



April 4th, 2023

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 5th April 2023** at **10:30 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 Chairpersons Remarks.

2.0 Declarations of Interest.

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

Item 8 - LA07/2022/0299/0 - A site visit was held on 29 March 2023 - Cllrs Byrne, Harte, Larkin, Murphy, McAteer, McEvoy and O Hare, attended

4.0 Minutes of Planning Committee Meeting held on Wednesday 08 March 2023. (Attached)

 *Planning Committee Minutes - 08.03.2023.pdf*

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5.0 Addendum List. (Attached)

 *Addendum list - 05-04-2023.pdf*

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Local Development Plan Items

6.0 No items.

Development Management - Planning Applications for determination

7.0 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. (Attached)

APPROVAL

- A statement of objection has been submitted to the application with a request that it be placed before Committee. **(Submission attached)**
- A request for speaking rights has been received from Tom Stokes, Karen McShane, Brian McConville & Damien Broderick, in support of the application. **(Submission attached)**

 *La07.2021.0987.F Section 54 Variation of Condition final 27.02.23 (003).pdf*

Page 15

 *Item 7 - LA07-2021-098-F (objection).pdf*

Page 40

 *Item 7 - LA07-2021-0987-F (support).pdf*

Page 43

8.0 LA07/2022/0299/O - Proposed site 2 no. infill dwellings and garages - Between 55 & 57 Drumalt Road, Dorsey, Newry (100m West of 55 & 60m South of 57). (Attached)

REFUSAL

- In line with the Operating Protocol there will be no further speaking rights on this application. Mark Tumilty agent and Eugene McCreesh, applicant, will be available to answer any queries Members might have.
- A site visit was held on 29 March 2023 - Cllrs Cllrs Byrne, Harte, Larkin, Murphy, McAteer, McEvoy and O Hare, attended

 *2022 0299 - Drumalt Road.pdf*

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Development Management - Planning Applications for determination

9.0 LA07/2020/0767/O -Proposed Residential Housing Development- Lands at Bridle Loanan NW of Ridgefield Grove and NE of Woodlands, Warrenpoint. (Attached)

APPROVAL

- Addendum List

 *LA07_2020_0767_O report.pdf*

Page 54

 *LA0.20.0767 Addendum Bridle -Loanan.pdf*

Page 67

10.0 LA07/2022/0030/F - Approximately 265 metres west of No. 30 Levallyreagh Road Rostrevor - Erection of replacement dwelling and garage with associated ancillary site works. (Amended access proposals received). (Attached)

APPROVAL

- Addendum list

 *LA07.2022. 0030. f.pdf*

Page 76

 *LA07.22.0030 Addendum.pdf*

Page 83

11.0 LA07/2022/0210/F - Retention of existing outdoor customer

seating area - Ground floor unit 12 Seaview, Warrenpoint, BT34 3NJ. (Attached)

APPROVAL

- A request for speaking rights has been received from Ciaran Rafferty Solicitor, in objection to the application. **(Submission attached)**

📄 *LA07-2022-0210-F Wpoint.pdf*

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📄 *LA07.22.0210 Addendum.pdf*

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📄 *Items 11 & 12 (object).pdf*

Page 102

12.0 LA07/2022/0226/F - Ground Floor Unit 12 Seaview Warrenpoint, BT34 3NJ. (Attached)

APPROVAL

- A request for speaking rights has been received from Ciaran Rafferty Solicitor, in objection to the application. **(Submission attached)**

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

Proposed opening times:

Monday to Saturday open to general public 9am to 6pm,

Monday to Saturday open for ticketed events 6pm to 10pm

Sunday open to general public Midday to 4pm,

Open for private guest breakfasts 9am to 11am,

Open for ticketed events 4pm-9pm.

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

open to the general public on Sunday morning.

 *LA07-2022-0226-F wpoint.pdf*

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 *LA07.22.0226 Addendum.pdf*

Page 114

13.0 LA07/2022/0537/F -Proposed demolition of the existing dwelling and garage, to facilitate construction of a replacement 2 no. storey detached dwelling and attached garage and all associated site and access works - 55 Windmill Road Kilkeel, Newry BT34 3LP - (Attached)

APPROVAL

- A request for speaking rights has been received from Peter Beamish, in objection to the application. **(Submission attached)**
- A request for speaking rights has been received from Damien Broderick TSA Planning and Ian Hill, applicant, in support of the application. **(Submission attached).**

 *LA07-2022-0537.pdf*

Page 118

 *Item13 LA07-2022-0537-F (objection).pdf*

Page 129

 *Item 13 - LA07-2022-0537-F (support).pdf*

Page 131

14.0 LA07/2022/0579/F - Proposed 30m telecommunications column, with 3 no. antennae, 2 no. radio dishes and 1 no. equipment cabinet. Proposal includes compound and associated ancillary works - On lands at Carrickbracken Business Park immediately west of 121 Camlough Road Camlough BT35 7JR. (Attached)

APPROVAL

- Addendum list

 *LA07-2022-0579-F Camlough Mast PDF.pdf*

Page 133

15.0 LA07/2022/1061/F - Replacement dwelling & retention of existing dwelling to be used as domestic storage - 250m North East of 10 Clontafleece Road Newry. (Attached)

REFUSAL

- A request for speaking rights has been received from David Mounstephen, Micah Jones, Jonny & Catriona Tohill, in support of the application. (Submission attached)

📎 *LA07-2022-1061-F.pdf*

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📎 *Item 15 LA07-2022-1061-F (support).pdf*

Page 160

16.0 LA07/2022/1179/O - Erection of dwelling and detached garage - Lands approximately 8m south east of no.143 Tullyah Road Whitecross. (Attached)

REFUSAL

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

📎 *LA07-2022-1179-O (infill) Tullyah Road.pdf*

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📎 *Item 16 - LA07-2022-1179-O.pdf*

Page 166

17.0 LA07/2022/1532/F - Proposed dwelling on a farm - Approximately 150m NE of 11 Ardkeeragh Road Newry BT34 1NW. (Attached)

REFUSAL

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

📎 *LA07_2022_1532_F Report (signed).pdf*

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📎 *Item 17 LA07-2022-1532-F (support).pdf*

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18.0 LA07/2022/0800/O - Proposed site for new detached dwelling & garage (infill development) - Lands approx. 35m South West of 55 Maphoner Road Mullaghbawn BT35 9TR. (Attached)

REFUSAL

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

📎 *LA07-2022-0800-O (infill) 55 Maphoner Rd (Amended) (002) (002).pdf*

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📎 *Item 18 LA07-2022-0800-O (Support).pdf*

Page 184

19.0 LA07/2022/0292/F - Demolish the current modular unused 110m2 community centre. Proposal to build a new traditional 170m2 community centre on the current playground and provide a small carpark on the old community centre ground -2 Oriel Drive Downpatrick. (Attached)

APPROVAL

- Addendum List

 [LA07-2022-0292-F.pdf](#)

Page 186

20.0 LA07/2022/1738/LBC - Installation of New Lightning Protection System - Newcastle Centre 10-14 Central Promenade Newcastle. (Attached)

CONSENT

- Addendum List

 [LA07-2022-1738-LBC.pdf](#)

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For Noting

21.0 Historic Action Sheet. (Attached)

 [Planning HISTORIC TRACKING SHEET - Updated March 2023.pdf](#)

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22.0 Planning Committee Performance Report.

23.0 Current Appeals and Decisions.

NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 08 March 2023 at 10.00am in the Boardroom, Monaghan Row, Newry and via Microsoft Teams.

Chairperson: Councillor D McAteer

In attendance: **(Committee Members)**
 Councillor R Burgess (Teams)
 Councillor P Byrne
 Councillor G Hanna
 Councillor V Harte
 Councillor M Larkin
 Councillor A Lewis (Teams)
 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 Pat Rooney	Principal Planning Officer
Ms N Largey	Legal Advisor
Mr Peter Rooney	Legal Advisor
Ms A McAlarney	Senior Planning Officer (Teams)
Mr M Keane	Senior Planning Officer (Teams)
Ms P Manley	Senior Planning Officer (Teams)
Mr A Donaldson	Senior Planning Officer (Acting) (Teams)
Ms S Taggart	Democratic Services Manager (Acting)
Ms L Dillon	Democratic Services Officer
Ms L Cummins	Democratic Services Officer
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

P/020/2023: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillor Devlin.

P/021/2023: DECLARATIONS OF INTEREST

There were no Declarations of Interest.

P/022/2023: DECLARATIONS OF INTEREST IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL- PARAGRAPH 25

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

- Item 6 LA07/2022/1069/F– all Councillors were present for discussion/decision at the Planning Meeting held on 8 February 2023

MINUTES FOR CONFIRMATION

P/023/2023: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 8 FEBRUARY 2023

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

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

FOR DISCUSSION/DECISION

P/024/2023: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 08 March 2023. (Copy circulated)

AGREED: On the proposal of Councillor McEvoy, seconded by Councillor Harte, the following was agreed:

- **Item 12 - LA07/2022/1076/F** - Proposed Battery Energy Storage System (BESS) 150MWh (75MW/2hrs), new Access and ancillary Development - Lands approx. 200m South East of No 12 Crabtree Road Ballynahinch **to be added** to the addendum list **APPROVAL**
- **Item 19 - LA07/2022/0704/F** - Erection of a dormer style farm dwelling and detached garage - Lands approx. 190m north of No 14 Old Road Crossmaglen Newry BT35 9AL, **to be removed** from the Addendum List at the request of Cllr M Murphy.

It was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 08 March 2023:

- **LA07/2022/1565/F** - Provision of a sprayed concrete skate skateboard facility consisting of ramps and ridges. Also including a pump track constructed from crushed aggregate. The track is constructed at variable heights between 0.3 and 1.3m in height. the proposal is to connect in the pump track and skate parks with the existing stone path around the site - Dunleath Park Downpatrick. **APPROVAL**
- **LA07/2022/1181/F** - Paving works (granite sett paving and resin bound surfacing) Replacement of wooden slats on existing seats Engraving of letters on existing seats Wrapping existing service boxes with vinyl artwork (content to be confirmed by Council) - The Square Mary Street Rostrevor BT34 3GU **APPROVAL**
- **LA07/2022/1076/F** - Proposed Battery Energy Storage System (BESS) 150MWh (75MW/2hrs), new Access and ancillary Development - Lands approx. 200m South East of No 12 Crabtree Road Ballynahinch **APPROVAL**
- **LA07/2020/1082/F** - The application site starts at the national border between Northern Ireland and the Republic of Ireland (Easting 311753; Northing 319462) and extends up to/includes the Victoria Lock Amenity Site (Easting 310808; Northing 320817) - Construction of two isolated portions (75m & a 130m) of a shared walking and cycling greenway from/to the national border between Northern Ireland and the Republic of Ireland to/from the existing car-park and amenity site at Victoria Lock along the Carlingford Lough Coast - incorporating a c. 5.0m wide greenway corridor to include: a 2-3m shared pedestrian and cyclist path; a 0.5- 1.0m wide grass verge / buffer area to provide suitable boundary fencing (where required), areas of 1 in 3 sloped earthworks and drainage (where required), a vehicle safety barrier along the R183 Fathom Line, directional signage for greenway users, all associated vegetation clearance, and within the Victoria Lock Amenity Site the construction of bicycle parking spaces, trail head signage, and an uncontrolled pedestrian crossing of the car-park access road **APPROVAL**

DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION

P/025/2023: PLANNING APPLICATIONS FOR DETERMINATION

(1) LA07/2022/1069/F

Location:

80-82 Market Street Downpatrick.

Proposal:

Change of use of the former bank (Class A2) to an amusement arcade/adult gaming centre facility and alterations to shop front

Conclusion and Recommendation from Planning Official:

Approval

Power-point Presentation:

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

Speaking rights:

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

Observing

Daniel Forde / Diane Thompson MBT Planning (via Teams)

In objection

Philip Campbell, Downpatrick Town Committee, (via Teams) Andy Stephens, Planning Consultant were available to answer any queries from Members.

Issues raised:

- Mr McKay reminded Members the purpose of the discussion on the application was to provide the PAC with Council's viewpoint, however, ultimately the PAC would decide the outcome.
- Mr McKay advised Members that as agreed at the Planning Committee Meeting on 8 February 2022, Planning had identified the numbers of businesses operating in the Downpatrick area of an entertainment/amusement/gambling nature and it was outlined on page 22 of their meeting pack.
- Mr McKay said he was aware of buildings that had planning permission for entertainment/amusement/gambling nature that had not been activated; one on Scotch Street had lapsed and a further one had closed. He said there was no upper / lower limit on the number that would be considered acceptable and given the use was towards the town centre, in planning terms, the application was acceptable.
- Councillor Byrne said what was outlined in DCAN 1 was in complete contrast to the information given by Mr McKay.
- Mr McKay said a judgement call would have to be made, he said he did not think the number of these types of businesses in Downpatrick town centre was excessive compared to other similar sized towns and he said they were a feature among High Streets and town centres.
- Councillor McAteer said paragraphs 3 and 4 of DCAN 1 gave no clear definition and asked for clarity from Planning.
- Mr McKay said it was guidance only and allowed for widespread discretion, and Members had the freedom to decide the effect they considered such a proposal would have on the character and appearance of the area.
- Ms Largey said the issue for Members to consider was what impact such a proposal would have on the character and to ensure they were not making a moral judgement.

Councillor Hanna proposed to accept the Officers recommendation and issue an approval in respect of Planning Application LA07/2022/1069/F, Councillor Larkin seconded the proposal.

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

FOR:	4
AGAINST:	5
ABSTENTIONS:	0

The proposal was lost.

Councillor Murphy proposed to issue a refusal in respect of Planning Application LA07/2022/1069/F contrary to Officer recommendation on the basis that he considered there would be a negative impact

on the town and traders and the proposal did not comply with DCAN 1. Councillor Harte seconded the proposal.

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

FOR:	5
AGAINST:	4
ABSTENTIONS:	1

The proposal was carried.

AGREED: On the proposal of Councillor Murphy, seconded by Councillor Harte it was agreed to issue a refusal in respect of Planning Application LA07/2022/1069/F contrary to Officer recommendation on the basis that it would result in having a negative impact on the town and traders and it did not comply with DCAN 1.

Planning Officers be delegated authority to impose any relevant conditions.

(2) LA07/2022/0151/O

Location:

94 Teconnaught Road Kilmore Downpatrick.

Proposal:

Replacement dwelling and detached 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

Mr Sam Hawthorne, 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 confirmed the existing dwelling was a non-listed vernacular building and had characteristics the HED would deem to be of importance.
- Mr McKay confirmed that in order to utilise the existing access and achieve the required visibility, it might well entail demolishing the long stone shed currently on the site, however he said Officers were open to a revised and safer access that could see the original dwelling

- Mr McKay said the proposed replacement dwelling would be located off-site and would require a new access and, as per policy the vernacular building would be demolished.
- Ms Largey said there were two questions Members had to consider in their determination: 1. Did the building make an important contribution thereby giving due weight to the statutory consultee's findings and 2. Can the building be made structurally sound, and, she said the economics of doing so should not be considered.
- Councillor Hanna said the agent had provided evidence to indicate the only feasible option was a replacement dwelling.
- Mr McKay said examples of the group of buildings were very well sought after in certain locations and everything should be done to retain them.
- Mr Hawthorne said there was no intention to demolish any of the buildings but that general safety would be enhanced by creating a new access to the proposed replacement dwelling.

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

FOR: 7
AGAINST: 2
ABSTENTIONS: 2

AGREED: On the proposal of Councillor Hanna seconded by Councillor Reilly it was agreed to issue an approval in respect of Planning Application LA07/2022/0151/O contrary to Officer recommendation on the basis that it would not be feasible to bring the existing dwelling up to an acceptable standard as outlined in the report by Savage Associates Engineers and presented to the Committee by Mr Sam Hawthorne, agent.

Planning Officers be delegated authority to impose any relevant conditions.

(Break 11.00 – 11.15)

(3) LA07/2021/2127/0

32 Old Road Wateresk Dundrum BT33 0QQ

Proposal:

Dwelling on a farm. Site to the South of the sheds & outbuildings

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

Mr John Harkness, 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 buildings could not be clustered with farm buildings that were not within the applicant's ownership.
- Mr McKay confirmed statutory consultees had not raised any objectives.
- Mr Harkness said the applicant's main farm buildings were off-site, located at Clough and he had been unable to secure planning permission at that location.
- Mr McKay said the onus was on the applicant to demonstrate there were no viable alternative sites within his ownership and, he said, Planning was not satisfied this was not the case.
- Mr Harkness said alternative sites had been looked at, but due to expense and health and safety issues this had not been feasible.

Councillor Larkin proposed to accept the Officers recommendation and issue a refusal in respect of Planning Application LA07/2021/2127/O. 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:	7
AGAINST:	0
ABSTENTIONS:	4

The proposal was carried.

AGREED:

On the proposal of Councillor Larkin, seconded by Councillor Byrne it was agreed to issue a refusal in respect of Planning Application LA07/2021/2127/O as per the information contained within the Case Officer report and presented to Committee.

(4) LA07/2022/0243/O

Location:

Lands approximately 50m south of 14 Sandy Brae, Attical

Proposal:

Erection of two dwellings (gap site)

Conclusion and Recommendation from Planning Official:

Refusal

Power-point Presentation:

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

Speaking rights:In support

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

Issues raised:

- Mr Rooney advised Sandy Brae was a private lane and it had not been adopted by DfI Roads.
- Mr Rooney said there were two separate laneways, both lanes were of equal status, and the PAC was in agreement the laneway to the NE, was a laneway in its own right and it broke the frontage.
- Ms Largey said although it was a planning judgement for the Committee, it was important Members gave significant weight to the advice from the PAC.
- Mr Rooney said it was important Members considered the Commissioner's findings as a whole and to note it had agreed with Plannings determination.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2022/0243/O contrary of Officer recommendation on the basis that he considered there was a continuous built-up frontage and it satisfied CTY 8. Councillor Larkin seconded the proposal.

Ms Largey reminded Members there were three areas they had to consider: 1. Whether or not there was a continuous built-up frontage, 2. If it represents a small gap-site and if so, 3. If that gap provided an important visual break in the countryside.

In response, Councillor Hanna said he considered it provided an infill opportunity for two dwellings, there was a substantial built up frontage, it was a gap-site, the rural character had already been lost with so many houses having been built and the proposal would not compromise the character of the area.

AGREED:

On the proposal of Councillor Hanna, seconded by Councillor Larkin it was agreed to issue an approval in respect of Planning Application LA07/2022/0243/O contrary to Officer recommendation on the basis that it provided an infill opportunity for two dwellings, it was a gap-site and the proposal would not compromise the character of the area.

Planning Officers be delegated authority to impose any relevant conditions.

The Chairperson advised that Planning Applications LA07/2021/0589/F, LA07/2021/0550/LBC and LA07/2021/0592/DCA would be heard together.

(5) LA07/2021/0589/F

Location:

Lands at the former St Clare's Primary School and Convent High Street Newry

Conclusion and Recommendation from Planning Official:

Approval

(6) LA07/2021/0550/LBC

Location:

Chapel building at the former convent of Poor Clare's High Street Newry

Proposal:

Restoration/refurbishment works to listed chapel building (grade B2) to facilitate conversion to a community hub facility with all associated works -

Conclusion and Recommendation from Planning Official:

Consent Approved

(7) LA07/2021/0592/DCA

Location:

Lands at the former St Clare's Primary School and Convent High Street Newry

Conclusion and Recommendation from Planning Official:

Consent Approved

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

Representatives from Clonrose Developments – Tom Stokes, TSA Planning, Robyn Nicholl, TSA Planning, Stephen Davy, Clonrose Developments, (applicant), Barry Gray, architect and Jon Anderson, Choice Housing.

AGREED:

On the proposal of Councillor Hanna, seconded by Councillor Larkin it was unanimously agreed to issue an approval in respect of Planning Applications LA07/2021/0589/F, LA07/2021/0550/LBC and LA07/2021/0592/DCA as per the recommendation contained within the Officers report and presented to Committee.

(8) LA07/2022/0299/O

Location:

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

Proposal:

Proposed site 2 no. infill dwellings and garages

Conclusion and Recommendation from Planning Official:

Refusal

Power-point Presentation:

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

Speaking rights:

In support

Mr Mark Tumilty, agent and Mr Eugene McCreesh, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Mr Tumilty confirmed the confirmed the commercial yard on the site belonged with the dwelling.
- Mr Rooney said the shed was not considered a building for the purposes of policy, the issue was the method of construction, and it could easily be moved as it did not rest on a firm foundation.
- Mr Tumilty said under CTY 8, and according to the PAC there was no requirement for it to be a permanent structure or to have foundations.
- Mr Rooney confirmed the site was not within the AONB
- Mr Rooney said planning policy was often silent on a number of issues and there was an element of judgement to be made, however, he said Planning did not consider the building to be acceptable for the purposes of policy.
- Mr Tumilty said the shed had been located on site for 8 – 9 years.

