locality. The Council's reason for refusal solely relates to the siting of the appeal proposal. The Council have not described the special character of the AONB which it is seeking to protect. Nor did the Council explain why the siting is not sympathetic to that special character. O'Callaghan Road has a number of dwellings located at the roadside. I am not persuaded that the siting of the appeal proposal, resulting in one additional roadside dwelling along this road, would be unsympathetic to the AONB. Consequently, the Council has not sustained its fifth reason for refusal.
- 5.16 The appellants raised other planning decisions in support of the appeal. In the Greenan Road case (LA07/2020/0508/O) the Council considered the curtilages of the buildings on either side of the gap extended to the road and therefore the buildings had frontage to the road. In the Acre Lane decision (2016/A0040) the Commissioner found all the buildings shared a boundary with Acre Lane and therefore formed a substantial and built up frontage to the lane. The circumstances of these decisions are distinguishable from the appeal proposal.

- 5.17 The appellants raised concerns regarding the processing of the application for planning permission. These are matters between the appellants and the Council, they are not relevant to my assessment of the appeal proposal.
- 5.18 The appeal site is located in the countryside. As I have found there is no substantial and continuously built up frontage, it cannot be considered a small gap site and therefore does not meet the exception test in Policy CTY8 of PPS21. I have also concluded that there are no overriding reasons why the development is essential and could not be located in a settlement. The appeal proposal is contrary to Policies CTY1 and CTY8 of PPS21 and therefore the appeal proposal is not acceptable in principle in the countryside. Although it would not result in a suburban style of build up, its design is inappropriate for its rural location. Consequently, it is also contrary to Policy CTY13 of PPS21. There are no material considerations which outweigh the failure to comply with policy. For these reasons, the appeal must fail.

6.0 RECOMMENDATION

- 6.1 I recommend to the Commission that the appeal be dismissed.
- 6.2 This recommendation relates to the following drawings:-

Drawing No.	Title	Scale	Date Received by Council
19010-100	1. Site Location Map	1:2500	22 nd July 2020
	2. Existing Site Survey	1:1000	
	3. Proposed Site Plan	1:500	
	4. Proposed Ground Floor Plan	1:100	
	5. North East Elevation	1:100	
	6. North West Elevation	1:100	
	7. South West Elevation	1:100	
	8. South East Elevation	1:100	
	9. Proposed Front 3D View	-	
	10. Proposed Rear 3D View	-	
	11. Proposed Garage Layout	1:100	
	12. Garage Side Elevation 1	1:100	
	13. Garage Front Elevation	1:100	
	14. Garage Rear Elevation	1:100	
	15. Garage Side Elevation 2	1:100	

COMMISSIONER LAURA RODDY

List of Documents

Planning Authority:-

"A1" Statement of Case by Newry, Mourne and Down District Council

Appellant:-

"B1" Statement of Case by DW Architecture on behalf of Cathal McGroder and Moira Fegan

"B2" Rebuttal by DW Architecture on behalf of Cathal McGroder and Moira Fegan



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

Appeal Reference:	2021/A0148
Appeal by:	Messrs M & P Fitzsimons
Appeal against:	The refusal of full planning permission
Proposed Development:	Proposed building for mixed agricultural purposes
Location:	Lands 186m due west of 83 Crew Road, Ardglass
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2021/0536/F
Procedure:	Written representations and Commissioner's site visit on 28 June 2022
Decision by:	Commissioner McShane, dated 30 August 2022.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's second reason for refusal refers inadvertently to the "existing" agricultural building. It is clear from the description of development that the appeal relates to a "proposed" building. No prejudice arises.

Reasons

3. The main issue in this appeal is whether the proposed development is acceptable in principle.
4. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Ards and Down Area Plan (2015) operates as a LDP. The appeal site is located outside any settlement development limit defined in the plan. There are no operational plan policies pertinent to this specific proposal. I therefore turn to other material considerations.
5. The appeal site is located in the open countryside, therefore Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) provides the policy context. It is identified by the Strategic Planning Policy Statement for NI (SPPS) as a retained policy document.
6. Paragraph 6.73 of the SPPS and Policy CTY 1 of PPS 21 list a range of types of residential and non-residential development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