Councillor Hanna proposed to accept the Officers recommendation and issue a refusal in respect of Planning Application LA07/2022/0299/O. Councillor Lewis seconded the proposal.

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

FOR:	3
AGAINST:	6
ABSTENTIONS:	1

The proposal was lost.

Councillor Larkin proposed to defer Planning Application LA07/2022/0299/O for a site visit. Councillor Murphy seconded the proposal.

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

FOR:	10
AGAINST:	0
ABSTENTIONS:	0

The proposal was carried.

AGREED: **On the proposal of Councillor Larkin seconded by Councillor Murphy it was agreed to defer Planning Application LA07/2022/0299/O for a site visit, so Members could assess the site in more detail.**

(9) LA07/2022/0692/F

Location:

24 Carrivekeeney Road Newry Co. Down

Proposal:

Proposed replacement dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point Presentation:

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

Speaking rights:

In support

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

Issues raised:

- Mr Feehan said the applicant had ensured the rear extensions were made more subservient as had been requested by Planning.
- Mr Rooney said Planning Department had sought a reduction in the proposal in line with the outline condition, which, he said the agent had failed to comply with.
- Mr Rooney said the agent should have been clear it would not be possible to deliver the house within the red line without carrying out excavations.
- Mr Rooney said there had been two submissions by the agent and the set of drawings he was referring to, showed the excavations and embankment regrading outside the red line and he said the agent did not take any of that regrading off his amended plans. Mr Rooney said it was a procedural matter.
- Mr Feehan agreed the grading was outside the red line on the amended plans, but said the applicant wanted the application to be assessed as a full application and his understanding, when he was asked to move the red line, was that the house would have to be built within that line.
- Mr Rooney referred to an email that had been sent from Planning to the applicant advising him that Planning could not consider proposals outside the red line.
- Mr McKay said the officers had taken cognisance of the outline application and he said, what had been received was significantly more than that originally approved.
- Mr McKay said the proposal was a bigger scheme that strayed beyond the red line and, he said the applicant could, if he wished, expand the red line to give the same scheme and reapply, however there was no guarantee of outcome.

AGREED: On the proposal of Councillor Larkin seconded by Councillor McAteer it was unanimously agreed to defer Planning Application LA07/2022/0692/F to allow for Planning Officers/ agent / applicant to discuss potential solutions to make for a more acceptable scheme.

Planning Officers be delegated authority to impose any relevant conditions.

(10) LA07/2021/1143/O

Location:

40m north-east of no. 6 Dundalk Road Newtownhamilton.

Proposal:

Site for dwelling and detached 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

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

Issues raised:

- Ms Largey said the question for Members was to decide if they considered the two farm buildings outlined in the drawings were part of the farm. She said ownership wasn't determinative of the issue, but it was illustrative of whether they formed part of the farm.
- Mr Quinn said the land was owned by Moira Murray and farmed by her brother Joseph Quinn, who claimed farm subsidies for the land
- Mr Quinn said DAERA did not outline farm buildings in yellow on maps.
- Mr Quinn confirmed the farm in question was part of the original farm holding.
- Mr Quinn said Moira Murray owned the land and when required helped her brother Joseph in farming related issues.
- Ms Largey suggested a site visit and to defer for one month to allow time for officers to prepare a report outlining the areas of concern, this would give time for the applicant to provide the information that had previously been requested.
- Councillor Byrne said he did not consider a site visit would be of any advantage, he said he was very familiar with the area, and he was satisfied it was owned by Moira Murray, farmed by her brother and the two farm buildings were on the farm holding.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2021/1143/O contrary to Officer recommendation on the basis that he considered the two farm buildings were located on the farm holding, the application site clustered with the farm buildings and the application complied with CTY 10. 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: 10
AGAINST: 0
ABSTENTIONS: 0

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 LA07/2021/1143/O contrary to Officer recommendation on the basis that the two farm buildings formed part of the farm holding, the application site clustered with the farm buildings and the application complied with CTY 10.

P/026/2023: **HISTORIC ACTION SHEET**

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

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

P/027/2023: **PLANNING COMMITTEE PERFORMANCE REPORT**

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

P/028/2023: **CURRENT APPEALS AND DECISIONS**

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

The meeting concluded at 13.50pm.

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 05 April 2023

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

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

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



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

1.0 Application Reference: LA07/2021/0987/F

2.0 Date Received: 13.05.21

3.0 Proposal: Section 54 Application to vary Condition 17 of Planning Permission P/2013/0242/F.

Condition 17 reads: "Prior to the commencement of any works hereby permitted, the developer will be required to comply with the legislative process to stop up and abandon relevant parts identified by Transport NI of the existing Watsons Road. These works will require the developer to contact Transport NI Lands Branch to provide the necessary plans for this procedure to commence. The developer will also be liable for any costs associated with the processing of this Order and no works hereby permitted will be commenced until this process has been fully completed to the satisfaction of Transport NI"

to read:

'No more than those dwellings indicated within Phase 1, 2 and 3 of the development hereby permitted as indicated on drawing Nos 96, 97 and 98 received on the 7th July 2015, shall be occupied prior to the developer complying with the legislative process to stop up and abandon relevant parts identified by the Department for Infrastructure of the existing Watsons Road. These works will require the developer to contact Department for Infrastructure

Lands Branch to provide the necessary plans for this procedure to commence. The developer will also be liable for any costs associated with the processing of this Order and no works hereby permitted will be commenced until this process has been fully completed to the satisfaction of Department for Infrastructure.

4.0 Site Characteristics & Area Characteristics:

The application site is composed of 2 main sections, one section to the east of Watsons Road and one section to the west of Watsons Road located within the urban limits of Newry City. (Full details of site and characteristics/area can be viewed in planning report P/2013/0242/F)

5.0 Site History:

- P/2013/0242/F – Residential housing development of 200 units, approved 6th September 2019.
- LA07/2020/0282/DC - Discharge of condition No. 17 of Planning Application P/2013/0242/F. Condition not discharged. 23.07.20
- LA07/2020/1918/DC - Discharge of condition no. 17 of P/2013/0242/F. Withdrawn

6.0 Background (from 24 June 2022)

6.1 This application was removed from the schedule of the Planning Committee meeting of 27 July 2022. A number of matters had been raised on behalf of one objector; among them the failure of the Planning Department to consult with DfI Roads in respect of a letter of objection dated 18 February 2022 and the failure of the Planning Department to address the substantive issues raised in a series of letters of objection dating back to 10 August 2021.

6.2 A consultation was issued to DfI Roads in August 2022 in respect of the letter of objection of 18 February 2022. In response DfI Roads advised that they had considered not only the letter of

18 February 2022 but also additional correspondence from the same objector dated 24 June 2022 and 17 August 2022, together with a written submission/speaking note dated 17 August 2022.

6.3 In their response DfI Roads advise that the inadequacy of the local road network adjacent to the proposed housing development is well documented and the approach taken by DfI officials in respect of acceptable road improvements has been agreed through the original planning application process.

6.4 The first stage of new roadway will deliver the necessary infrastructure to support phases 1, 2 and 3 of the development. Full delivery in terms of traffic progression and safety along the new road alignment will not be fully achieved until these three phases of housing and infrastructure are complete.

6.5 It is unavoidable that as each housing site is developed, new carriageway will have to temporarily tie into an unimproved section. The benefits associated with the overall planned improvements will be considerable and ultimately an entire length of road will be provided to current standards if the development is allowed to progress.

6.6 DfI Roads are content that this condition can be varied as the variation is in line with the phasing plan of the original approval for phase 1, 2 and 3 and the relevant construction of phase 4 and 5 is at the developer's risk until the stopping up process has been completed.

6.7 DfI Roads are content that the infrastructure works carried out in the initial phases have the capacity to support the traffic generated within the first three phases of the proposed development as previously stated in the consultation response dated 25 February 2016 as part of the original application.

6.8 DfI Roads also noted that no further Transport Assessment is required as no changes have been made from the original

application and this application solely relates to a variation of a condition.

6.9 DfI Roads would state that the applicant is also aware that there is a possibility for refusal of the stopping up legislation and continuing with works of phases 4 and 5 will be at the developer's risk.

6.10 In relation to the point raised of judgement by District Judge King, DfI cannot make comment at this time due to ongoing legal proceedings in relation to that case.

6.11 A response to the substantive issues, set out in letters of objection dated 10 August 2021, 08 December 2021, 18 February 2022, 24 June 2022, 13 July 2022 and 17 August 2022, issued to the solicitor representing the objector on 1 September 2022.

In addressing the substantive issues the following comments were made;

The lack of justification/explanation does not invalidate the application nor prevent the Planning Authority from proceeding to consider the merits of the application.

6.12 The process of obtaining approval for the abandonment and stopping up of a public road is a separate stand-alone statutory process. The Planning Authority recognises that the outcome of the process could be negative and that participants have a right to object. If the outcome were to be negative, the road infrastructure would still be delivered albeit in an amended manner. The Planning Authority does not accept that the applicant in this case is inviting the Council to Pre-determine a separate statutory process.

6.13 The stopping up process is a stand-alone statutory process and will be determined on its merits by the responsible authority. This Planning Authority rejects any suggestion that its actions would compromise the openness and transparency of the process or influence the decision-maker in that process.

6.14 The Planning Authority is content that the nature of the original planning permission is unchanged and the improvements to Watsons Road will be delivered as part of that approval.

6.15 Any breach of planning control in respect of the approved development will be dealt with in the appropriate manner. The possibility of future enforcement activity is not relevant to the consideration of this application.

6.16 The Planning Authority would reject the assertion that any variation of the current condition is unlawful. The application will be determined on its planning merits having regard to the relevant development plan and all other material considerations.

6.17 The Planning Authority rejects the assertion that the DfI Roads response is flawed and contradictory. The Planning Authority considers the responses from DfI Roads to be measured and carefully considered.

6.18 The Planning Authority is content that the DfI Roads consultation response of 7 October 2021 and subsequent responses set out the consultee's position in a clear and concise manner, sufficiently detailed to allow the Planning Authority to progress the application. There is no evidence that DfI Roads has not given proper consideration to the matter, no evidence that DfI Roads has failed to read and understand the original permission as a whole or to fail to understand the reasoning for particular planning conditions.

6.19 The application was placed on the schedule for the Planning Committee meeting of 24 August 2022. However the late publication of the associated case officer report resulted in the application being removed from the schedule.

6.20 A further meeting of the Planning Committee was scheduled for 8 September 2022 to consider this application. However, in a letter dated 5 September 2022 from solicitors Carson McDowell representing EDB Construction Limited, additional grounds of

objection were received. It was their position that this was an application for major development pursuant to Article 6(1) of the Planning (General Development Procedure) Order (NI) 2015. As such the application should have been accompanied by a design and access statement. In response the Council removed the application from the Committee schedule in order to obtain a legal opinion on the matters raised.

6.21 Legal advice was obtained and a letter issued to the applicant on 28 November 2022. In that letter the Council advised that Article 6 of the Planning (General Development Procedure) Order (NI) 2015 applied to this application, being an application for major development. A further concern was raised which was that as this was an application for major development, then procedures relating to pre-submission consultation set out in section 27 of the Planning Act (NI) 2011 should have been followed. The parties were given an opportunity to express a view on these matters.

6.22 In response, the applicant did not agree with the position that the Council had set out in correspondence. However in an effort to progress this application the applicant has submitted a design and access statement on 6 February 2023. It has been the subject of consultation with the statutory consultee who returned no objections.

6.23 With regard to the Council concern in relation to need for a pre-application community consultation, the Council has given further consideration to this matter in deciding to bring this matter to Planning Committee. It has considered relevant representations from the parties in doing so, including an email recently received from the objector, setting out its view that pre-application community consultation is required.

6.24 Whether or not pre-application community consultation is required turns principally on the interpretation of relevant statutory provisions, in particular section 27(1) of the Planning Act (Northern Ireland) 2011. The Council is not aware of any judgment which has considered this issue.

6.25 Having reflected carefully on the representations received and the relevant statutory provisions, the Council is of the view that pre-application community consultation is not required. Section 27(1) applies to *“an application for planning permission for a major development”*.

A section 54 application like this one is not *“an application for planning permission for a major development”*. It is an application for planning permission *“for the development of land without complying with conditions subject to which a previous planning permission was granted”* (section 54(1)). There is clearly a difference in the language of and emphasis in section 27(1) and section 54(1). If the Assembly had intended the very specific type of application made under section 54(1) to be caught by the scope of section 27(1), then more specific language could have been used. The Council does not consider that it can have been the intention of the Assembly in enacting the Planning Act (Northern Ireland) 2011 that applications like this one under section 54 would automatically and always be caught by the requirement for pre-application community consultation, not least because the scope of such applications is narrow (section 54(3)) and such applications will, in the standard course of things, already have been subject to pre-application community consultation when the parent permission was granted (that is of course not the case here as the provisions relating to pre-application community consultation were not in force when the parent permission was granted). The Council finds support for this view in DMPN 24.

6.26 The Council is additionally content that this application has been brought to the attention of the community through the statutory consultation procedures and that the community has had an opportunity to comment on the application. All comments received have been taken into account by officers. The Council does not consider that there is any need for pre-application community consultation in this case.

7.0. STATUTORY CONSULTATIONS

7.1 DFI Roads (Consulted 13.03.23 – Enclosed objections) To comment

7.2 DFI Roads 07.03.23 - Dfi Roads are content that this condition can be varied as per the wording submitted.

7.3 DFI Roads 22.08.22 - Dfi roads can confirm that the submissions dated 18/02/22, 24/06/2022, 17/08/22 and speaking rights dated 17/08/22 have been noted and would respond as follow;

The inadequacy of the local road network adjacent to the above housing development lands is well documented and the approach taken by Dfi officials in respect of acceptable road improvements has been agreed through the original planning application process.

The first stage of new off-line roadway associated with the above application will deliver the necessary infrastructure to support phases 1, 2 and 3 of the development which has been designed in accordance DMRB. Full delivery in terms of traffic progression and safety along the new road alignment will not be fully achieved until these three phases of housing and infrastructure are completed.

It is unavoidable that as each housing site is developed, new carriageway will have to temporarily tie into an unimproved section. The benefits associated with the overall planned improvements will be considerable and ultimately an entire length of road will be provided to current standards if the developments are allowed to progress.

Dfi Roads are content that this condition can be varied as the variation is in line with the phasing plan of the original approval for phase 1, 2 and 3 and the relevant construction of Phase 4 and 5 is at the developer's risk until the stopping up process has been completed.

DFI Roads are content that the infrastructure works carried out in the initial phases have the capacity to support the traffic generated within the first three phases of the proposed development as previously stated in the consultation response dated 25 February 2016 as part of the original application.

The Department also notes that no further TA is required as no changes have been made from the original application and this application solely relates to a variation of a condition.

Again, Dfi Roads would state that the applicant is also aware that there is a possibility for refusal of the stopping up legislation and continuing with works of phases 4 and 5 will be at the developer's risk.

In relation to the point raised of judgment by District Judge King, Dfi cannot make comment at this time due to the ongoing legal proceedings in relation to that case.

7.4 DFI (Roads) 23.12.21 - Dfi Roads have noted the objection letters and our previous comments dated the 20th November (20.11.21 - Dfi Roads are content that this condition can be varied as per the wording submitted) are still applicable. Dfi Roads are content that the stopping up and abandonment are done in line with the phasing plan as the proposed roundabout and existing road network is deemed acceptable to cope with the initial phasing of the development prior to completion of the remaining phases and the proposed spine road.

7.5 DFI Roads 20.11.21 - Dfi Roads are content that this condition can be varied as per the wording submitted.

7.6 DFI Roads 07.10.21 - Dfi Roads considers the application unacceptable as submitted. Insufficient detail is available on transportation issues. Should Planning Service be minded to progress the application towards an approval Dfi Roads require the following points to be addressed.

1. DfI Roads do not require this variation of condition, be a prior to occupation condition for the whole development. The Department would accept a variation similar to the wording of condition 15 of P/2013/0242. Which would link the phasing of the proposed development to this condition.
2. The variation of the condition which would be acceptable to the Department would read: 'No more than those dwellings indicated within Phase 1, 2 and 3 of the development hereby permitted as indicated on drawing Nos 96, 97 and 98 received on the 7th July 2015, shall be occupied prior to the developer complying with the legislative process to stop up and abandon relevant parts identified by the Department for Infrastructure of the existing Watsons Road. These works will require the developer to contact Department for Infrastructure Lands Branch to provide the necessary plans for this procedure to commence. The developer will also be liable for any costs associated with the processing of this Order and no works hereby permitted will be commenced until this process has been fully completed to the satisfaction of Department for Infrastructure

8.0. OBJECTIONS & REPRESENTATIONS

8.1 Objections & Representations

- 38 neighbours notified
- Advertised initially in June 2021 and following change of proposal description was re-advertised November 2021.
- 18 letters of representation received to date:
 1. Carson Mc Dowell on behalf of EDB Construction(10 letters from the same address).
 2. 25 Dromliskin Court (2 letters from the same address)
 3. 16 Watsons Rd (2 letters from the same address)
 4. Watsons Road residents (2 letters no address)

5. 18 Brannock Heights (1 letter)
6. O'Toole and Starkey on behalf of EDB Construction (1 letter)

- Correspondence was submitted by the agent on the 6th February 2023 which included a covering letter and a Design and Access statement. This additional information resulted in notification to 38 neighbours/ objectors.

Following the additional correspondence and re-neighbour notification an additional 5 letters of objection were submitted from 16 Watsons Road, 18 Watsons Road, Watsons Rd residents, Carson Mc Dowell and O'Toole and Starkey on behalf of EDB Construction (this is included in the count of 18 received to date).

A request was also sought from Liz Kimmins (MLA) for a meeting with 3 of the residents that had lodged letters of objection, this took place 09.03.23.

8.2 Issues raised and consideration of objections:

The following paragraphs below set out specific objections raised by residents and others, together with the Planning Department's consideration in *italics* below to each of the objections raised:

8.2.1 Residents (18 Brannock Heights, 25 Dromliskin Court, 16 Watsons Rd and Watsons Road residents):

1. Why this change is being requested by the developer/ applicant?

The existing Condition 17 was agreed by the residents, with the developer, as a condition of supporting the development.

We request that Condition 17 is not altered and should revert to the previous wording.

It is the right of the developer/ agent in relation to any application to seek planning permission, this can also include applications made under Section 54 of the Planning Act (2011).

This is outside of the remit of the Planning Department to control.

This was explained at the meeting with residents on the 09.03.23.

2. Adverse effect on all road users and existing residents.

DFI in their consultation responses dated 20.11.21, 23.12.21, 22.08.22 and 07.03.23 raised no issues of concern.

3. The new link road may never happen/ phases 1-4 could be developed without need to construct the new road and phase 5.

If Condition 17 is altered, the stop up may never be implemented, and the developer will have built and occupied dwellings on the site. Neither Planning nor Residents will have any leverage to have the new Watsons Road completed and make the stop up happen.

The Planning Department cannot pre-determine whether or not the developer will proceed with the development as this lies outside the remit of the Planning Department to control.

This was also explained to the residents objecting in our meeting 09.03.23.

4. The introduction of a significant variation to the timescale of developing the road infrastructure is not acceptable to the local community

The applicant seeks to vary condition No. 17 of P/2013/0242/F only, this does not introduce a significant variation to the timescale as the remaining conditions set out within the original

notice P/2013/0242/F remain applicable including the time restriction in which to implement the permission.

5. Agreed with the developer that planning approval required before any houses are occupied to ensure the single-track Watsons Rd at the southern end does not become more dangerous.

Increased two-way traffic on the already extremely busy road could pose a risk to the health and safety of walkers on the road and/or vehicle drivers, due to limited passing places on the road.

As such, it seems reasonable to deduce that allowing further development, that will increase the number of traffic journeys along Watsons Road without implementing the traffic infrastructure previously agreed and deemed necessary to facilitate that development in a safe manner, will create further traffic hazard and compound the exiting traffic hazard of Watsons Road.

In the event of a serious accident along Watson Road, the decision to alter condition 17 of P/2013/0242/F must be seen as a contributing factor, if not a deliberate act of malfeasance.

DFI in their consultation response dated 20.11.21, 23.12.21, 22.08.22 and 07.03.23 raise no issue of concern in relation to road safety.

6. Request for variation has not been set out in the letter

It is not an unreasonable request by a developer or agent to seek a variation of condition.

This was further explained to the residents attending the meeting on the 09.03.23.

7. Developer has not been able to reach an agreement with an

adjoining landowner to allow the proposed new Watson's Rd to tie into the existing Watsons Rd to comply with planning and road service requirements.

Agreements between landowners are a civil matter which lie outside the remit of the Planning Department.

This was also explained to residents at our meeting on the 09.03.23.

8. Developer does not have the actual possession of every part of the land to which the application relates therefore the RVC1 application section 7 certificate of ownership dated 11th May 2021 not be acceptable to planning.

The developer has completed the Certificate of Ownership under Section 42 of the Planning Act (NI) 2011, confirming ownership and control of lands for the development.

Again, this was explained to residents at the meeting on the 09.03.23.

9. Increased volume of traffic in highly congested area

DFI in their consultation response dated 20.11.21, 23.12.21, 22.08.22 and 07.03.23 raise no issue of concern.

10. Higher level ground will cause loss of light and privacy

The application relates solely to a roads related matter, amendment to the condition will not cause loss of light or impact upon privacy.

11. Correspondence not uploaded

All letters of representation have been uploaded to the Planning Portal.

12. In previous correspondence from Dfi Roads, they reiterate the need for compliance with Condition 17, however in later correspondence Dfi Roads provide wording for the developer in which Dfi state, if used, they will accept an amendment of Condition 17.

The Planning Authority considering the totality of the consultation reply is satisfied that the response from DFI Roads has been appropriately and carefully considered, setting out a description of a planning condition that could be found acceptable.

13. The traffic reports for this development required Condition 17 as part of the approval.

There was no requirement within condition No. 17 to provide a traffic report.

14. This is a major change to this planning application and will have an adverse effect on all road users and existing residents.

The applicant seeks to vary condition No. 17 of P/2013/0242/F only, this does not introduce a significant variation to the originally approved development the remaining conditions set out within the original notice P/2013/0242/f remain applicable.

15. We also note that phases 1,2,3,4 and possibly 5 could potentially be developed without the need to construct the full length new Watsons Road. This should be seen as a significant risk for Dfi.

An alternative to amending Condition 17, is to facilitate the construction of the full new Watsons Road as part of phase one of the development plan. Given that the planning service objective is to have this road constructed as an integral part of the development infrastructure, it seems somewhat strange to force the developer to construct the road in phases, as opposed to facilitating the construction of the full roadway at the start of the development process.

DFI roads are content that the condition can be varied which will deliver the necessary infrastructure to support phases 1-3 of the development. Full delivery in terms of traffic progression and safety along the new road will not be fully achieved until these 3 phases of housing and infrastructure are complete. The construction phase of 4 and 5 is at the developers risk until the stopping up process has been completed

16. The volume of traffic will increase as phases 1, 2 & 3 are occupied, approximately 130 houses, increasing the pressure on the section of Watsons Road between Glen Hill and the stop up location.

Completing the new road first would solve the issue of increased congestion on the existing narrow Watsons Road.

17. The existing Watson's Road is an extremely busy, narrow road and is under pressure to cope with the current traffic volume without adding more to it. This is particularly noticeable at peak traffic times.

DFI are content that the infrastructure works carried out in the initial phases have the capacity to support the traffic generated within the first three phases of the proposed development.

18. We recently met with DFI Roads in relation to the stopping up of Watsons Road. They say that the stopping up can only take place when the new link road has been adopted in full, this will be a minimum one year after the completion of Phase 3. Therefore, the existing Watsons Road will have to cope with increased traffic volumes from the addition of 130+ dwellings and other road users as well as construction traffic for the remaining phases until the existing road is stopped up.

The Planning Authority was not engaged in this meeting and therefore cannot make comment.

8.2.2 Objection letters from Carson Mc Dowell on behalf of EDB Construction:

Specific objections raised by Carson McDowell on behalf of EDB Construction have been dealt with through separate correspondence (which is viewable on the public portal), consideration by the Planning Department is set out below in *italics*:

1. Failure to respond to substantive issues set out in letters of objection.

A response to the substantive issues have already been set out to letters dated 10.08.21, 08.12.21, 18.02.22, 24.06.22, 13.07.22 and 17.08.22 to the objector (detailing in relation to this has been set out in the addendum case officer report uploaded to the planning portal and dated 01.09.22).

2. Email from Carson Mc Dowell 24.02.23 the submission of a Design and Access statement – the content of that statement does not change the fundamental grounds of objection previously cited in objections lodged and those raised again.

Matters raised in previous correspondence have been considered and responded to.

8.23 Objection Letter from O'Toole and Starkey on behalf of EDB Construction (planning consideration in *italics*, see below):

1. • The P/2013/0242/F approved phasing plan requires a section of Watsons Road within the north of the site to be stopped up and abandoned as part of Phase 1.
 - The proposed re-wording of Condition 17 would allow Phases 1-3 of the housing to be occupied before stopping-up and abandonment is approved by DFI. If this re-wording of Condition 17 is approved, the new road works approved as part of Phases 1-3 could not be implemented without conflicts being created with the retained and unabandoned sections Doran's Hill and

Watsons Road. This failure to deliver the road improvements in Phase 1-3 would substantially change the access arrangements for the housing of those phases.

- The rest of Watson Road which is intended to serve the new development is upgraded, but the physical act of stopping up the existing Watsons Road cannot happen until the end of Phase 3 when the alternative through access on the new Distributor Road is provided.

DFI Roads in their consultation responses dated 07.03.23 have raised no issues and in their detailed response in 22.08.22 have set out that the condition can be varied in line with the phasing plan of the original approval whilst the remaining phases are at the developer's risk until the stopping up process is completed.

2. • Contrary to the assertion within this statement, the applicant does not control the land required to deliver the remainder of the new Distributor Road.
 - There is no guarantee that the application for stopping up and abandonment will ever be successful, particularly given the level of opposition to it, the objections that have been submitted to the application, and the fact the applicant does not control all the land required to deliver the new distributor road. DFI and the Council cannot lawfully pre-determine that process.

The Planning Department cannot pre-determine whether or not the developer will proceed with the development as this lies outside the remit of the Planning Department to control.

Agreements between landowners are a civil matter which lie outside the remit of the Planning Department.

9.0. PLANNING POLICY, GUIDANCE AND OTHER CONSIDERATIONS

9.1 The principle for residential development and access arrangements have been established through the granting of planning permission under P/2013/0242/F with relevant planning

policy and guidance considered which is fully detailed within the planning report. Matters relating to policy will not be revisited as the application remains extant.

9.2 The applicant has applied for a variation of condition No. 17 of P/2013/0242/F under Section 54 of the Planning Act 2011 which is a roads related condition. The applicant proposes to amend the wording of the former condition as outlined in the proposal description (See 3.0).

9.3 Issues for consideration include impact upon road safety, traffic progression, phasing/orderly development of the site, ensuring that the development does not deviate from the requirements of the area plan and there is no impact upon neighbouring amenity, these will be considered further in detail below.

10.0 Background (from 13 May 2021 – date of receipt)

10.1 The original application for a housing development P/2013/0242/F was approved on 6th September 2019 included condition No. 17 which is now subject to a Section 54 application (see wording at section 3.0).

10.2 An application to discharge this condition was submitted on the 29th January 2020 (LA07/2020/0282/DC) with consultation carried out with DFI who advised (26.02.20) that the condition could not be discharged until the stopping up process has been fully completed through DFI Roads.

10.3 As the condition could not have been complied with, the Planning Department issued correspondence on the 23rd July 2020 refusing to discharge condition No. 17 of P/2013/0242/F until the stopping up process had been fully completed.

10.4 Following this, a further application to discharge Condition No. 17 of application P/2013/0242/F was sought some 11 months later (LA07/2020/1918/DC – received 16.12.20). Having consulted

DFI roads they responded on the 24th March 2021 advising that they could not discharge the condition. Given the likely outcome that condition No. 17 of P/2013/0242/F would proceed to refusal the agent subsequently withdrew the application.

10.5 After these unsuccessful attempts to discharge condition No. 17 of P/2013/0242/F. It was not deemed an unreasonable request by the agent to seek an amendment/ variation of the condition.

10.6 Within 4 months of the previous application (LA07/2020/1918/DC) a Section 54 application (Application for permission to develop land without compliance with conditions previously attached) was submitted on the 13th May 2021 (LA07/2021/0987/F).

10.7 Initially the Section 54 application LA07/2021/0987/F was submitted seeking planning permission to vary condition No. 17 of P/2013/0242/F from:

'Prior to the commencement of any works hereby permitted, the developer will be required to comply with the legislative process to stop up and abandon relevant parts identified by Transport NI of the existing Watsons Road. These works will require the developer to contact Transport NI Lands Branch to provide the necessary plans for this procedure to commence. The developer will also be liable for any costs associated with the processing of this Order and no works hereby permitted will be commenced until this process has been fully completed to the satisfaction of Transport NI'

to read:

'Prior to the occupation of any part of the development hereby permitted, the developer will be required to comply with the legislative process to stop up and abandon relevant parts identified by Transport NI of the existing Watsons Road. These works will require the developer to contact Transport NI Lands Branch to provide the necessary plans for this procedure to

commence. The developer will also be liable for any costs associated with the processing of this Order and no works hereby permitted will be commenced until this process has been fully completed to the satisfaction of Transport NI'

10.8 Following consultation with DFI in their reply dated 7th October 2021 it was advised that they considered the application unacceptable as submitted and further added that DfI Roads do not require this variation of condition to be a prior to occupation condition for the whole development. The Department would accept a variation similar to the wording of condition 15 of P/2013/0242, which would link the phasing of the proposed development to this condition.

10.9 Given the consultation response from DFI the agent submitted a RVC 1 form on the 7th October 2021 which included a change of wording to:

'No more than those dwellings indicated within Phase 1, 2 and 3 of the development hereby permitted as indicated on drawing Nos 96, 97 and 98 received on the 7th July 2015, shall be occupied prior to the developer complying with the legislative process to stop up and abandon relevant parts identified by the Department for Infrastructure of the existing Watsons Road. These works will require the developer to contact Department for Infrastructure Lands Branch to provide the necessary plans for this procedure to commence. The developer will also be liable for any costs associated with the processing of this Order and no works hereby permitted will be commenced until this process has been fully completed to the satisfaction of Department for Infrastructure'

10.10 The application was re-advertised on the 15th November 2021 and neighbours re-notified with the amended proposal.

10.11 DFI were reconsulted on LA07/2021/0987/F regarding the amended wording of the Section 54 and advised on the 20th November 2021 that they were content that the condition could be varied as per the wording provided. A further consultation was

forwarded to DFI on the 25th November 2021 asking for them to consider all representations received in relation the Section 54 application. They responded on the 23rd December 2021 advising that DfI Roads have noted the objection letters and our previous comments dated the 20th November 2021 are still applicable.

10.12 Overall DFI have no objection in principle to the proposed variation of condition and have raised no matters of concern in relation to road safety matters.

11.0 Phasing of Development/ Orderly development of the site:

The decision notice P/2013/0242/F has specified planning conditions 13 - 15 in relation to the phasing of the development which allow for the progression of development through from:

Condition 13 (Relating to Phase 1 of the development): No more than those dwellings indicated in Phase 1 shall be occupied prior to the completion of all roadworks associated with Phase 1 on Doran's Hill, Watsons Road and internal housing roads.

Condition 14 (Relating to Phase 2 of the development): No more than those dwellings indicated within Phase 2 shall be occupied prior to completion of all road works associated with Phase 2 on the new distributor road, Glen Hill, Watsons Rd and internal housing layout.

Condition 15 (Relating to Phases 1, 2 and 3): No more than dwellings indicated in Phases 1, 2,3 shall be occupied prior to the completion of all road works associated with Phase 3 on the new distributor road, Watsons Road and internal housing layout.

The proposed variation of condition of no.17 in this case follows the existing phasing of the development as set out within the original permission but also binds the developer to provide the required works within each of the phases and complete the legislative process to stop up and abandon relevant parts as

identified by DFI. DFI in their consultation response dated 20.11.21, 23.12.21, 22.08.22 and 07.03.23 confirm that they are also content with the variation of condition in this regard.

12.0 Road Safety/ Traffic Progression:

DFI in its most recent consultation dated 7th March 2023 are content with proposals and have not raised any objection upon road safety or traffic progression matters.

13.0 Area Plan

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, insofar as material to the application, and to any other material considerations. The site is located within the development limit of Newry. The section of the site which lies to the east of Watsons Road is zoned for housing development (NY53) with defined key site requirements. The variation of Condition 17 of P/2013/0242/F will not prejudice the residential development of the site nor impact upon the key site requirements as set out within the Banbridge/ Newry and Mourne Area Plan 2015. Despite the requested variation of the condition, key site requirements can still be fully complied with. This proposal is not prejudicial to the area plan requirements.

14.0 Impact to Amenity:

The variation of the condition relates specifically to a roads condition in relation to road safety and traffic progression. DFI in their most recent consultation dated 07.03.23 have raised no issues of concern and are content that the stopping up and abandonment are done in line with phasing plan as the proposed roundabout and existing road network is deemed acceptable to cope with the initial phasing of the development prior to completion of the remaining phases.

15.0 Recommendation:

The Planning Department has fully considered the objections submitted in relation to the planning application.

The development of the site for residential purpose as approved under P/2013/0242/F will not be prejudiced by the variation of the condition as proposed.

DFI Roads are content with the proposal and has raised no issues of concern. There are no amenity concerns with proposal. As this is a variation of condition proposal, all other conditions of approval P.2013/0242/F remain applicable unless otherwise discharged. In this context and for reasons set out within the planning report above it is recommended to approve the application.

16.0 Case Officer:

Date:

Authorised Officer:

Date:

17.0 Draft Conditions:

1. The condition No. 17 of planning reference P/2013/0242/F is hereby varied to read:

'No more than those dwellings indicated within Phase 1, 2 and 3 of the development hereby permitted as indicated on drawing Nos 96, 97 and 98 received on the 7th July 2015, shall be occupied prior to the developer complying with the legislative process to stop up and abandon relevant parts identified by the Department for Infrastructure of the existing Watsons Road. These works will require the developer to contact Department for Infrastructure Lands Branch to provide the necessary plans for this procedure to 11 commence. The developer will also be liable for any costs associated with the processing of this Order and no works hereby permitted will be commenced until this process has been fully completed to the satisfaction of Department for Infrastructure.

Reason: In the interests of road safety and traffic progression.

2. This permission hereby granted relates solely to the variation of condition No. 17 of planning permission P/2013/0242/F and shall be read in conjugation with that decision notice. All other conditions of P/2013/0242/F remain (unless otherwise discharged) and shall be adhered to thereafter.

Reason: To ensure orderly development and that all other conditions of the previous approval are adhered to.

SUBMISSION

The application seeks amendment of Condition 17. This is a pre-commencement condition requiring the statutory abandonment and stopping up process to have been completed before development commences.

This is important because the separate statutory process under Article 68 of the Roads (Northern Ireland) Order 1993 is not guaranteed and could be refused. Original Condition 17 is also consistent with DFIs' own guidance.

DFIs' guidance sets out the developer is required to apply for an Stopping Up / Abandonment Order under Article 68 of the Roads Order.

DFIs' own guidance is clear that abandonment and stopping up should be dealt with prior to the commencement of development – consistent with Original Condition 17. The guidance states:

"The abandonment process must be successfully completed and any Conditions satisfied, before any relevant development work commences."

Despite this guidance being brought to the attention of the Council and DFI Roads, they have failed to consider or explain why they see fit to dispense with this guidance.

What the Committee is now told is that the necessary road infrastructure works and related stopping up and abandonment procedure may not in fact ever be achieved and, as a consequence, the necessary road works may never be delivered – see paragraph 6.9 of COR. As such, the planning harm the condition was designed to protect against is real.

Paragraph 6.12 of the COR is simply wrong in stating: *"if the outcome were to be negative, the road infrastructure would still be delivered albeit in an amended manner."* That is simply incorrect. The road infrastructure as approved would be incapable of delivery if the answer was negative. This undermines the reasoning presented to the Committee to approve. There is no information to base such an assertion upon.

Further, phase 1 of the development itself requires stopping up and abandonment (it is not solely after phase 3 as alleged). The premise of the recommendation before the Committee is flawed.

The original condition is reasonable, necessary and consistent with guidance.

It is claimed [paragraph 6.5 COR and by DFI Roads] that what is proposed is *"unavoidable"*. This is contrary to DFI Roads' own guidance and the original (standard) condition which is the norm and thus avoidable.

DFI Roads seeks to ignore its own statutory process and published guidance without explanation. Once again it simply responds, despite previous detailed submissions to state "no objection". No explanation of non-compliance with guidance or the impacts of a negative decision of the stopping up / abandonment process are explained.

DFI Roads continues to fail to explain how it is satisfactory to go against guidance where it is now admitted that the road may never be delivered as approved and required. No explanation is given as to whether or how that situation is safe or convenient for road users.

The proposal will result in the potential construction and occupation of 132 dwellings with no guarantee and the potential refusal of necessary stopping-up / abandonment orders required by DFI Roads.

The Committee should not forget the necessary roads infrastructure improvement and its guaranteed delivery in full was the basis of the original approval. It is now conceded that the proposal before the Committee can no longer achieve this. This proposal unilaterally, at the suggestion of DFI Roads, does away with that rationale without any evidence to support it or an explanation from DFI Roads.

The DFI Roads consultation response from August 2022, relied upon by the Council in this COR is out of date and fails to grapple with the issues raised and its own guidance. It is silent.

The duty of Case Officers and local councils to critically evaluate consultation responses and to avoid *"disproportionate reliance on presumptively expert consultees"* was recently affirmed by the Northern Irish Court of Appeal in *the Matter of an Application by Clare McCann for Judicial Review* [2022] NICA 60. After referring to the presumption in *R v (Morge) v Hampshire CC* [2011] UKSC2 that a consultee response is correct, McCloskey LJ, delivering the judgment of the Court, stated at paragraph 114:

*"...In law every presumption is rebuttable. Such statements do not absolve planning officials and committees alike from their duty to carefully evaluate the evidence assembled. **Planning officials in particular must critically evaluate and interrogate the evidence**, mindful of the differences between their role and that of the decision-making committee. **Nothing else will suffice to ensure the discharge of the indelible public law duties** outlined in the immediately preceding paragraph."*

There is no need nor basis for the Planning Committee to facilitate this amendment.

Conditions 13,14 and 15 are relied upon by the Council as a justification to permit the dispensing with the condition as originally imposed. However, those conditions are construction phasing conditions which relate in no way to the planning harm at which condition 17 is targeted. The permission when read as a whole is clear in this regard. It is simply wrong to claim reliance upon those conditions in a context where the road infrastructure is required to deliver a safe and convenient access and network for all road users is, as is now admitted, not guaranteed to be delivered.

Furthermore, the following fundamental flaws in DFI Roads' approach arise:

1. Phase 1 of the development requires the stopping up of part of Watsons Road and Dorans Hill Road where the roundabout is proposed to be built.
2. The stopping up and abandonment cannot be put off until after phase 3 as you are invited to do.
3. That is simply impossible and highlights the erroneous approach of DFI Roads.
4. The construction of phases 2 and 3 before the abandonment and stopping up occurs as suggested by DFI Roads and the Planners will further compromise road safety and traffic conflict.
5. Simply put, DFI Roads are mistaken as to fact and also its own guidance and invite the Committee into the same error the recent consultation response fails to engage or explain why. The updated consultation response fails to grapple with this.
6. The whole approach is predicated on the predetermination of the abandonment and stopping up not being refused. That cannot be so concluded absent a decision.
7. There is no need (or indeed evidence) for the Planning Committee to give support or credence to that predetermination.
8. The Committee is asked to allow development without the critical roads' infrastructure needed for it being guaranteed to be delivered.
9. The original Transport Assessment report for this application is dated April 2013 and the surveys were in February 2013. It is over 9 years old and fails to deal with or comprehend the now acknowledged potential for the negative outcome of a stopping up /abandonment process.
10. Transport Assessment reports completed using traffic information older than 36 months are normally unacceptable for review of updated proposals or revisions to applications.
11. This has never been set out for the Committee.

PLANNING POLICY SUBMISSION

The application should be refused for the following policy reasons:

1. The applicant has not submitted a Transport Assessment to properly consider the impacts of allowing Phase 1-3 traffic onto the existing road network, contrary to PPS3 Policy AMP6.
2. The proposal would prejudice road safety and significantly inconvenience the flow of traffic, contrary to PPS3 Policy AMP2. The existing infrastructure is unsuitable for all associated traffic. That is the rationale underpinning the original approval that requires stopping up and abandonment from the outset.
3. DFI Roads are well aware the (then) Minister overturned its original objection to the development proposal specifically on the basis of the delivery of the road improvements to Watsons Road, which includes its realignment and stopping up/abandonment. The proposed development was previously considered unacceptable by DFI Roads under PPS3 policy without the delivery of these works.
4. The condition would be difficult to enforce, contrary to SPPS Paragraph 5.65.
5. The proposal would allow the piecemeal development of BNMAP Zoning NY19, which is contrary to PPS7 Policy QD2.
6. The proposal is contrary to Key Site Requirement 4 of BNMAP Zoning NY53, which requires Watsons Road to be widened and realigned to agreed standards with footway linkage provision.

Finally, please confirm that the Council has carried out the requisite screening determination of this Schedule 2 EIA Development as none is available on the file and thus fulfilled the statutory requirements to do so.

Watsons Road, Newry**Section 54 Application to Vary Condition 17 of P-2013-0242-F**

Further to receipt of DfI Roads comments regarding this proposed variation of condition application at Watsons Road, Newry.