7. The Appellants argue that the proposed development would comprise agricultural development in accordance with Policy CTY 12 of PPS 21. They claim that the building for mixed agricultural use is required as there are no dedicated facilities for lambing, storage of fodder and storage of farm machinery and equipment on the agricultural holding.
8. The starting point for making an assessment under Policy CTY 12 is establishing whether there is an active and established agricultural holding. Paragraph 5.56 of PPS 21 advises that for the purposes of policy, the determining criteria for an active and established business will be that set out under Policy CTY 10. The farm holding's DARD business ID number and other evidence to prove active farming were provided to the Council and it accepts that there is an active and established agricultural holding.
9. Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural holding where it is demonstrated that five specified criteria are met. The parties dispute Criterion (a). In cases where a new building is proposed, applicants are required to confirm three additional bullet points. The parties dispute the first and third. Exceptionally under Policy CTY 12, consideration may be given to an alternative site away from existing farm buildings providing two further bullet points are met. The parties dispute both.
10. Criterion (a) of Policy CTY 12 requires demonstration that the development is necessary for the efficient use of the agricultural holding. The proposed 645m² building would have a profiled metal sheet roof (5m/6m high). Upper walls and gables would comprise vertical sections of metal sheeting while the lower walls would be prestressed wall panels. Two 4.5m wide by 4m high metal doors would be located in the western elevation; a third 6m wide by 4m high door would be located in the southern elevation. The building would be open along a 12m section to the north-west where stock fencing and a slurry drainage channel would be in place. A concrete apron would surround the building to the east and south.
11. The proposed building would be divided internally. It would comprise sheep pens for lambing/shearing/welfare (180sqm), dry fodder storage (90sqm), farm implement and plant storage (270sqm), a farm office and area for storage of animal medicines and first aid (90 sqm). Reference is also made to plastics and metals (storage for recycling chemicals).
12. Letters from Downe Veterinary Clinic indicate that it would be essential for the Fitzsimons brothers, Crossmore to build proper handling facilities and housing facilities on their property to ensure the safety of personnel and the welfare of animals being handled.
13. A letter from Linden foods, dated September 2020, indicates that as Mr M Fitzsimons is intending to increase his breeding ewe numbers and is hoping to turn to an earlier lambing season, investment in buildings to provide shelter and comfort at lambing would be required.
14. The Appellants argue that the appeal is driven and underpinned by an ongoing restructuring and farm diversification to a specific breed of sheep, constituting 50% of the farm enterprise. The letters from Down Veterinary Clinic and Linden Food

- point to the need for dedicated lambing facilities. However, the proposed lambing area constitutes only a portion of the proposed building. Furthermore, the letters do not refer to the specific location proposed.
15. A list of equipment and plant held by the farm was submitted. It is apparent that machinery is stored within and outside the existing farm buildings at Crossmore Road. It is claimed that additional machinery is stored at No.83 Crew Road, the home of Mr M Fitzsimons, who argues that the proposed building is necessary to provide for maintenance and security. An incident of theft in 2019 is cited. The desire to store farm machinery indoors is understandable. However, the proposed building would be located approximately 180m away from No.83 Crew Road and it would not be within line of sight. As such, it seems unlikely that it would address the security concerns raised.
 16. It is argued that the use of existing buildings by birthing ewes is causing financial hardship because it means that cattle normally over wintered indoors with feed provided within the farmyard in silage clamps are being kept outside with the need to transport silage every other day. It is also claimed that calving is being delayed, which has financial implications. However, this presupposes that there are no opportunities for renovation, alteration or redevelopment of existing buildings on the agricultural holding to meet the stated needs.
 17. In cases where a new building is proposed, Policy CTY 12 requires Applicants to provide sufficient information to confirm three additional bullet points. The parties dispute the first and third.
 18. The first bullet point requires a demonstration that there are no suitable existing buildings on the holding that can be used. The existing buildings (Buildings 2-11) on the agricultural holding are located to the rear of 7 Crossmore Road (Building 1, which is the home of Mr P Fitzsimons). They vary in age, size, design and condition. With the exception of Building 3, which is described as an "old substandard byre", information is provided on Buildings 2-11. They are used for storing fuel, housing cattle, calving, birthing ewes, lamb nursery and storage of hay and straw bedding; silage clamps are stored outside. Appendix 5 of the Appellant's evidence indicates that some of the buildings have a dual purpose; being used for the sheep flock or cattle herd depending on need and given the absence of dedicated lambing facilities.
 19. At the time of my site visit, use of the existing buildings was limited. I accept that their use and the intensity of their use will vary depending on the season. Notwithstanding this, I have not been persuaded that renovation, alteration or redevelopment opportunities do not exist at 7 Crossmore Road that would meet the stated needs.
 20. The third bullet point requires demonstration that the proposed development is sited beside existing farm buildings. The appeal site (circa 0.2 ha) comprises part of an agricultural field set back and west of Crew Road to the rear of intervening vegetation. Mr M Fitzsimons' dwelling (No.83) is located approximately 190m away on the opposite side of Crew Road. The proposed building, rather than being sited beside existing farm buildings, is located approximately 2 miles away (approximately 1 mile via a farm track). There is no existing development at the appeal site.