We have reviewed the consultation comments issued by DfI Roads and comment as follows:

1. DfI Roads has accepted in their comments the existing public roads network within the area of this application site is inadequate yet offer no objections to the variation of a planning condition which would delay the implementation of the necessary road improvements.
2. DfI Roads has indicated the first stage of new "off-line" roadway will deliver the necessary road network improvements. However, these improvements won't be delivered if the abandonments or stopping-up orders required for these road improvements are not approved in accordance with the Roads Order (1993): Article 68.
3. DfI Roads has indicated it is unavoidable that new roads serving each section of approved housing must connect to an unimproved section of road. This scenario is completely avoidable if the condition remains as originally imposed.
4. The approved road improvements linked to Phases 1 -3 are partial upgrades to Watsons Road and Dorans Hill which, in isolation are detrimental to the safety of road users and residents of this new housing development as these improved public roads will attract extraneous traffic seeking to avoid congestion on Dublin Road and a shorter route to access the A1 carriageway. The provision of an updated Transport Assessment for this Variation of Condition application would predict the level of diverted vehicle trips and assess whether the partially improved roads could accommodate traffic from Phases 1-3 and additional through-traffic.
5. Given the length of time since the previous Transport Assessment was completed for this housing development, DfI Roads should have requested and new or updated Transport Assessment to determine if the road improvements associated with the approved housing development can accommodate the new housing traffic, traffic diverting to the A1 carriageway through these new roads and the increases in general traffic flows since the last assessment was completed.

Whilst I would ask you to consider the preceding comments in relation to this latest Variation of Condition application, it should be noted the last engineering assessment of traffic associated with this housing development was approved in March 2013.

Traffic flows in Newry City have increase substantially in the 10-years since the last Transport Assessment was completed and reviewed by DfI Roads.

It is therefore unrealistic to assume the safety of road users in the Watsons Road / Dorans Hill area of Newry hasn't changed in the last 10-years, without the provision of a new Transport Assessment of the new housing development and traffic using the surrounding road's network.

John Cowan

Reference: LA07/2021/0987/F

Address: Lands at Watsons Rd/Dorans Hill, Newry, Inc. lands to the east of Watsons Road

Proposal: Section 54 application seeking to vary condition No.17 of P/2013/0242/F

Committee Meeting: Wednesday 5th April 2023, Item No. 7.0

Dear Members,

Thank you for I write on behalf of MJM Group to set out the applicant's statement of support, welcoming the officer's recommendation to approve the requested variation of Condition No. 17 referenced above. The purpose of this application was to ensure a practical timeline in construction terms for the lawful delivery of road network improvements granted under P/2013/0242/F. Full Planning Permission was approved on 6th September 2019 for 200no. dwellings and associated improvements to existing road infrastructure. In addition to changes on Watsons Hill Road, these works included construction of a new roundabout at the junction of Watsons Road and Doran's Hill.

The applicant has positively engaged with the Council and other statutory bodies throughout the interim period to successfully discharge conditions regarding Roads, Drainage and Ecology. This work of complying with conditions remains ongoing, with the final prior to commencement conditions currently being worked through by the applicant to enable construction of these family homes to commence later this year.

This submission regarding Condition No. 17 requests variation of the condition wording to allow the applicant to commence development works on site, whilst still ensuring that all other legislative processes out with the remit and process of Planning are complied with. This will ensure the condition wording is not overly restrictive as to stymie the programme of development works commencing. The applicant has sought to tie these legislative processes for the compliance of the abandonment / stopping up processes of DfI Roads to each relevant phase of development works, rather than the original wording requiring these to be actioned prior to commencement of any works approved on site. The site phasing has previously been agreed across five phases of development on these lands, including for all associated road and infrastructure improvements in full within Phases 1 – 3 (as ensured under Conditions 13 – 15 of the parent permission).

We note there have been several representations objecting to the proposed variation on behalf of the adjacent developer (EDB Construction) to the south. We note that the objector alleges in their submitted correspondence that DfI Roads has failed to understand that the proposed amendment of the condition pre-determines the outcome of the statutory vesting process and further invites the Council to pre-determine that stopping up/abandonment process. This is incorrect and the determination of this application does not pre-determine or fetter in any way what is a separate legislative process. In fact, the objector does remark that one possible outcome of that process could be negative, and the proposal refused and that moreover, participants in that process have a right to object. Nothing before the Committee today prejudices that right or process. They allege that if the outcome is negative, then critical roads infrastructure cannot be delivered, which again is a falsehood considering that all necessary road works and infrastructure for the housing within Phases 1 – 3 are delivered. The effect of this wording change would be to prohibit the occupation of later phases until the relevant legislative process is satisfied.

The objector further alleges that our client's submission is not sufficient in content and form, and they seek to misrepresent the wording of the original DfI Roads consultation response dated 7th October 2021. However, following further engagement between the Council and DfI

Roads, it was noted that this is standard wording employed, and that the requested amendments (from DfI Roads) to the application were met. The applicant now welcomes confirmation from DfI Roads, in both consultation responses dated 20th November 2021, 23rd December 2021, and most recently on the 7th March 2023 that DfI Roads are content Condition No. 17 can be varied in accordance with the proposed wording.

The objector has further sought to muddy the waters by claiming this to be a major planning application and unable to be processed as community consultation has not taken place. However, this is a clear attempt to distort the legislative intent in dealing with s.54 applications which deals just with the matter of the condition and does not revisit the principle of the approved development. In fact the Planning (General Development Procedure) Order (NI) 2015, clearly stipulates what is required to be submitted for a S.54 application and this has been complied with.

The wording before the Council has been presented, upon recommendation from DfI Roads, to tie back to the phasing of housing development and roadworks as stipulated by other conditions attached to the parent permission (P/2013/0242/F). Condition Nos. 13-15 of the parent permission also remain as originally worded, ensuring that all road works associated with each phase will be completed prior to occupation of that number of houses within each.

This ensures that orderly and lawful development works can commence, in line with the approved plans, and to meet with the legislative requirements of the stopping up and abandonment processes.

The applicant remains committed to fulfilling all necessary road improvements, as already agreed with DfI Roads, and fulfilling all relevant statutory processes. The applicant intends to complete the relevant section of approved spine road within their land holding and to the boundary of their control, in accordance with the originally approved Private Streets Determination drawing. The actioning of these legislative processes, beyond the remit of Planning, are tied to the varied wording of occupation of dwellings within Phases 1-3 rather than prior to commencement of any works hereby permitted. This ensures that both the Planning and DfI Roads processes will be complied with in full.

In fact, the legislative requirement of seeking to agree with DfI Roads the extent of stopping up/abandonment remains and to this end the applicant has already initiated this separate legislative process. The extent of necessary stopping up has been confirmed with DfI Roads and the application is currently being processed. A most recent objection has claimed that stopping up/abandonment is required in Phase 1, but this is not the case. Furthermore, no abandonment is necessary as control of all land within the existing road line is being retained by DfI Roads.

The proposed variation does not prejudice the delivery of the zoning under the applicant's control, those lands under adjacent ownership, or nearby residents on Watsons Road.

The applicant welcomes assessment by the Council and DfI Roads to approve and respectfully requests members to endorse the officer recommendation so that all relevant legislative processes can be completed, and construction commence expediently on site, thereby ensuring the full upgrade of Watsons Road for not only the proposed development but those already residing in the surrounding locality.

Yours faithfully,

Tom Stokes *MRTPI MIO*
TSA Planning



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

Application Reference: LA07/2022/0299/O

Date Received: 15.02.2022

Proposal: Proposed site 2 no. infill dwellings and garages

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

Site Characteristics & Area Characteristics:

The application site is a large agricultural field in use as grazing land. It measures approx. 0.4 hectares and is positioned to the south of number 57 Drumalt Road, Dorsey. The site is relatively flat. It is bounded to the roadside boundary by mature hedging. It is indicated on the site plan submitted that a commercial yard lies to the south of the site – a history check does not indicate that this area has benefited from planning permission for such a use.

The site is located outside settlement limits as designated in the Banbridge/ Newry and Mourne Area Plan 2015.





Date of Site Visit: 21/04/2022

Site History:

LA07/2015/1014/F

- 57 Drumalt Road, Dorsey, Cullyhanna, Co Armagh
- 2 Storey extension to rear of existing dwelling, providing kitchen, pantry and W.C on ground floor and bedroom to first floor accommodation
- Permission Granted 11.03.2016.

LA07/2022/0153/CA

'Commercial yard', south of application site

Enforcement officer's report:

The site is located South of No 57 Drumalt Road, Cullyhanna and the alleged breach relates to an unauthorised commercial yard.

The hardstanding and use constitute a breach of planning control. However, Aerial photography show the hardstanding yard has been in situ since at least 2015. Google Earth imagery show objects, possibly vehicles on site since June 2015 and August 2016. While the number of vehicles and trailer vary and increase in the time since then, with different items/vehicles stored on different parts of the hardstanding It is reasonable to conclude that the use as a yard to store vehicles has been in use since 2015. At this stage I do not believe the use has intensified to a degree which would restart the time for immunity.

Planning Policies and Material Considerations:

Strategic Planning Policy Statement for Northern Ireland

Banbridge Newry Mourne Area Plan 2015

Planning Policy Statement 21 – Sustainable Development in the Countryside

Consultations:

DfI Roads – No objections

NI Water – No objections

Rivers – No objections

Objections and Representations:

Neighbours were notified of the proposal 28.03.2022. It was advertised in local press 09.03.2022.

No objections or representations have been submitted for consideration.

Consideration and Assessment:**Banbridge/Newry and Mourne Area Plan 2015**

Section 45 of the Planning (NI) Act 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 relating to the proposed use therefore this application will be assessed against regional planning policy.

Strategic Planning Policy Statement (SPPS)

As there is no significant change to the policy requirements for replacing a dwelling following publication of the SPPS, the retained planning policy is PPS 21 – Sustainable Development in the Countryside. This policy will be given substantial weight in determining the principle of the proposal in accordance of para 1.12 of the SPPS.

PPS21 – Sustainable Development in the Countryside**Planning Policy Statement 21 – Sustainable Development in the Countryside**

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

Policy CTY 8 – Ribbon Development

As the proposed development is for the infill of a site, the relevant policy is Policy CTY 8 – Ribbon Development. This policy outlines the criteria that must be met in order to grant planning permission for an infill site.

An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

For the purpose of this policy the definition of a substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The Planning Department do not consider that the application site is a small site suitable for the infilling of two dwellings. The application site measures approx. 79m along Drumalt Road. Number 55 has a frontage of 22m (approx).

The yard to the south measures approx 56m in length. The application site therefore cannot be considered a small gap site.



It is not considered the application site lies within a substantial and continuously built-up frontage. To the north of the site is no. 57, which does have frontage onto the Drumalt Road. The small garage, which is located to the rear of the main dwelling, substantially behind the building line, is not considered to have frontage onto the road. The existing outbuilding located to the south of number 55 (as per approval LA07/2015/1014/F), is considered to have frontage. To the north of the application site are two qualifying buildings.

To the south of the site is the unauthorised yard. At time of site visit, there were a number of vehicles in various conditions, a storage unit, and a garden shed (site photos below). This matter was referred to enforcement within the Department LA07/2022/0153/CA.





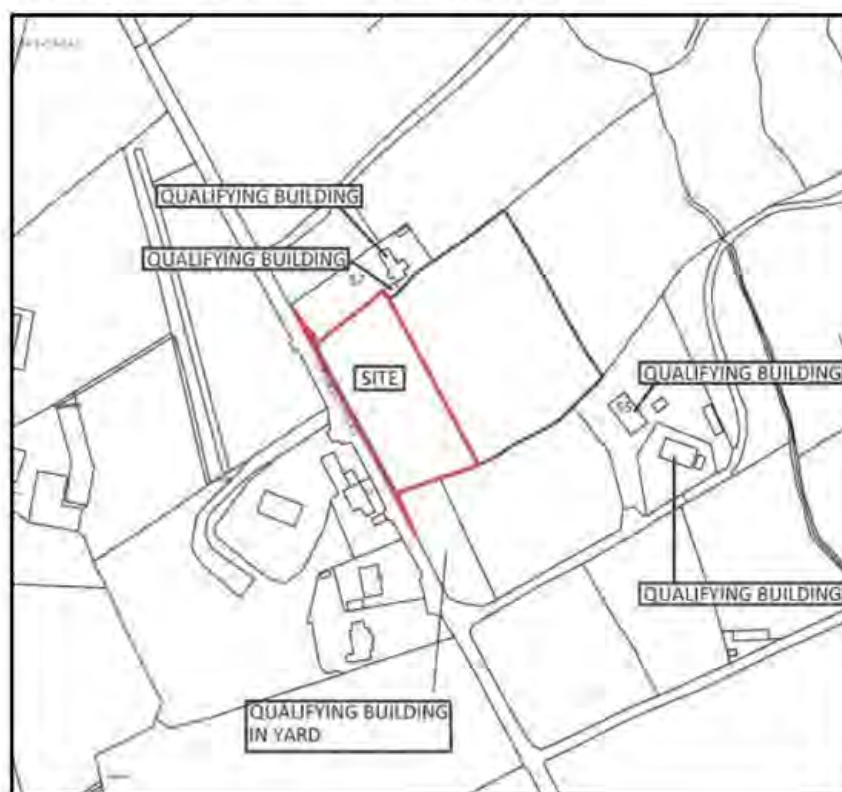
It is not considered that the garden shed shown above constitutes a building which can be considered to contribute to an otherwise substantial and continuously built-up frontage. It is a temporary structure and not of permanent construction. The commercial yard is not considered to have any buildings which contribute to an otherwise substantial and continuously built-up frontage.

The proposal is also not considered to respect the existing development pattern in terms of plot size. Therefore, it is not considered the proposal represents an exception to policy.

The agent was made aware of the Planning Department's concerns regarding the proposal and was offered the opportunity for further information to be submitted for consideration. A supporting statement was submitted. This outlined that

'the site sits in a line of buildings, with a mixture of dwellings and garages. We accept that number 55 Drumalt Road has no road frontage, but this has not hindered the Council in approving other applications in the past.

We have attached a map showing qualifying buildings we believe will meet the precedent set down by the Council in previous approvals.



The basis for this application is based on similar CTY 8 infill application approvals in Newry Mourne And Down District Council area, which don't exactly adhere to the policy in terms of frontage onto the road:

P/2012/0421/O – Between nos. 21A and 21B Derryleckagh Road

LA07/2019/0008/F – 70m east of 14A Ayallogue Road

It is important for the site to be approved as the Applicants children want to build on this land. It has been farmed for many years down through the family and his children wish to live in the locality which they have done since birth. This is only method open to the applicant for his family to live close by'.

Response:

The Planning Department stresses that each individual application is considered on its own merit, and it is not appropriate to compare one application against another as a direct

comparison. A desire for family members to live close by is not material planning consideration.

Summary:

It is not considered that the application site represents an exception in policy terms; the application site is not small gap site suitable for the infilling of two dwellings, it does not sit within an otherwise substantial and continuously built-up frontage and the proposal does not respect the existing development pattern along the road frontage in terms of plot size.

The proposal would contribute to ribbon development along Drumalt Road.

CTY 13 – Integration and Design of Buildings in the Countryside

Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

The proposed new buildings, provided suitable conditions where applied, would not be prominent in the landscape. The site would be able to provide a suitable degree of enclosure for the buildings to integrate into the landscape. It does not rely primarily on new landscaping for integration. Ancillary works would integrate with their surroundings. The proposal blends with the landform, surrounding buildings and other features which provides a backdrop.

CTY 14 – Rural Character

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 proposed building would not be unduly prominent provided suitable conditions applied.

The proposal for two dwellings would result in a suburban style build-up of development when viewed with existing and approved buildings. The proposal does not respect the traditional patterns of settlement exhibited in the area. It would add to a ribbon of development along Drumalt Road if approved. The impact of ancillary works would not damage rural character.

The proposal is contrary to criteria b), c) and d) of CTY 14.

CTY 16 – Development relying on non-mains sewerage

The application complies with this policy. A condition should be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

Revised Planning Policy Statement 15 “Planning and Flood Risk”

DfI Rivers were consulted in relation to this application. Their response is as below:

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

- FLD2 - Protection of Flood Defence and Drainage Infrastructure – Not applicable to this site.
- FLD3 - Development and Surface Water – For this application a Drainage Assessment will not be required as the proposal does not exceed any of the following thresholds:
 - It is a residential development comprising of 10 or more dwelling units
 - It is a development site in excess of 1 hectare
 - It is a change of use involving new buildings and or hard surfacing exceeding 1000 square metres

Where a Drainage Assessment is not required but there is potential for surface water flooding as indicated by the surface water layer of the Strategic Flood Map, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.
- FLD4 - Artificial Modification of Watercourses – Not applicable to this site.
- FLD5 - Development in Proximity to Reservoirs – Not applicable to this site.

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 8 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that the application site does not constitute a small gap site within an otherwise substantial and continuously built up frontage, does not respect the existing development pattern in terms of plot size and would, if permitted, add to ribbon development along Drumalt 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 CTY 14 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that, the proposal would, if permitted, add to a ribbon of development along Drumalt Road, result in a suburban style build-up of development when viewed with existing and approved buildings along Drumalt Road and would not respect the existing pattern of settlement exhibited in the area.

Case Officer: E.Moore 19/01/2023

Authorised Officer: G Murtagh 26/01/2023



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
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**Newry, Mourne
and Down**
District Council

ADDENDUM REPORT

Application Reference: LA07/2020/0767/O

Date Received: 08.06.2020

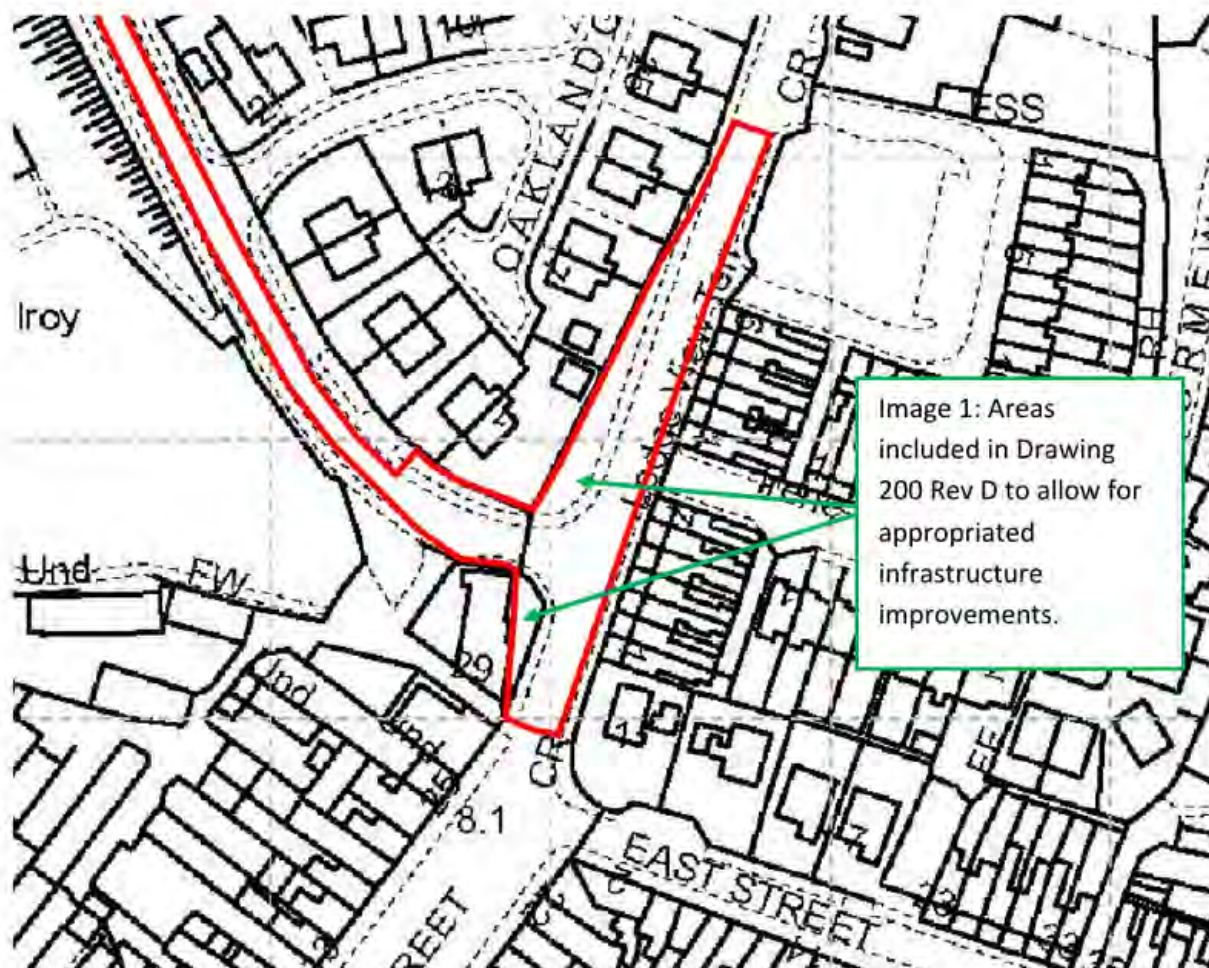
Proposal: Proposed Residential Housing Development (Amended Description)

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

Consideration and Assessment:

1. The following application has appeared before the Council's Planning Committee due to the number of objections received in accordance with the Council's agreed Scheme of Delegation. The Planning Committee voted to approve the application subject to conditions.
2. Following the decision by Planning Committee, but before a decision issued, queries and concern were raised by elected representatives about the detail provided in relation to the improvement works at Duke Street/Upper Dromore Road.
3. This is an Outline application whereby a site location plan (red line) and road improvement plan had been submitted. Following review of the proposals contained on the road improvement plan and extent of red line on the site location plan, DfI Roads advised an amended Site Location Plan was required. The amended site location plan was requested as DfI Roads sought additional lands to be included within the red line of the application site.
4. The additional lands were requested to allow the appropriate road provisions to be carried out. The additional lands include the existing green area on the

nearside leaving Bridal Loanan and widening the red line towards 29 Duke Street to enable works to the footpath to enclose the area for a realigned footpath (see Image 1 below). The works proposed include the realignment of a section of roadway and footway and turning pocket for Bridal Loanan.



5. Following the submission of the Drawing 200 Rev D DfL Roads were formally consulted on 13th January 2023 and DfL Roads provided a substantive response 02nd March 2023. DfL Roads responded with no objections subject to conditions. The condition provided within the consultation response is as follows:

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 prior to commencement and other requirements in accordance with the attached form RS1.

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

All roadworks as set out in drawing No C-01 Rev C will require to be installed prior to any works commencing on the site.

The layout of the proposed housing development will require to be in accordance with our Design Guide Creating Places.

6. The above will be contained on any approval notice by way of conditions. Reference to the proposed layout in accordance with the *Design Guide Creating Places* will included as an informative.

Recommendation: Approval

The merits of the application have not materially changed other than the inclusion of the additional lands. These lands are considered essential to the implementation of the appropriate road improvements. Therefore, the Planning department recommend that the application should proceed as an approval.

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. All roadworks as set out in drawing No C-01 Rev C, shall be completed prior to any works commencing on the site.

Reason: In the interests of road safety and convenience of road users.

7. 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.

8. 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.

9. 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.

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

Reason: In the interests of visual amenity

11. 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

12. 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.

13. 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.

14. 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.

15. 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

16. 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.

17. 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.

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.
10. All roadworks as set out in drawing No C-01 Rev C will require to be installed prior to any works commencing on the site. The layout of the proposed housing development will require to be in accordance with our Design Guide Creating Places.

Case Officer Signature: E McArdle

Date: 15.03.2023

Authorised Officer Signature:
M Keane

Date: 15-03-2023



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0030/F

Date Received: 21.12.2021

Proposal: Erection of replacement dwelling and garage with associated ancillary site works

Location: The application site is located approximately 265 metres west of No. 30 Levallyreagh Road, Rostrevor

Site Characteristics & Area Characteristics:

The site outlined in red extends to include an existing building, portion of an existing laneway, and then cuts across a field along a hard-cored surface to adjoin the Levallyreagh Rd.

The application site is located 265 metres west of No. 30 Levallyreagh Road, Rostrevor. The application site is located at the end of a shared laneway approx. 280m from Levallyreagh Road. This laneway serves another dwelling No. 34 and farm buildings located 60m east of the dwelling to be replaced.

The existing building to be replaced is single storey, with window and door openings present albeit in a dilapidated state. There is no roof although different rooms are evident. The site surrounds itself are quite open although due to the setback distance the dwelling to be replaced cannot be seen from the roadside. A new access is proposed from Levallyreagh Road, approx. 100 south of No. 26 Levallyreagh Road (Image 1). An informal agricultural access exists as seen in image 1. The track is undefined in terms boundaries and consists of grass and gravel. The agricultural track runs from the roadside to the west towards the rear of the roadside field and cuts through into the adjoining field and runs north along existing field boundaries to meet the existing laneway.

The application site is located 1.7 miles north east from Rostrevor. The surrounding area is countryside with residential dwellings dispersed along the roadside, off private laneways and farm buildings are also prevalent in the area.



Image 1 Application Site

Site History: No relevant planning history

Planning Policies & Material Considerations:

This planning application has been assessed under the following planning policies:

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

Consultations:

DFI Roads DFI Roads considers the application unacceptable as submitted. Insufficient detail is available on transportation issues. Should Planning Service be minded to progress the application towards an approval DfI Roads require the following points to be addressed:

1. DFI Roads will require access from the proposed dwelling to existing substandard access laneway to be permanently and properly closed up and demonstrated on 1/500 scale drawing, as the existing access could still be used by the applicant and the proposed access would be considered remote than the remaining existing access to the public road.
2. The existing access is considered substandard and would require sightline of 2.0m x 60m to be acceptable to the Department in terms of intensification.

DFI Roads offer the following refusal reason on this basis.
The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the width/visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

The above information was requested from agent on 8 June 2022 via email with a timeframe for submission of 17 June 2022. No amended plans have been received and the supporting information submitted via email has not satisfactorily addressed the issues or concerns.

NI Water Approved with standard conditions

Objections & Representations:

One neighbour notification was issued on 11 November 2022. The application was advertised in the local press on 19.01.2022. No third party representations were received.

Consideration and Assessment:

Proposal

The application seeks consent for a replacement dwelling and garage and new vehicular access from Levallyreagh Road, Rostrevor. The access proposed is 150m south of the existing access, which is substandard. The existing access is to remain as it is and will not be stopped up.

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 site is located outside any designated development limits and within the Mournes AONB. There are no specific policies in the Plan relevant to the determination of the application which directs the decision maker to the operational policies of the SPPS and the retained PPS21.

Strategic Planning Policy Statement (SPPS)

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 PPS21 will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS. Furthermore paragraph 6.78 of the SPPS requires that the supplementary guidance contained within the 'Building on Tradition' a Design a Sustainable Design Guide for the NI countryside' is taken into account in

assessing all development proposals in the countryside.

PPS21 - Sustainable Development in the Open Countryside

Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes replacement dwellings if they are in accordance with Policy CTY3. The existing building displays essential characteristics of a dwelling – doors and windows openings, front storm porch and room divisions are visible and the building is reasonably intact with the exception of the roof which is gone. I consider the building is eligible for replacement under CTY 3.

SITING – The replacement dwelling should normally be sited within the established curtilage of the existing building. The site layout shows that the proposed dwelling is sited in the established curtilage of the existing dwelling to be replaced. I consider this acceptable. The existing building to be replaced is set back 300m from the public road. This existing building to be replaced is not visible from the roadside due to the undulating topography and set back distance.

DESIGN – The design is a linear dwelling with small projections to the front (3m) and rear (1.5m) on the right hand side. The proposed dwelling measures 23m long, 9.1m wide and 6m ridge height. A first floor is provided with two bedrooms, dressing room and shower etc. A double garage is proposed with storage space on a first floor. Finishes include smooth render, natural roof slate, UPVC rainwater goods, windows and doors. Parking is to the rear adjacent to the garage which is tucked behind the building line of the proposed dwelling. A landscaped front and rear garden will be located to the north and south. I consider the design acceptable.

ACCESS – The plans indicate the proposed replacement dwelling and garage will use a portion of the existing laneway from the immediate site, however will then cut across a field to create a new separate entrance on to the Levallyreagh Road approx. 150m south of the existing access lane access/entrance.

The existing laneway entrance/access is to remain unaltered and is not to be closed up. The dwelling to be replaced cannot be occupied at present or even with minor modification, therefore policy requires that current visibility splays of 2.4m by 60m are required. The existing access is substandard, the agent has indicated that the existing access cannot be brought up to standard due to ownership issues.

Policy requires that in cases where the existing access is substandard improvements are required, without the same, intensification of the existing access cannot be permitted. In this case there is a solution to improve a substandard access serving another dwelling and farm buildings which would lead to planning gain.

The issue regarding this access relates to land ownership that may, or may not, be resolved with the relevant land owners in due course.

The reason for refusal outlined by DFI Roads above is due to the fact the applicant, while proposing a new access, can still access and use the existing substandard access, thus resulting in intensification in its use.

The Planning Dept consider it is not possible to attach enforceable conditions that deal with the issues, that compel the applicant to use the new access proposed, rather than the existing substandard access, without the existing access being closed up. As such the application is recommended for refusal on this aspect.

The proposed access will create a new stretch of laneway cutting across an agricultural field (with no landscaping) and new access point, which would be visually prominent and not integrate with the surroundings within this rural area and AONB. Policy recommends new access driveways should run unobtrusively. It is considered cutting across fields in the manner proposed is not acceptable.

SERVICES – There are a number of dwellings nearby with all necessary services and therefore it is anticipated that these can be extended to the site without significant adverse impact on the environment or character of the locality. The application form indicates that foul sewage will be disposed of using a septic tank and soakaway. No evidence has been submitted to demonstrate that this will not create or add to a pollution problem as required under policy CTY16. Therefore, it would be necessary to impose a negative condition in the event of approval that evidence of consent to discharge be submitted to and agreed in writing by the planning authority prior to the commencement of development. As the matter can be dealt with by condition, the failure to submit information on sewage treatment would not warrant refusal under CTY16.

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character

These policies assess new buildings in terms of their design, visual integration and maintaining rural character in the countryside. I consider the proposed dwelling and garage will not result in a prominent feature in the landscape. The proposed dwelling and garage will be set back a considerable distance from the roadside and at a lower location than the roadside which will aid integration. I consider the proposed dwelling and garage are unlikely to be visible from surrounding viewpoints due to the topography of the area and setback distance.

The proposed dwelling and garage will not result in a suburban style build-up of development when viewed with existing and approved buildings. I consider the design of the proposed dwelling and garage are acceptable. In terms of the new access the proposal is contrary to criterion D of CTY 13 and E of CTY 14 in that the ancillary works comprising the new stretch of laneway, which cuts across an agricultural field and new access onto the Levallyreagh Road will damage the rural character of the area.

Planning Policy Statement 2 – Natural Heritage

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. It is considered

that the proposed site and design of the dwelling is acceptable. However, the proposed access arrangements are not considered appropriate within this AONB for the reasons already discussed.

In respect of natural heritage having account the condition of the subject structure (no roof) and extent of the proposals and site constraints it is considered a Bio Diversity checklist or any other ecological information is not required in this instance.

Recommendation: Refusal

Refusal Reasons:

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

The proposal is contrary to the SPPS for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed access is not sited and designed to integrate sympathetically with the surrounding countryside.

The proposal is contrary to Policy CTY 1 and CTY13 and CTY 14 of Planning Policy Statement 21; Sustainable Development in the Countryside and Policy NH6 of PPS 2 in that the ancillary works do not integrate with their surroundings and will damage the rural character.

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the width/visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

Case Officer Signature: Clare McCoy

Date: 17-11-22

Authorised Officer Signature:

M Keane

Date: 17-11-22

ADDENDUM TO REPORT

LA07/2022/0030- Lands Approximately 265 metres west of No. 30 Levalleyreagh Road, Rostrevor.

PROPOSAL:

Erection of replacement dwelling and garage with associated ancillary site works.

BACKGROUND and ACTIONS:

This application was previously discussed internally whereby the principle of a replacement dwelling including the design and siting of the dwelling were considered acceptable.

The primary concern of the Planning Dept related to the access proposals, which included using a portion of the existing laneway, and then cutting across a field to create a new separate vehicular entrance on to the Levalleyreagh Rd (Approx 150m south of the existing laneway access/entrance). This existing laneway entrance was to remain unaltered and not be closed-up.

The reason for the new access proposals is due to the existing laneway access being substandard, whereby the applicant does not own/control any lands to improve this access and provide the required splays (2.4m by 60m).

The primary concern of the Planning Dept was that while a new access was being proposed the applicant still has access to the existing substandard access, thereby resulting in intensification of same.

The Planning Dept considered it is not possible to attach enforceable conditions that deal with the issues, that compel the applicant to use the new access proposed, rather than the existing substandard access, without the existing access being closed up.

As such the application was recommended for refusal on this basis.

Following recommendation of Refusal and being listed on a weekly Delegated List, the application was Called-In by Cllr Ruane in Nov 2022. The case was then referred to the Planning Committee by the Call-In Panel in Dec 2022.

The application was presented to the Planning Committee in Jan 2023, at which point the agent presented revised proposals showing the access serving the replacement dwelling being a sole private long driveway/laneway, which does not use any part of the existing laneway. A portion of the access proposals extended outside the red line of the application submitted.

The agent considered this option addresses the concerns and reasons for refusal of the Planning Dept.

The application was ultimately deferred by Members at this Planning Committee meeting to allow for the amended proposals to be considered, with the red line amended to include the additional lands required and omission of the existing laneway, which then negated the need to use the existing substandard access.

Amended plans were received from the agent following this meeting, on the basis of what was agreed by Members at the Planning Committee meeting.



These revised plans include an amended site location plan (red line) and amended site layout plan, whereby the existing laneway is outside the red line, and a new extended driveway serving the new replacement dwelling now proposed.

This new laneway/driveway will run immediately adjacent, adjoining and parallel to a stretch of the existing laneway, before cutting across the roadside field, thereby creating its own access point to the public road. At no point will this dwelling now have access to the existing laneway. This new stretch of laneway is to be bounded by a post and wire fence with double hedgerow, to mitigate and reduces its impact and presence from public viewpoint. This can be conditioned accordingly.

(Note: While a red line can be amended for access purposes, Members have accepted a revised red line for the new stretch of driveway/laneway being proposed is acceptable in this instance).

A further round of neighbour notification has been carried out on receipt of these plans whereby no representations have been received to date (14-03-23).

DFI Roads had previously offered no objections in principle to the proposed access with splays of 2.4m by 60m, however had recommended refusal for the same reasons raised by the Planning Dept. On this basis there is no need to seek any further comment from DFI Roads.

The application has now been reviewed by Senior Management and following the direction of the Planning Committee to accept the revised proposals as part of the current application, thereby negating the need to use the existing access laneway.

The topography of the lands, existing built form in the area, existing agricultural gate entrance and area of hard-standing created, and the limited extent to which the access and works are visible from any public viewpoint are noted. It is considered the revised proposals now before the Planning Dept including landscaping are such that on balance, subject to compliance with appropriate landscaping conditions, no unacceptable impact or harm will result on the character of the area, thus Policy CTY13 and 14 and NH6 of PPS2 are not offended.

Accordingly, the application is hereby recommended for Approval subject to conditions.

RECOMMENDATION: APPROVAL

Signed:

Authorised Officer:	M Keane	14-03-2023
Case Officer:	C McCoy	14-03-2023

Relevant draft access and planting conditions to include:

The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 0P01C and P03 prior to the commencement of any development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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



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

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

The proposed access laneway/driveway hereby approved, shall be constructed in its entirety in accordance with the plans hereby approved, prior to any other development commencing on site. All construction traffic shall use this access and new laneway only.

Reason: To ensure the orderly development of the site, in the interests of road safety and users.

The proposed boundary hedgerow along the access laneway/driveway and also that to the rear of the site visibility splays as indicated in the plans hereby approved, shall be carried out in its entirety during the first available planting season following the construction of the access laneway/driveway. This hedging shall be a minimum height of 1m high above ground level at the time of planting and shall be allowed to grow on to a minimum height of 1.5m above ground level. Any trees, hedging, shrubs which die are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of visual amenity.

All other planting proposals around the curtilage of the dwelling shall be carried out in accordance with the approved plans during the first available planting season following the occupation of any part of the dwelling hereby approved. Any trees, hedging, shrubs which die are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.



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

Application Reference:

LA07/2022/0210/F

Date Received:

02.02.2022

Proposal:

Retention of existing outdoor customer seating area

Location:

Ground Floor Unit
12 Seaview
Warrenpoint
BT34 3NJ

Site Characteristics & Area Characteristics:

The application site is within the settlement limits of Warrenpoint and Warrenpoint Town Centre as designated within the Banbridge, Newry and Mourne Area Plan (2015). The site is also within an Area of Outstanding Natural Beauty and an Area of Townscape Character.

The application site consists of a three storey mid-terrace building which has been converted from offices to a café at the ground floor. Apartments are located on each floor, above the café.

The site is located adjacent a building that was previously known as The Balmoral Hotel but which has more recently been converted to several different uses, including a guest house, retail on the ground floor and a restaurant on the first floor. On the opposite side are similar dwellings, some of which appear to have been converted to apartments. On the opposite side of the Balmoral Hotel the area becomes residential with large three storey terraced dwellings of a similar form to the application site. The

application building is in close proximity to the main commercial centre of Warrenpoint and Warrenpoint Town Park.

The building is currently subject to a live enforcement case - LA07/2022/0095/CA.

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 4: Planning and Economic Development
- PPS 6 - Planning Archaeology and the Built Heritage
- PPS 6 Addendum – Areas of Townscape Character
- DCAN 4 – Restaurants, Cafes and fast food outlets

Site History:

- P/1976/0337 – Proposed renovation of existing dwelling – Permission granted
- P/2014/0957/F - Material change of use from ground floor apartment to ground floor office including refurbishment of existing outhouse and WC – Permission granted
- LA07/2019/1258/F - Retention of change of use for ground floor cafe unit with 2.No. treatment rooms and ancillary services – Permission granted
- LA07/2022/0226/F – This is a category 11 section 54 application. Previous approval for retention of change of use to ground floor cafe unit & 2 no treatment rooms and ancillary services, condition 03 restricted opening hours to Mon-Sat 10.00 to 18.00. This application seeks variation to opening hours to provide opportunity for ticketed events and private catering (see attached sheet for times) 12 Seaview, Warrenpoint,

Proposed opening times:

Monday to Saturday open to general public 9am to 6pm,

Monday to Saturday open for ticketed events 6pm to 10pm

Sunday open to general public Midday to 4pm,

Open for private guest breakfasts 9am to 11am,

Open for ticketed events 4pm-9pm.

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

- LA07/2022/0095/CA - Alleged development not in accordance with approval – Live

- LA07/2021/0303/CA - Alleged breach of condition of planning approval LA07/2019/1258/F – Enforcement case closed
- LA07/2019/0201/CA - Alleged unauthorised change of use to cafe and holistic retailing – Enforcement case closed

Consultations:

Environmental Health were consulted a number of times on the proposal. The responses are as follows below:

- 25.03.22 - Environmental Health have no objection to this proposed development, subject to the following:
Noise:
 1) Use of outdoor space should be limited to current planning conditions, namely:
 Monday to Saturday :10.00am – 6:00pm
 2) As there are a number of residential properties in close proximity to this development, amplified sound should not be permitted in the outdoor area.
- 27.04.22 - a second response was received from EH following the submission of letters of objections.
Comments
 Environmental Health have no objection to this proposed development, subject to the following:
Noise:
 1) Use of outdoor space should be limited to current planning conditions, namely:
 Monday to Saturday :10.00am – 6:00pm
 2) As there are a number of residential properties in close proximity to this development, amplified sound should not be permitted in the outdoor area.

Objections & Representations:

Two neighbours were notified 11.03.22. A further 3 neighbours were notified 07.09.2022. The application was advertised in the local press 23.02.2022 and re-advertised 29.06.2022.

Following the submission of amended plans (showing the table layout and use of rear gate), neighbour notification letters were re-issued 13.10.2022.

28 letters of objections from 24 different addresses were received.

The letters of objections have been summarised below.

- Existing breaches of previous planning approval regarding opening hours;
- Existing operation of outdoor area;
- Erection of new signage on premise;
- Proposed extended opening hours will result in a 3x fold potential increase in capacity and customers which would lead to problems for residents;

- Back seating area is already in use using existing domestic laneways for access which is unsuitable and unsafe for customer use;
- Noise nuisance, intrusive and adverse impact on residential amenity for existing neighbouring residents;
- Proposal contrary to SPPS and DCAN 4;
- Amenity and character of surrounding area will be negatively affected by increased traffic;
- Limited parking available;

Further phone call and email correspondence was received from a neighbouring resident who advised of advertisements that promote proposed pop-up events and intention to acquire an alcohol licence. The resident also requested a re-consultation with Environmental Health in light of the advertisements and establishment's future intentions.

Note: A letter of objection was received by Matrix Planning Consultancy advising that a more detailed letter will be submitted. A second holding letter was received from Matrix Planning Consultancy 20th September advising that a more detailed objection would be submitted in due course. A response email was sent to Matrix Planning to advise that applications cannot be held pending the submission of further representations. As per the Planning Act 2011, a statutory 2-week period is provided. However, the Department accept representations up until a recommendation is made. To date, 28.10.22, nothing further has been received from Matrix Planning Consultancy.

One further letter of objection was withdrawn and therefore the contents of this objection will not be considered.

2 letters of support were received.