21. It is argued that the proposed building could not be located beside the existing farm buildings at Crossmore Road as it would have an unacceptable impact on the amenity of residential dwellings outside the holding. Specifically, that a 75m separation distance cannot be obtained between the building and third-party residential dwellings.
22. However, No.8 is located south of Crossmore Road to the rear of its own large farmyard and as such is unlikely to be impacted by a new building to the rear of No.7. Similarly, No.9 is located immediately adjacent to No.7 and its associated farm buildings; Buildings 4, 5, 6 and 7 are used for cattle. Consequently, a new building is unlikely to have an unacceptable impact on its residential amenity.
23. In any event, sheep farming and storage of equipment is ongoing at 7 Crossmore Road and there is no indication that the residential amenity of these properties has been unacceptably impacted to date.
24. The proposed building could be located at the existing buildings while maintaining a distance of 75m from No.5 Crossmore Road and Nos.24 and 26 Church Road respectively. In any event, the fact that only a portion of the proposed building would be used for birthing and providing nursery facilities for sheep must also be weighed in the balance in assessing the likely impact upon residential amenity. The storage of farm machinery and equipment would be unlikely to have any unacceptable negative impact.
25. In the event that there would be a need to provide visibility splays at 7 Crossmore Road, their extent would be determined by the Department for Infrastructure: Roads. If it turned out that Third Party lands were required, that would be a private matter between the Appellants and the owner of the land.
26. The passing reference made to welfare, bio security compliance and DAERA regulations indicating that these ruled out the new building being erected anywhere on the holding other than the appeal site is not persuasive. It has not been demonstrated that the building as proposed is necessary for the efficient use of the agricultural holding or that it cannot be located beside existing farm buildings.
27. *Exceptionally* (my emphasis), Policy CTY 12 permits consideration to be given to an alternative site away from existing farm buildings, provided there are no other sites available at another group of buildings on the holding, and where it is essential for the functioning of the business; or there are demonstrable health and safety reasons. I have already concluded that the building as proposed is not necessary for the efficient use of the agricultural holding and that if desired, could be located beside the existing farm buildings. The Health and Safety Advisor Report submitted by the Appellant to demonstrate health and safety reasons why the appeal site is fully compliant with policy does not alter my conclusions in this respect. The Council's second and third reasons for refusal based on Policy CTY 12 of PPS 21 are sustained.
28. CTY 1 states that other types of development will only be permitted where there are overriding reasons why the development is essential. Information is presented in relation to Mr P Fitzsimons health. As a consequence of his medical condition,

Mr M Fitzsimons now takes the lead role in the agricultural holding. However, Mr P Fitzsimons' health, the distance between the existing buildings at 7 Crossmore Road and Mr M Fitzsimons home at 83 Crew Road, and the quality of the land in that immediate vicinity, including the reference to the presence of badger setts, neither individually nor cumulatively constitute overriding reasons that would render the development essential at the proposed location remote from existing buildings on the holding. Accordingly, the Council has sustained its first refusal reason based upon Policy CTY 1 of PPS 21.

29. The Appellants' Rebuttal Statement references the Council's planning approval for an agricultural shed under Ref LA07/2021/1029/F. Raising new evidence in a Rebuttal Statement constitutes poor practice. Nonetheless, the evidence is before me.
30. It is argued that the grant of planning permission in that instance demonstrates that the Council has been inconsistent in its decision making. However, the approved 95m² agricultural shed is "expected to cluster with the existing farmhouse and associated outbuilding and garage". By comparison, the proposed appeal building is remote from any development on the agricultural holding. I have not been persuaded that the circumstances are directly comparable with the appeal proposal. In any event, each application must be determined on its own merits in the evidential context.
31. Notwithstanding that the Appellants are local people; the proposed development is required to comply with policy. Any concern the Appellant have about the Scheme of Delegation are matters to be raised directly with the Council.

This decision is based on the following drawings:-

- APP Drwg No 1640.01P-Rev A: Location Map, Existing Site Plan Layout & Proposed Site Plan Layout (Scale 1:500 / 1:2500)
- APP Drwg No 1640.02P: Floor Plans, Elevations and Perspective Renders (Scale 1:100)

COMMISSIONER MCSHANE

2021/A0148

List of Documents

Planning Authority:-

"LPA 1" Statement of Case and Appendices

"LPA 2" Rebuttal Statement

(Newry, Mourne and Down District Council)

Appellants:-

"APP 1" Statement of Case and Appendices

"APP 2" Rebuttal Statement and Appendices

(Sam Hawthorne Associates Ltd)