Consideration and Assessment

Planning Act (Northern Ireland) 2011

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 development limits of Warrenpoint and within Warrenpoint Town Centre as designated within the relevant Area Plan.

SPPS

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In practice this means that development that accords with an up-to-date

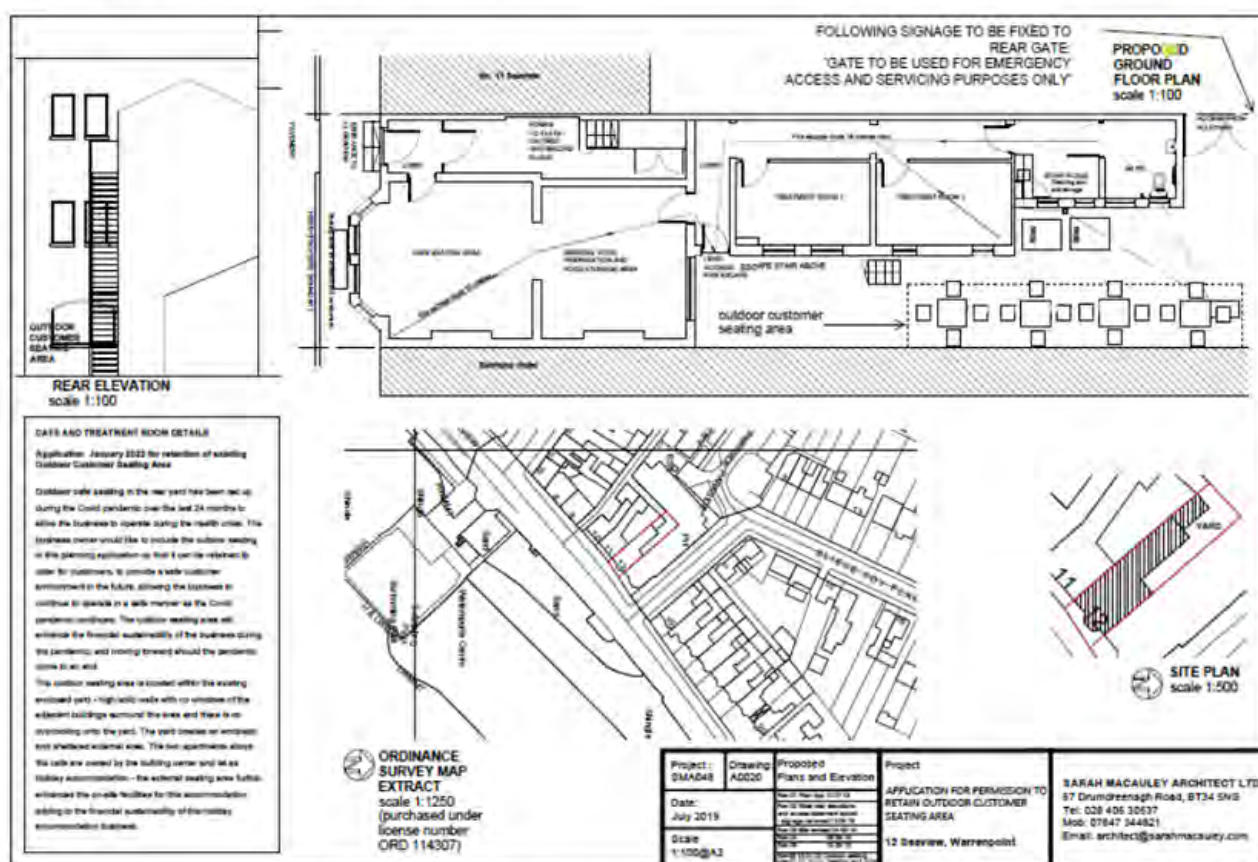
development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. The SPPS at paragraph 6.91 states all applications for economic development must be assessed against normal planning criteria relating to such considerations such as access arrangements, design, environmental and amenity impacts.

There is little change in the SPPS from that of the policies within PPS 4 and it is arguably less prescriptive, therefore PPS 4: Planning and Economic Development will be given substantial weight in determining the application in accordance with paragraph 1.12 of the SPPS.

PPS 4: Planning and Economic Development

This application is for the retention of an outdoor customer seating area in association with an existing café at ground floor. There are no specific policy provisions within BNMAP for this site and as there is no significant change to the policy requirements for the Expansion of an Established Economic Development Use within Settlements following the publication of the SPPS, the retained policy PPS4 'Planning and Economic Development' will be given substantial weight in determining this proposal, in accordance with paragraph 1.12 of the SPPS.

The proposed drawing is shown below.



Policy PED 1 of PPS 4 provides guidance for economic development in settlements. The policy advises that proposals to extend an existing economic development use or premises within settlements will be determined on its individual merits having

regard to Policy PED 9. As mentioned above, the seating area is in association with an existing café. A café is considered sui generis which essentially is a term used for premises that do not fall within a defined use class. The use of the premises was previously approved for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises under planning approval LA07/2019/1258/F.

Policy PED 9 advises that provides criteria for economic development.

- a) it is compatible with surrounding land uses;
The outdoor seating area is the rear yard of the application building which is currently being used as a café on ground floor and two apartments on the first and second floor. As mentioned above, the subject site is located within Warrenpoint Town centre boundary (TC 98). Para 4.1 of DCAN 4 states that retailing will generally be directed to existing settlements of appropriate size and Para 4.2 goes on to advise that preferable locations for restaurants, cafés and fast food outlets include town centres. Town centre uses include retail, offices, residential and various sui generis uses such as cafes within this proposal. The surrounding land uses include residential, retail, restaurants, hotels and guest houses. Given the fact that the proposal is for an outdoor seating area to serve an existing café located within Warrenpoint Town Centre, I am satisfied that the proposal is compatible with surrounding land uses. Moreover, Para 4.5 of DCAN 4 advises that restaurants, cafés and fast food outlets complement the primary shopping function of town centres by contributing to the range and choice of facilities available to residents and visitors, and they also support tourism.

- b) it does not harm the amenities of nearby residents;
Para 5.1 of DCAN 4 states that "the likely impact of such proposals on the character and amenity of the adjoining or surrounding area will be an important concern when determining applications. In assessing this impact, a number of factors need to be taken into account i.e.
 - noise disturbance;
 - smells and fumes;
 - refuse and litter;
 - traffic considerations and car parking; and
 - provision for people with disabilities."

Para 5.2 of DCAN 4 goes on to state that "the use of planning conditions is often paramount to the control of restaurants, cafés and fast food outlets, particularly in relation to the above considerations. The impact of many proposals which would otherwise be rejected, may be mitigated by the imposition of such conditions. Preventative measures can be taken through the development control process by for example restricting opening hours and dealing with the technical aspects of noise and fume attenuation. The Environmental Health Department of the relevant local council will be consulted as appropriate during the processing of planning applications and in the formulation of any conditions considered necessary for the approval of the development."

As outlined above, several letters of objections were received from neighbouring residents. A summary of the concerns are noted again below with the Department's response in bold.

- *Existing breaches of previous planning approval regarding opening hours;*
There is a live enforcement case LA07/2022/0095/CA which is currently investigating possible breaches of approval and the use of the rear yard area for customers. Subsequently, an application has been submitted and is under consideration for the variation of opening hours.
- *Existing operation of outdoor area;*
There is a live enforcement case LA07/2022/0095/CA which is currently investigating possible breaches of approval and the use of the rear yard area for customers. The application under consideration is for retrospective permission for the outdoor seating area.
- *Erection of new signage on premise;*
The erection of new signage on premises requires advertisement consent. This concern will be raised with Enforcement.
- *Proposed extended opening hours will result in a 3x fold potential increase in capacity and customers which would lead to problems for residents;*
The proposed extended opening hours are under consideration under LA07/2022/0226/F. The site layout drawing submitted as part of this application shows the layout of tables providing seating for an additional 16 customers. This is considered an acceptable level of seating provision given the size of the rear yard and the Town Centre location. The capacity of the outdoor seating area can be controlled by way of condition if approval was to be granted.
- *Back seating area is already in use using existing domestic laneways for access which is unsuitable and unsafe for customer use;*
Following internal discussions, a note has been included on the drawing to advise that the rear laneway and gated access will be used for emergency access and servicing purposes only. A recent site visit determined that access to the outdoor seating area can be gained through the existing premises. The use of the gated access via the rear laneway can be controlled by way of condition if approval were to be granted.
- *Noise nuisance, intrusive and adverse impact on residential amenity for existing neighbouring residents;*
Environmental Health have been consulted on the proposal and have returned a response offering no objections subject to conditions restricting the hours in which the outdoor seating area will be open to customers as well as not permitting amplified sound in the outdoor area due to the proximity of neighbouring residents. The Planning Department have been contacted on several occasions by neighbouring residents voicing concerns regarding alcohol being used on the premises. The proposal is for an outdoor seating area to the rear of an

existing café. The matter of alcohol licences or BYOB is outside the remit of Planning as advised in Para 3.7 of DCAN 4 which refers to 'Alfresco' eating and states that it may be necessary to obtain licences from other authorities. The outdoor seating area is enclosed by high concrete walls as shown on the images below. This enclosure provides an acceptable level of privacy to neighbouring dwellings, given the fact that the rear gated access is to be used for emergency access and servicing of the premises (taking out bins etc) only. On this basis, the Planning Department do not consider it necessary to re-consult Environmental Health.



- *Proposal contrary to SPPS and DCAN 4;*
The assessment of the proposal against SPPS and DCAN 4 is laid out within this report.
- *Amenity and character of surrounding area will be negatively affected by increased traffic and limited parking available;*
As mentioned above, the site layout plan submitted shows capacity for an additional 16 customers in the outdoor seating area. The capacity can be controlled by way of condition if approval was to be granted. Given the Town Centre location, proximity to public transport links and proximity to a number of public car parks within the area and on-street parking along Seaview and Queen Street, it is considered that the increase in capacity for a potential 16 more customers would not be detrimental to the area in terms of parking. I consider that on street parking requirements are sufficient to deal with proposal as it is unlikely to generate heavy volumes of traffic and the local streets in the vicinity of the site as well as the public car parks less than 350m from the premises can adequately serve the proposal.
- c) it does not adversely affect features of the natural or built heritage;
 The application site is within an Area of Outstanding Natural Beauty and an Area of Townscape Character. As such Policies NH 6 of PPS 2 and Policy ATC 2 of PPS 6 Addendum applies. There are also a number of listed buildings in close proximity to the application site. Given the location of the outdoor seating area to the rear of the building and enclosure provided by the adjacent development, the proposal will not be visible from public view points. No new buildings are proposed. On this basis, and given the urban context, I am satisfied that the proposal does not adversely affect features of the natural or built heritage.
- d) it is not located in an area at flood risk and will not cause or exacerbate flooding;
 The Flood Maps show that the application site is not located within an area at flood risk. The yard area is already hard cored.
- e) it does not create a noise nuisance;
 As mentioned above, several letters of objections from neighbouring residents were received. These are detailed above. Environmental Health were consulted on the proposal and have returned a response offering no objections subject to conditions restricting the hours in which the outdoor seating area will be open to customers as well as not permitting amplified sound in the outdoor area due to the proximity of neighbouring residents. The restrictive opening hours of the outdoor area will limit the potential for noise nuisance.
- f) it is capable of dealing satisfactorily with any emission or effluent;
 Given the nature of the proposal, this criterion is not applicable.

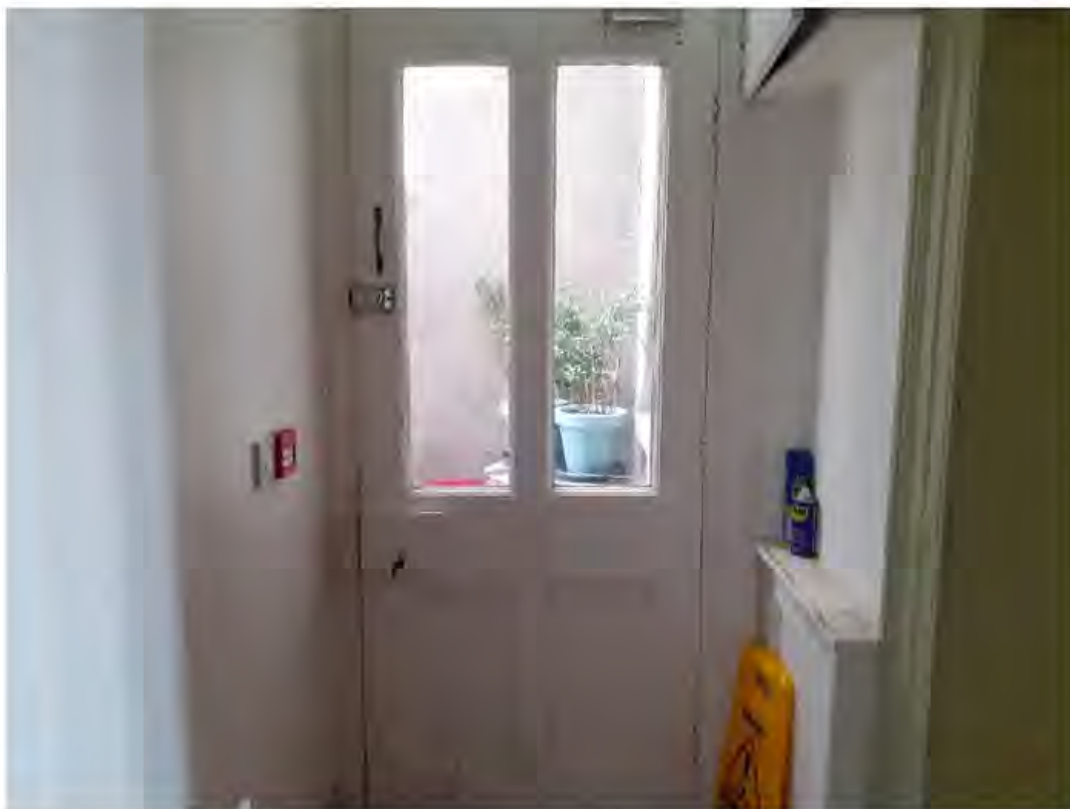
- g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;
- h) adequate access arrangements, parking and manoeuvring areas are provided;

The site layout plan submitted shows capacity for an additional 16 customers in the outdoor seating area. The capacity can be controlled by way of condition if approval was to be granted. Given the Town Centre location, proximity to public transport links and proximity to a number of public car parks within the area and on-street parking along Seaview and Queen Street, it is considered that the increase in capacity for a potential 16 more customers would not be detrimental to the area in terms of parking. I consider that on street parking requirements are sufficient to deal with proposal as it is unlikely to generate heavy volumes of traffic and the local streets in the vicinity of the site as well as the public car parks less than 350m from the premises can adequately serve the proposal.

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

Access to the outdoor seating area is through the existing café as shown on the images below. The rear laneway/right of way is to be used for emergency access and servicing of the premises only.





- j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;
The site layout shows the placement of the seating area. No new buildings are proposed. Landscaping is not required given the nature of the proposal and limited views of the seating area from public viewpoints.
- k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;
As shown in the images of the outdoor area, the area is enclosed by high concrete walls which screens the seating area from public view.
- l) is designed to deter crime and promote personal safety; and
Access to the seating area is through the café. The gate is to be used for servicing purposes and emergency access only. The existing café premises will provide surveillance for the customer seating area.
- m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.
N/A

Summary

In summary, the proposal complies with the relevant planning policies and guidance. The Planning Department acknowledge the letters of objections received. Following consultation with Environmental Health and after a full assessment of the proposal, it is considered that the proposal complies with the relevant planning policies and guidance. Conditions will be attached restricting the opening hours/usage of the outdoor seating area and capacity, restricting the use of the rear gate and the provision of amplified music to protect the amenity of neighbouring residents.

Recommendation: Approval

Conditions:

- 1) This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

- 2) The development hereby permitted shall take place in strict accordance with the following approved plan: A0020Rev07,

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

- 3) The gated access highlighted in yellow on Drawing No. A0020Rev07 shall be used for emergency access and servicing purposes only.

Reason: To protect the amenity of the neighbouring residents.

- 4) The hours of operation of the outdoor seating area hereby approved shall be restricted to 10:00 to 18:00 Monday to Saturday and closed on Sunday.

Reason: To protect the amenity of the neighbouring residents.

- 5) Amplified sound is not permitted in the outdoor seating area hereby approved at any time.

Reason: To protect the amenity of the neighbouring residents.

- 6) The capacity of the outdoor seating area hereby approved shall not exceed 16 patrons at any one time.

Reason: To protect the amenity of the neighbouring residents.

7) No food shall be cooked in the outside seating area at any time

Reason: To protect the amenity of neighbouring residents.

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 determination relates to Planning Control only and is not to be construed as binding the Planning Department in respect of any application required, including Advertising consent.
3. 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.

Case Officer Signature: Eadaoin Farrell

Date: 28.10.22

Appointed Officer Signature: M Keane

Date: 02-11-22

ADDENDUM TO REPORT- LA07/2022/0210/F

Site Address: Ground Floor Unit, 12 Seaview, Warrenpoint, BT34 3NJ

(Note: This addendum report supplements the original Case Officer report dated 28-10-22).

PROPOSAL:

Retention of existing outdoor customer seating area.

(Note: The site was observed as being vacant in Feb 2023, with no outdoor seating area in operation).

BACKGROUND/ACTIONS/CONSIDERATION:

This application was previously discussed internally by the Planning Dept and had been recommended for Approval, subject to conditions, in Oct 2022.

In line with the Councils Scheme of Delegation the application was required to be presented to the Planning Committee. (The application attracted 6 or more material planning objections from different addresses, where the recommendation was for approval).

The application was listed to be presented to the Planning Committee in November's meeting, however was deferred at this meeting at the request of the Chair, as the representative for objectors (Matrix Planning Consultancy) was unable to attend.

The application was then listed to be presented to the Planning Committee in December's meeting, however was again deferred following receipt of a late representation (from Matrix Planning Consultancy), the evening before the date of the scheduled committee meeting, whereby it was determined the application be deferred again to allow time to consider the content of the issues raised therein.

The representation received from Matrix Planning consultancy via email raises a number of matters.

The application site is located within the settlement limits of Warrenpoint as designated within the Banbridge, Newry and Mourne Area Plan (2015), and is also located within the boundary of the town centre. The site is also within an Area of Outstanding Natural Beauty and an Area of Townscape Character, while the road along Seaview is a Protected Route.

The site history is taken as read, however to summarise, permission was previously granted to change the use of the former ground floor apartment of this building at no.12, to office use with refurbishment of the existing outhouse (P/2014/0957/F), and then more recently, permission was granted to retain the change of use of this office use to a café on the ground floor with treatment rooms (LA07/2019/1258/F).



The use of the site as a café within the town centre boundary was previously considered to be acceptable and an appropriate town centre use which did not offend the area plan (town centre designation).

As stated previously, the site is located within the boundary of the town centre and is bounded to either side by a residential property at no.11, and the building comprising the former Balmoral Hotel to the other side, which also extends along the rear of the site. This former hotel building has since been changed to mixed use.

As outlined in the description, this application seeks to retain the existing outdoor customer seating area.

(While the reference in the description to 'retention' is noted, the site was observed as being vacant in Feb 2023, with no outdoor seating area in operation).

Accordingly, in the event permission is granted, the standard time limit condition will now be included.

Although vacant, the Planning Dept is aware of alleged breaches within the grounds of the application site and current Enforcement cases, as noted in the site history section of the original report.

While it is disappointing works or operations that do not have permission may have taken place, the planning system in N.I allows for applications to be submitted in retrospect to regularise works.

The Planning Dept has considered the proposals against the relevant prevailing policy and supplementary guidance, has sought comment from the Environmental Health Dept, and has considered the amenity of adjoining residents.

(Policy includes the SPPS, Area Plan, PPS2, PPS3, PPS4, PPS6 (and Addendum) and DCAN4).

Indeed the advice contained within DCAN4 (Restaurants, Cafes and Fast Food Outlets) is to seek comment from the respective Environmental Health Dept which has been done.

As a matter of standard practice, the Planning Dept takes into account the comments received from consultees on any application, who's role is to provide expert advice in respect of particular aspects.

The Planning Dept has noted the comments from Environmental Health during the processing of this application, together with the applicable policy tests, and has concluded the proposals are acceptable subject to a series of conditions to control the extent of operations/use. The draft conditions are indicative that issues such as noise have clearly been considered. Environmental Health at no time requested further surveys/reports.

The representations received during the processing of the case, and the issues raised therein have been acknowledged and fully considered in the original report.

The application is recommended for Approval subject to conditions.



RECOMMENDATION: APPROVAL

Signed:

Authorised Officer: A McKay

15-03-2023

Case Officer: M Keane

15-03-2023

Relevant draft conditions to include:

Conditions:

- 1) The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.
- 2) The development hereby permitted shall take place in strict accordance with the following approved plan: A0020Rev07.
Reason: To define the planning permission and for the avoidance of doubt.
- 3) The gated access highlighted in yellow on Drawing No. A0020Rev07 shall be used for emergency access and servicing purposes only.
Reason: To protect the amenity of the neighbouring residents.
- 4) The hours of operation of the outdoor seating area hereby approved shall be restricted to 10:00 to 18:00 Monday to Saturday and closed on Sunday.
Reason: To protect the amenity of the neighbouring residents.
- 5) Amplified sound is not permitted in the outdoor seating area hereby approved at any time.
Reason: To protect the amenity of the neighbouring residents.
- 6) The capacity of the outdoor seating area hereby approved shall not exceed 16 patrons at any one time.
Reason: To protect the amenity of the neighbouring residents.
- 7) No food shall be cooked in the outside seating area at any time.
Reason: To protect the amenity of neighbouring residents.

(Slide 1 & 2) **Speaking Request Summary – LA07/2022/0210/F & LA07/2022/0226/F – Ground Floor Unit , 12 Seaview, Warrenpoint, BT34 3NJ**

(Slide 3) There is significant local opposition to both planning applications from local residents. 34 Objections have been registered against each application.

LA07/2022/0226/F seeking variation of opening hours for ticket events as an S54 application.

An S54 application can only propose a change that was previously considered under the original planning permission. It cannot extend the scope of the original permission. It is noted that conditions here widen the scope of the application and do not include the original ones. Planning Approval was granted for **LA07/2019/1258F** on 27 August 2020 subject to four conditions, with condition 2 restricting the opening hours as follows: ***“The hours of operation should be restricted to 10.00 to 18.00 Monday to Saturday and closed on Sunday. Reason: In the interest of amenity”***. It should be noted that in agreement with these conditions and in the spirit of compromise the local residents withdrew their objections to this application for change of use to a café. Condition 2 was attached by Environmental Health to make the development acceptable in respect of the impacts on existing residential amenity. **The critical issue in the case is what has changed since**

LA07/2019/1258/F was granted to justify the conditions being significantly relaxed. Nothing has been provided by way of justification. The relaxation of condition 2 results in an intensification of use. Ticket events for 25 people, private catering and 16 seated outside. This is in addition to the 42 daily customers referenced in LA07/2019/1258/F application and constitutes an intensification of customers of 60% (25/42). This clearly exceeds the 5% threshold as per Paragraph 1.2 DCAN 15 for intensification. The Planning officer failed to consider intensification of usage of the premises or to re-consult with DFI Roads.

Strategic Planning Policy Statement (SPPS for Northern Ireland)

The SPPS was published on 28/09/2015 and became immediately effective. Its provisions apply to the whole of Northern Ireland. It is material to all decisions on individual planning applications and appeals, which remain undetermined, as per the transitional arrangements. The SPPS is the most recent expression of regional policy. Paragraph 2.3 state that *“the Basic question is not whether owners and occupiers or neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Good neighbourliness and fairness are among the yardsticks against which development proposals will be measured”* Paragraph 5.65 states that *“planning authorities have the power to attach conditions to a grant of planning permission. This can enable planning authorities to approve development proposals where it would otherwise be necessary to refuse planning permission. However, conditions*

should only be imposed which are: necessary relevant to planning, relevant to the development being permitted, precise, enforceable, and reasonable". In this circumstance, Condition 2 was attached to LA07/2019/1258/F in the interest of residential amenity as it was deemed necessary, relevant to planning and relevant to the development being permitted. (Slides 4, 5,6)

To manage development planning authorities should treat noise as a material consideration in the determination of planning applications. The proposal does not comply with SPPS, as there is clear harm to the residential amenity of the existing adjoining residents and notwithstanding the clear failure to fully investigate the noise impact, as no background acoustic data has been submitted or requested.

Non-compliance with Policy PED9 of PPS4 – Planning and Economic Development

Proposals for sui generis uses such as a café for the sale of food and drink are also to be considered under PPS4. Neither proposal complies with Policy PED9 Criteria (b) and (e). It is noteworthy that LA07/2022/0226/F does not even mention PED9 in the report.

Development Control Advice Note (DCAN) 4 – Restaurants, Cafes, and Fast-Food Outlets

The Council refers to DCAN 4 in the assessment of both applications. However, they have misapplied the guidance provided within the document and have contradicted themselves in the interpretation. Paragraph 5.2 stated the use of planning conditions is often "paramount" to the control of restaurants, cafes and fast-food outlets, particularly in relation to noise disturbance, smells and fumes, refuse and litter, traffic considerations and car parking, and the provision for people with disabilities. Environmental Health accepts that both applications have the potential to cause adverse impact via noise but offer no objective analysis, evidence or justification to widen Condition 2 which they previously placed to limit opening hours in order to protect residential amenity.

Ongoing Breaches of Planning, Liquor & Entertainment Licencing

The applicant has displayed a blatant disregard for the Council's Planning and Enforcement Departments through a series of ongoing planning breaches. They are also serving alcohol without a liquor licence. (Slides 7,8)

If any doubt exists members must seek a full Acoustic Assessment to be undertaken, along with consideration of the increased parking requirements which have failed to be considered by the Council and Environmental Health as demonstrated.



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

Application Reference:

LA07/2022/0226/F

Date Received:

02.02.2022

Proposal:

This is a category 11 section 54 application. Previous approval for retention of change of use to ground floor cafe unit & 2 no treatment rooms and ancillary services, condition 03 restricted opening hours to Mon-Sat 10.00 to 18.00. This application seeks variation to opening hours to provide opportunity for ticketed events and private catering (see attached sheet for times), 12 Seaview, Warrenpoint,

Proposed opening times:

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

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

Location:

Ground Floor Unit
12 Seaview
Warrenpoint
BT34 3NJ

Site Characteristics & Area Characteristics:

The application site is within the settlement limits of Warrenpoint and Warrenpoint Town Centre as designated within the Banbridge, Newry and Mourne Area Plan (2015). The site is also within an Area of Outstanding Natural Beauty and an Area of Townscape Character.

The application site consists of a three storey mid-terrace building which has been converted from offices to a café at the ground floor. Apartments are located on each floor, above the café.

The site is located adjacent a building that was previously known as The Balmoral Hotel but which has more recently been converted to several different uses, including a guest house, retail on the ground floor and a restaurant on the first floor.

On the opposite side are similar dwellings and some appeared to have been converted to apartments. On the opposite side of the Balmoral Hotel the area becomes residential with large three storey terraced dwellings of a similar form to the application site. The application building is in close proximity to the main commercial centre of Warrenpoint and Warrenpoint Town Park.

The building is currently subject to a live enforcement case - LA07/2022/0095/CA.

Planning Policies & Material

Considerations:

This application will be assessed under the following policy considerations:

- The Planning Act 2011
- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 2: Natural Heritage
- PPS 3 – Access, Movement and Parking
- PPS 6 - Planning Archaeology and the Built Heritage
- PPS 6 Addendum – Areas of Townscape Character
- DCAN 4 – Restaurants, Cafes and fast food outlets

Site History:

- P/1976/0337 – Proposed renovation of existing dwelling – Permission granted
- P/2014/0957/F - Material change of use from ground floor apartment to ground floor office including refurbishment of existing outhouse and WC – Permission granted
- LA07/2019/1258/F - Retention of change of use for ground floor cafe unit with 2.No. treatment rooms and ancillary services – Permission granted
- LA07/2022/0210/F - Retention of existing outdoor customer seating area – Under consideration
- LA07/2022/0095/CA - Alleged development not in accordance with approval – Live
- LA07/2021/0303/CA - Alleged breach of condition of planning approval LA07/2019/1258/F – Enforcement case closed
- LA07/2019/0201/CA - Alleged unauthorised change of use to cafe and holistic retailing – Enforcement case closed

Consultations:

Environmental Health were consulted a number of times on the proposal. The responses are as follows below:

- 25.03.22 - Environmental Health have no objection to this proposed development, subject to an operating hours condition;
- 21.04.22 - Environmental Health request further details on the "ticket events":
 - Nature/Type of events
 - Activities involved
 - Numbers of patrons expected at the events
 Environmental Health will make further comment when this information is received.
- 20.05.22 - Environmental Health have reviewed the application and have no objection subject to the following:
 1. As there are a number of residential properties in close proximity to this development, opening hours should be limited to the following times, to protect the amenity of the local area:
 - Monday to Saturday opening hours 9am to 10pm,
 - Sunday open 9am to 9pm
 2. Use of outdoor space should be limited to current planning conditions, namely:
 - Monday to Saturday :10.00am – 6:00pm
 3. Due to proximity of local residential buildings, there should be no amplified sound, within the curtilage of the property.

Objections & Representations:

Two neighbours were notified 11.03.22. A further 3 neighbours were notified 07.09.2022. The application was advertised in the local press 23.02.2022 and re-advertised 29.06.2022.

28 letters of objections from 23 different addresses were received.

The letters of objections have been summarised below.

- Existing breaches of previous planning approval regarding opening hours;
- Existing operation of outdoor area;
- Erection of new signage on premise;
- Proposed extended opening hours will result in a 3x fold potential increase in capacity and customers which would lead to problems for residents;
- Noise nuisance, intrusive and adverse impact on residential amenity for existing neighbouring residents;
- Proposal contrary to SPPS and DCAN 4;
- Amenity and character of surrounding area will be negatively affected by increased traffic;
- Limited parking available;

Queries were also received regarding an entertainment licence and liquor licence. These matters are outside the remit of planning.

Note: A letter of objection was received by Matrix Planning Consultancy advising that a more detailed letter will be submitted. A second holding letter was received from Matrix Planning Consultancy 20th September advising that a more detailed objection would be submitted in due course. A response email was sent to Matrix Planning to advise that applications cannot be held pending the submission of further representations. As per the Planning Act 2011, a statutory 2-week period is provided. However, the Department accept representations up until a recommendation is made.

A further two letters of objections from 2 different addresses were withdrawn and therefore the contents of these letters will not be considered.

A total of 36 letters of support were received from 29 different addresses. The letters of support have been summarised below.

- Currently no noise;
- Business is within retail area of Warrenpoint zone plan;
- Area draws tourism to Warrenpoint seafront;
- Business is a valuable asset to Warrenpoint's commercial attraction and would benefit economy;
- Asset to neighbourhood ambiance;
- Benefit to have a business opening later;
- Other neighbouring businesses have similar opening hours;

Consideration and Assessment

Planning Act 2011

Section 54 of the 2011 Act allows for an application to be made for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. In considering an application made under section 54, the planning authority which granted the previous planning permission

must consider only the "question of the conditions" subject to which planning permission should be granted (section 54(3)).

LA07/2019/1258/F was approved 27th August 2020 for a change of use for ground floor cafe unit with 2.No. treatment rooms and ancillary services. The application wishes to vary condition 3 of LA07/2019/1258/F.

Condition 3 currently restricts opening hours of the premises to 10am to 6pm Monday to Saturday and closed on a Sunday. This condition was attached in the interests of amenity.

The applicant wishes to vary the opening hours to:

- Monday to Saturday open to general public 9am to 6pm,
- Monday to Saturday open for ticketed events 6pm to 10pm

- Sunday open to general public Midday to 4pm,
- Open for private guest breakfasts (apartments above) 9am to 11am,
- Open for ticketed events 4pm-9pm,

SPPS

Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. In practice this means that development that accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise. The SPPS at paragraph 6.91 states all applications for economic development must be assessed against normal planning criteria relating to such considerations such as access arrangements, design, environmental and amenity impacts.

As stated, the principle of the use of this site as a café has already been established whereby this application seeks to vary the opening hours.

Impact on area and neighbouring residents

Para 5.1 of DCAN 4 states that "the likely impact of such proposals on the character and amenity of the adjoining or surrounding area will be an important concern when determining applications. In assessing this impact, a number of factors need to be taken into account i.e.

- noise disturbance;
- smells and fumes;
- refuse and litter;
- traffic considerations and car parking; and
- provision for people with disabilities."

Para 5.2 of DCAN 4 goes on to state that "the use of planning conditions is often paramount to the control of restaurants, cafés and fast food outlets, particularly in

relation to the above considerations. The impact of many proposals which would otherwise be rejected, may be mitigated by the imposition of such conditions. Preventative measures can be taken through the development control process by for example restricting opening hours and dealing with the technical aspects of noise and fume attenuation. The Environmental Health Department of the relevant local council will be consulted as appropriate during the processing of planning applications and in the formulation of any conditions considered necessary for the approval of the development."

As noted above, a number of letters of objections were received regarding the proposal. The objections are summarised below.

- Existing breaches of previous planning approval regarding opening hours;
There is a live enforcement case LA07/2022/0095/CA which is currently investigating possible breaches of opening hours condition and the use of the rear yard area for customers. The application under consideration is to vary the opening hours.
- Existing operation of outdoor area;
There is a live enforcement case LA07/2022/0095/CA which is currently investigating possible breaches of approval and the use of the rear yard area for customers. Subsequently, an application has been submitted and is under consideration for the retention of the outdoor seating area.
- Erection of new signage on premise;
The erection of new signage on premises requires advertisement consent. This concern will be raised with Enforcement.
- Proposed extended opening hours will result in a 3x fold potential increase in capacity and customers which would lead to problems for residents;
The agent has clarified that Monday – Saturday 9am-6pm, the premises will be open to the general public and 6pm-10pm the premises will be open for tickets events. The agent advised that the ticketed events will have a maximum of 25 guests. The agent advised that Sunday 9am-11am the premises will be open for private breakfast for the upstairs apartments. The premises will be open 12pm-4pm on Sundays to the general public and 4pm-9pm on a Sunday for ticketed events. At present the premises can open (as per condition No. 3) 10am-6pm Monday-Saturday. The proposed opening hours includes an extra hour in the morning (9am-10am) Monday-Saturday for the general public and 4 additional hours in the evening for ticketed events. Condition 3 currently restricts Sunday opening. Given the breakdown of the opening hours and conditions stipulated by Environmental Health, the Planning Department is satisfied that the extended opening hours will not affect the amenity of neighbouring residents in terms of odour, noise, parking and litter to an unacceptable level.
- Noise nuisance, intrusive and adverse impact on residential amenity for existing neighbouring residents;

Environmental Health were consulted 3 times during the processing of the application. EH requested further information regarding the “ticket events” including the nature/type of events, activities involved, and numbers of patrons expected at the events. Further information submitted by the agent clarified that the ticketed events will be dining events with a maximum number of 25 guests attending. The guests will be taking part in food tasting. The agent advised that there will be no entertainment provided and no amplified sound within the curtilage of the property. Environmental Health returned a final response offering no objections subject to a number of conditions given the proximity of the development to residential properties. The conditions include:

- Opening hours should be limited to the following times, to protect the amenity of the local area:
 - Monday to Saturday opening hours 9am to 10pm,
 - Sunday open 9am to 9pm
- Use of outdoor space should be limited to current planning conditions, namely:
 - Monday to Saturday :10.00am – 6:00pm
- Due to proximity of local residential buildings, there should be no amplified sound, within the curtilage of the property.

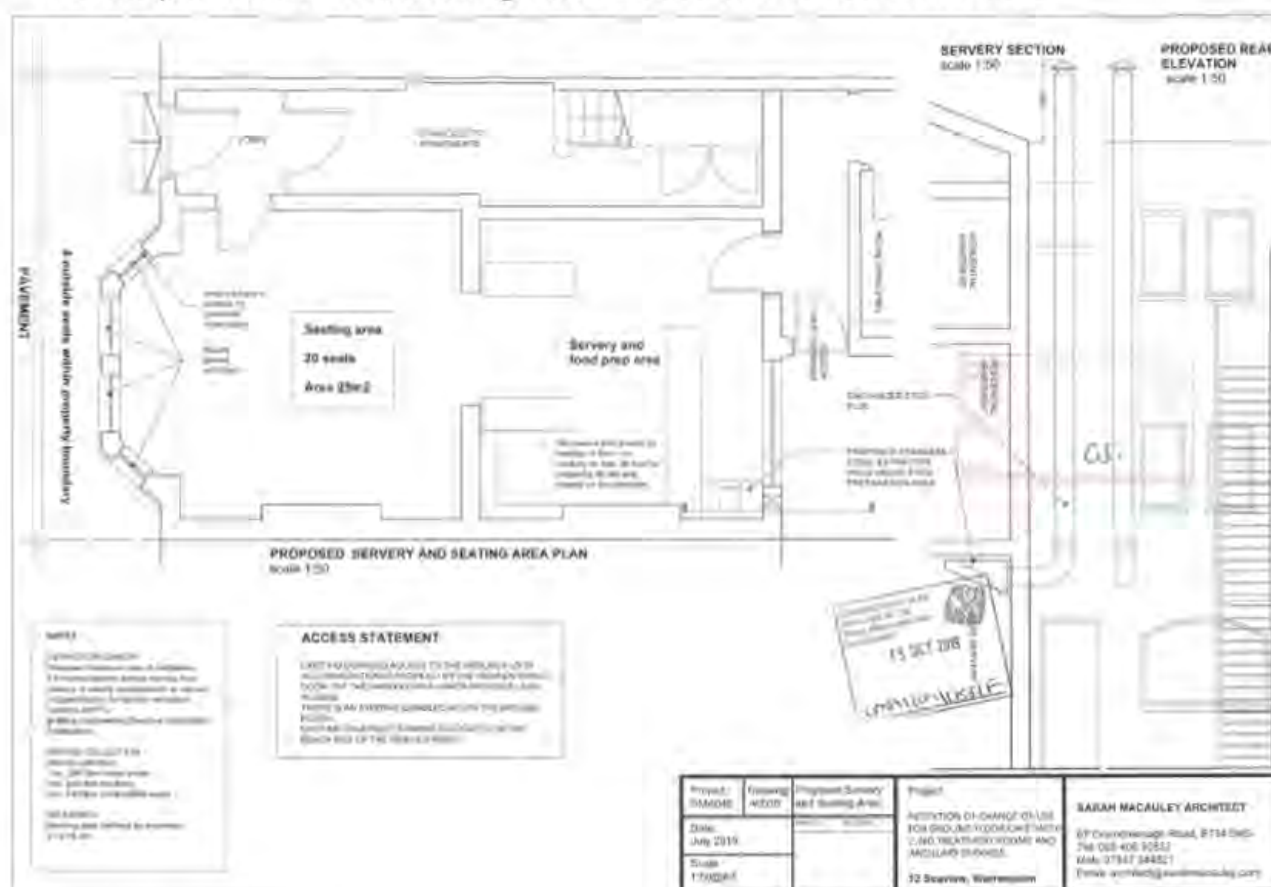
The Planning Department have been contacted on several occasions by neighbouring residents voicing concerns regarding alcohol being used on the premises. The matter of alcohol and/or entertainment licences or BYOB is outside the remit of Planning as advised in Para 3.7 of DCAN 4 which refers to ‘Alfresco’ eating and states that it may be necessary to obtain licences from other authorities.

- Proposal contrary to SPPS and DCAN 4;
The assessment of the proposal against SPPS and DCAN 4 is laid out within this report.
- Amenity and character of surrounding area will be negatively affected by increased traffic and limited parking available;

As mentioned above, the subject site is located within Warrenpoint Town centre boundary (TC 98). Para 4.1 of DCAN 4 states that retailing will generally be directed to existing settlements of appropriate size and Para 4.2 goes on to advise that preferable locations for restaurants, cafés and fast food outlets include town centres. Town centre uses include retail, offices, residential and various sui generis uses such as cafes within this proposal. Given the Town Centre location, proximity to public transport links and proximity to a number of public car parks within the area and on-street parking along Seaview and Queen Street, the Planning Department is satisfied that the proposal will not impact the amenity and character of surrounding area due to increased traffic and limited parking to an unacceptable level in this urban context. I consider that on street parking requirements are sufficient to deal with proposal as it is unlikely to generate heavy volumes of traffic given the size of the existing

premises (and the fact that the EH have stipulated a condition to restrict the outdoor seating area to a 6pm closure) and the local streets in the vicinity of the site as well as the public car parks less than 350m from the premises can adequately serve the proposal.

Whilst it is noted that this application seeks to extend the opening hours of the approved café, it has been acknowledged that the previous approval was granted on the basis of all food being prepared off site and only heated on the premises and that there was no cooking of food on site. This was also reiterated within the Planning Statement submitted alongside the application. A note was shown and approved on the site plan below. This Drawing was included on this decision notice.



Approved site layout - LA07/2019/1258/F

Given the above and the lack of detail provided for the proposed ticketed events, the Planning Department deem it necessary to protect the amenity of neighbouring residents in terms of potential odour pollution in line with Para 5.1 of DCAN 4 by stipulating a condition restricting the cooking of food on site unless the Council gives its written consent to any variation by the submission of an Odour Impact Assessment.

Summary

Having account, the detailed comment from Environmental Health who provided expertise in this respective field, it is considered the issues raised within the letters of objections have been fully considered, with detailed comment provided, offering no

objections. On this basis, it is considered there are no grounds to sustain a refusal on this basis.

The variation to the opening hours has been considered in consultation with Environmental Health, and while the itemised hours outlined and associated supporting documentation provided by the nominated agent are noted, following receipt of comments from Environmental Health these will be conditioned appropriately.

Recommendation: Approval

Conditions:

1. The hours of operation should be restricted to the following times:
 - Monday to Saturday opening hours 9am to 10pm,
 - Sunday opening 9am to 11am for guests from upper floor apartments only,
 - Sunday opening hours 12pm to 9pm

Reason: To protect the amenity of the local area.

2. The hours of operation of the outdoor seating area hereby approved should be restricted to 10:00 to 18:00 Monday to Saturday and closed on Sunday.

Reason: To protect the amenity of the local area

3. Amplified sound shall not be permitted within the curtilage of the property at any time.

Reason: To protect the amenity of the local area.

4. No food shall be cooked on site until an Odour Impact Assessment has been submitted by the applicant and approved by the Planning Authority.

Reason: To protect the amenity of the local area.

5. The gated access to the rear of the premises shall be used for emergency access and servicing purposes only.

Reason: To protect the amenity of the neighbouring residents.

Informatives:

1. All other conditions, informatives and annotations on the approved plans of LA07/2019/1258/F remain valid and must be adhered to in full.

Note: Drawing No.03 states 'No cooking on site. All food is prepared off site and heated on the premises'.

Case Officer Signature: Eadaoin Farrell Date: 28.10.22
Appointed Officer Signature: M Keane Date: 02-11-22



ADDENDUM TO REPORT- LA07/2022/0226/F

Site Address: Ground Floor Unit, 12 Seaview, Warrenpoint, BT34 3NJ

(Note: This addendum report supplements the original Case Officer report dated 28-10-22).

PROPOSAL:

This is a category 11 section 54 application.

Previous approval for retention of change of use to ground floor cafe unit & 2 no treatment rooms and ancillary services. Condition 3 of this permission restricted opening hours to Mon-Sat 10.00 to 18.00.

This current application seeks variation to opening hours to provide opportunity for ticketed events and private catering.

Proposed opening times:

Monday to Saturday open to general public 9am to 6pm,

Monday to Saturday open for ticketed events 6pm to 10pm

Sunday open to general public Midday to 4pm,

Open for private guest breakfasts 9am to 11am,

Open for ticketed events 4pm-9pm.

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

BACKGROUND/ACTIONS/CONSIDERATION:

This application was previously discussed internally by the Planning Dept and had been recommended for Approval, subject to conditions, in Oct 2022.

In line with the Councils Scheme of Delegation the application was required to be presented to the Planning Committee. (The application attracted 6 or more material planning objections from different addresses, where the recommendation was for approval).

The application was listed to be presented to the Planning Committee in November's meeting, however was deferred at this meeting at the request of the Chair, as the representative for objectors (Matrix Planning Consultancy) was unable to attend.

The application was then listed to be presented to the Planning Committee in December's meeting, however was again deferred following receipt of a late representation (from Matrix Planning Consultancy), the evening before the date of the scheduled committee meeting, whereby it was determined the application be deferred again to allow time to consider the content of the issues raised therein.

The representation received from Matrix Planning consultancy via email raises a number of matters.



The application site is located within the settlement limits of Warrenpoint as designated within the Banbridge, Newry and Mourne Area Plan (2015), and is also located within the boundary of the town centre. The site is also within an Area of Outstanding Natural Beauty and an Area of Townscape Character, while the road along Seaview is a Protected Route.

The site history is taken as read, however to summarise, permission was previously granted to change the use of the former ground floor apartment of this building at no.12, to office use with refurbishment of the existing outhouse (P/2014/0957/F), and then more recently, permission was granted to retain the change of use of this office use to a café on the ground floor with treatment rooms (LA07/2019/1258/F).

The use of the site as a café within the town centre boundary was previously considered to be acceptable and an appropriate town centre use which did not offend the area plan (town centre designation).

As stated previously, the site is located within the boundary of the town centre and is bounded to either side by a residential property at no.11, and the building comprising the former Balmoral Hotel to the other side, which also extends along the rear of the site. This former hotel building has since been changed to mixed use.

As outlined in the description, this application seeks to vary condition 3 of permission LA07/2019/1258/F, to vary/extend the opening hours.

Condition 3 stated;

'The hours of operation should be restricted to 10:00 to 18.00 Monday to Saturday and closed on Sunday'

The applicant wishes to vary the opening hours to:

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

The Planning Dept is content this application to vary the opening hours, falls within the scope of a Section 54 application.

The Planning Dept has noted the Development Management Practice Note in this regard and various case law included therein, which the objector has quoted, and is content this is a valid Section 54 application.

As this application solely seeks to vary the opening hours of the property from that previously approved, the assessment and conditions will reflect this accordingly.

There is a separate application to retain the outside seating area at this same property, also under consideration at present (LA07/2022/0210/F), as referred to in the original report. This application has also been recommended for approval. The draft conditions of application LA07/2022/0210/F will be kept separate due to the nature and extent of this application.



(The draft conditions attached to application LA07/2022/0210 were previously repeated on this application for the avoidance of doubt, however have now been omitted for clarity).

As outlined in the original report, consultation was undertaken with the Environmental Health Dept of the Council as part of the processing and consideration of this application. Having account the nature of this application and restrictions attached to the original permission, this was considered to be correct and appropriate, and is in line with the guidance set out in DCAN4 (Restaurants, Cafes and Fast Food Outlets).

While the description provided by the agent in respect of opening times is very prescriptive, Environmental Health in their final response were content to condition and allow the hours of operation as follows:-

- Monday to Saturday opening hours 9am to 10pm,
- Sunday opening hours 9am to 9pm.

This response was further discussed internally in the Planning Dept and the final condition regarding opening times/hours of operation are that provided in the draft conditions below. This condition is following consideration of Environmental Health comments and the description provided by the agent.

As a matter of standard practice, the Planning Dept takes into account the comments received from consultees on any application, who's role is to provide expert advice in respect of particular aspects.

While the hours of use will extend as a result of this permission the capacity at any one time, including number of seats remain as previous permitted.

The information submitted to accompany the previously approved application is noted, however ultimately this previous permission did not condition or restrict the number of patrons that could attend the premises on a daily basis.

Parking provision and requirements is a matter for the Planning Dept. It was not considered necessary to obtain comment from DFI Roads in assessing this application.

The extent of the previous permission is again noted, together with the town centre location of the site, and proximity to public transport and public car parks and on-street parking. Parking pressures peak at different times of the day and having account the location of the site and factors outlined above, it is considered extending the opening hours is permissible and nothing further is required. The issue of traffic and parking was covered in the original report.

The representations received during the processing of the case, and the issues raised therein have been acknowledged and fully considered in the original report.

The Planning Dept has considered the proposals against the relevant prevailing policy and supplementary guidance, has sought comment from the Environmental Health Dept, and has assessed the application correctly.

(Policy includes the SPPS, Area Plan, PPS2, PPS3, PPS4, PPS6 (and Addendum) and DCAN4).



In respect of PPS4, Policy PED 1 provides guidance for economic development in settlements. Proposals to extend an existing economic development use or premises within settlements will be determined on its individual merits having regard to Policy PED 9. Policy PED 9 sets out the general criteria for economic development. The proposals have been fully considered against this policy.

The application is recommended for Approval subject to conditions.

As previously stated, this application deals solely with changes to the opening hours. Any other changes that go beyond the scope of the previous approval will require separate consent.

RECOMMENDATION: APPROVAL

Signed:

Authorised Officer:	A McKay	15-03-2023
Case Officer:	M Keane	15-03-2023

Relevant draft conditions to include:

Conditions:

1. The hours of operation should be restricted to the following times:
 - Monday to Saturday opening hours 9am to 10pm,
 - Sunday opening 9am to 11am for guests from upper floor apartments only,
 - Sunday opening hours 12pm to 9pm

Reason: To protect the amenity of the local area.

2. The development hereby permitted shall take place in strict accordance with the following approved plans: 01B, 02B and 03 of permission LA07/2019/1258/F.

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

3. Delivery vehicles should utilise on street parking spaces only. Deliveries shall only occur Monday to Saturday 10.00 to 16.00 and no deliveries on Sunday.

Planning Committee Application

Development Management Officer Report	
Case Officer: Clare McCoy	
Application ID: LA07/2022/0537/F	Target Date:
Proposal: Proposed demolition of the existing dwelling and garage, to facilitate construction of a replacement 2 no. storey detached dwelling and attached garage and all associated site and access works	Location: 55 Windmill Road Kilkeel Newry BT34 3LP
Applicant Name and Address: Mr Ian Hill 55 Windmill Road Kilkeel BT34 4LP	Agent Name and Address: TSA PLANNING 20 May Street Belfast BT1 4NL
Date of last Neighbour Notification:	18 May 2022
Date of Press Advertisement:	4 April 2022
ES Requested: No	
Consultations: DFI Roads If the proposed dwelling to be replaced could be reasonably occupied at present or following minor modification and there is no intensification to the existing access, DFI Roads has no further objection to this application. If this is not the case then please re consult. The Planning Department consider there is no intensification to the access and the existing dwelling could be occupied. No further action required. Overall no objection. SES 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. Elimination Reason: No viable pathway for pollutants arising at the application site and impacting on the European Protected Site exists. NIEA Standing advice NI Water Approved with standard response	
Representations: Ten third party representations have been received from the following six households: 69 Windmill Road, 61 Windmill Road, 59 Windmill Road (2), 53 Windmill Road (2), 51 Windmill Road and 98 Hillpark Grove Edinburgh.	

In summary the concerns raised include:

- Siting of proposed dwelling does not follow building line of neighbouring dwelling at 53 and may result environmental changes.
- Siting of dwelling is outside footprint of existing and results in poor building line along shorefront.
- Size – too large and blot in the landscape.
- Loss of privacy, overlooking and loss of light to neighbouring property at 53
- Concerns that water and sewerage may not be able to cope with further development
- Two storey development is out of character with development in this area
- Run off – large area of hardstanding will create run off on to the lane and could result in damage from standing water – run off should be redirected or the material changed to a porous surface
- Sand bank and dunes – increased use along lane of the bank as gardens – works to this area need to be considered to ensure integrity of the bank's structure.
- This section of the road where the application site is located is vulnerable to water run off and heavy vehicles creating further damage. Recent storms have damaged the bank areas and reduced it creating further erosion.
- Concerns regarding overlooking of balcony / roof terrace.
- Proposal due to its siting will obstruct neighbour's view at no. 53.
- Concerns that septic tank for application site will not be able to manage water and sewerage effectively.
- Design of proposal is at odds with AONB and out of character of the local area.
- Scale, form and massing of proposed dwelling does not blend in with the single storey property adjacent (59).
- Critical views of the site from the beach should be considered as the proposal intrudes on top of the slope and views from the beach.
- Concerns of the proposal adding to further coastal erosion particularly on the bank area.
- Heavy vehicles during construction will cause more damage to the lane particularly to the front of No.s 51 and 53.
- Removal of boundary wall with no. 53 will create concerns about how the new garage will be built on the boundary and maintained without access from No.53 which adjoins the site.
- Introduction of contemporary features such as glass will create a prominent building that dominates the shoreline.
- Increase in ridge height and forward siting will result in overshadowing and dominance to No.53.
- Windows on second storey on NE elevation provide opportunity for overlooking to private amenity of No.53.
- DAS fails to account for disabled person access and does not refer to policies in relation to access and fails to address environmental sustainability.

- Proposal fails to include a biodiversity checklist and should be required given the existing building is being demolished and could have the potential for protected species to be present.
- Proposal fails to meet the policy set out in PPS 21 CTY 3 in that it results in significantly greater visual impact, design not appropriate to the area.
- Proposal fails to meet CTY 13 of PPS 21 in that is a prominent feature in the landscape and inappropriate design in the locality.
- Proposal fails to meet CTY 14 of PPS 21 in that the dwelling would appear prominent and is out of keeping with the character of the area.
- Proposal fails Policy NH 6 of PPS 2 in that the increase in ridge height results in a larger prominent building which will dominate the shoreline and does not respect the character of the area. Contemporary design is alien to the area and out of keeping.
- Proposed plot at No.55 is too large considering ratio of built footprint to garden area. Proposed dwelling is too high given existing single and 1.5 storey dwellings.
- Character of the area is already eroded by developments which are out of scale and this proposal would further erode that character.

Letters of Support	0
Letters of Objection	10
Petitions	0
Signatures	0
Number of Petitions of Objection and signatures	0

Site Visit Report

Date of Site Visit: 23 June 2022

Characteristics of the Site and Area

The application site is located at 55 Windmill Road, Kilkeel, 3 miles SW of Kilkeel Town Centre. The application site is a rectangular plot measuring 0.46 ha located midway on Windmill Road which consists of approx. 28 dwellings which face the shorefront towards the Irish Sea. The dwelling to be replaced is a 1.5 storey detached dwelling (Image 1). An existing access is directly from Windmill Road. The dwellings adjacent include No. 53 a 1.5 storey detached dwelling to the east and No. 57a and 57b a two storey detached building containing two residences to the west. The south eastern area of the site is a grassed area located across the lane from No.55 just above the beach with pedestrian access to the beach. This appears to be common practice with each dwelling on Windmill Road.

The site is located outside settlement limits in a rural area as defined on the Banbridge / Newry and Mourne Area Plan 2015. It is adjacent to the coast facing the Irish Sea and the most southerly point of Northern Ireland (Cranfield Point) is just beyond the site to the south. Shanlieve Holiday Park is located 0.3km to the south east. The site is within the Moumes and Slieve Croob Area of Outstanding Natural Beauty. Windmill Road is a narrow road with only room for one vehicle. The area is heavily built up with a long line of development (mainly single houses) stretching along this part of the coastline. There are varying houstypes along this road including single and two storey dwellings and dwellings with front balconies that overlook the seafront.



Description of Proposal

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

Planning Assessment of Policy and Other Material Considerations

This planning application has been assessed under the following:

- The Banbridge, Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement (SPPS) for Northern Ireland
- PPS 2 Natural Heritage
- PPS 21 Sustainable Development in the Countryside
- PPS3 - Access, Movement and Parking,
- DCAN 15 - Vehicular Access Standards
- Building on Tradition Sustainable Design Guide.

Planning History - No relevant planning history

Proposal

The application seeks demolition of the existing detached 1.5 storey dwelling and replacement two storey dwelling with attached garage within the existing curtilage of the existing dwelling.

Banbridge, Newry and Mourne Area Plan 2015

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015. The site is located outside the settlement limit of a designated settlement and within the Mournes AONB. There are no specific policies in the Plan relating to the proposed use therefore this application will be assessed against regional planning policy.

Strategic Planning Policy Statement (SPPS)

As there is no significant change to the policy requirements for the proposal following the publication of the SPPS and it is arguably less prescriptive the retained policies of PPS21, PPS 2 and PPS 3 will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS. Furthermore paragraph 6.78 of the SPPS requires that the supplementary guidance contained within the 'Building on Tradition' a Design a Sustainable Design Guide for the NI countryside' is taken into account in assessing all dev proposals in the countryside.

PPS21 - Sustainable Development in the Open Countryside

Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes replacement dwellings if they are in accordance with Policy CTY3. The existing building displays all the essential characteristics of a dwelling – chimneys, roof, doors and windows are all intact. I consider the building is eligible for replacement under CTY 3.

SITING – Policy CTY3 requires that replacement dwellings should normally be sited within the established curtilage of the existing building, the proposal accords with this criteria. The proposed dwelling is shown on the footprint of the proposed site layout and extends further forward of the building line by 3.5m. I don't consider this is out of keeping as it follows the building line of No. 57a and 57b adjacent and as shown on the site location map the building line of Windmill Road varies. Overall siting is acceptable.

DESIGN –The proposed dwelling has a similar external footprint to that existing with the exception of the single storey garage to the rear/side and extensions to the rear. The proposal is altering the height of the dwelling an 8m ridge height. Similar two storey dwellings exist on Windmill Road and as already stated house types vary on this road. Overall I consider the design is similar to the new dwelling built between No. 67 and No. 61 approved under planning ref. LA07/2016/0776/RM.

The proposal provides 3 bedrooms, two on the first floor, one with first floor balcony, one bedroom with en-suite and one bedroom on the ground floor, living/dining and kitchen on ground floor, first floor bathroom and attached garage to the side/rear. Finishes include render with feature panels of either larch or natural stone, natural roof slate or flat tile, aluminium rainwater goods, UPVC/ aluminium windows and doors. Whilst the AONB generally stipulates the use of natural materials I consider natural stone/ larch is acceptable as it is complementary to the surrounding area and consider it is acceptable in the Mournes AONB. Balconies also exist on this road at other properties and I don't feel it is out of keeping. Existing masonry walls are to be retained along the side of the property with a new beech hedgerow which will be planted on the western boundary to a max. height of 1.8m. I consider this is acceptable. Parking is to the front at the side and extends to the rear towards the garage on the eastern boundary adjacent to the garage. A landscaped front and rear garden will be located to the north and south. Overall, I consider the design acceptable.

SERVICING AND ACCESS - It is anticipated that all the necessary services can be extended to the new dwelling without significant adverse impact on the environment or character of the locality. The proposed dwelling will use an existing access on to the laneway which DFI Roads confirmed there is no objection.

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character

These policies assess new buildings in terms of their design, visual integration and maintaining rural character in the countryside. The proposed dwelling is sited on the existing footprint of the existing dwelling. The proposed dwelling and garage will not result in a prominent feature in the landscape given the level of existing development adjacent and generally on Windmill Road. The proposal is replacing an existing building and does not rely primarily on new landscaping for integration. The proposal will not result in a suburban style build-up of development when viewed with existing and approved buildings. I consider the design of the proposed dwelling and garage are acceptable. I am content the proposal will not damage the rural character of the area.

CTY16- Development relying on new mains

The P1 form indicates a septic tank will be used to serve the dwelling. It is again noted this application is for a replacement dwelling.

Building on Tradition A Sustainable Design Guide for the Northern Ireland Countryside (BOT)

This guidance document is also relevant to the determination of this application. The proposed new dwelling accords with the key principles of re use contained within this guidance document.

PPS 2 Natural Heritage

Policy NH6 of PPS2 applies to development within Areas of Outstanding Natural Beauty. The proposed replacement dwelling is of an appropriate scale for the locality, that its siting is acceptable and that it respects local character. The design is appropriate to the AONB.

In respect of natural heritage having account of the condition of the existing dwelling to be replaced and extent of the proposals and site constraints a Biodiversity checklist was requested, and subsequently submitted as part of the application process. The report determined that a preliminary bat roost potential report is required, this was submitted and sent to NIEA on 24 January 2023. The house and garage were assessed as having negligible bat roost potential with no further bat roost emergence surveying required. NIEA have not returned a consultation response with no objection and provided general standing advice.

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. SES determined that having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site. The elimination reason was no viable pathway for pollutants arising at the application site and impacting on the European Protected Site exists.

Residential Amenity

The proposed dwelling is located approx. 2.5m from the common boundary with No. 57 A&B to the west, whereby these dwellings are set back approx. 5m from the western common boundary and sit on slightly higher ground to the application site. There are two ground floor kitchen windows proposed on the side gable facing towards no. 57 A&B, and the side of the upper floor balcony, although which will be to the front. The layout of 57 A&B, including balcony and 1st floor windows are noted along the respective side elevation. It is considered the ground floor windows on the side gable will not result in any undue overlooking due to their location and ground floor nature whereby they will primarily look towards the driveway of the adjoining property. The

proposed balcony, although at first floor level will primarily overlook the front and side portion of the adjoining property thus again it is considered no unacceptable overlooking over loss of amenity will result. The glazing on the returns which are sited further away from the boundary with no.57A&B are considered to be located a sufficient distance to prevent any unacceptable impact or loss of amenity.



On the opposite side elevation facing No. 53 an existing single storey building extends to the rear, this appears to be a bedroom and high level windows are noted facing the side of the application site. The proposal includes a single storey garage along the common boundary at the rear. The side gable of the dwelling includes a doorway and glazed entrance hall at ground floor with a landing and high level stairwell window above. The ground floor door and glazing are considered not to result in any unacceptable impact due to its ground floor nature. The high level upper floor window will not result in any impact due to its nature, while the landing window will be conditioned to have obscure glazing fitted, to prevent any undue overlooking. The existing boundary towards the front of the property is a 1.2m wall and this will be retained, which is acceptable. There is unlikely to be overlooking to the rear of the adjacent properties as the garage to the west screens direct view to the rear garden. Opposite to the east the existing single storey building on the common boundary screens direct view to the rear garden and the nearest first floor window is located almost 7m, which is acceptable.

It is considered the proposed dwelling will not result in any unacceptable overshadowing, loss of light or dominant impact on the properties to either side as the proposal is single storey adjoining the eastern common boundary and there is adequate separation distance to the west with a wall and hedgerows to aid screening. Overall I consider the proposal will not adversely impact on residential amenity.

Summary While it is noted there is local opposition to the proposals, it is considered the house type including size, design, finishes and appearance, although larger than that existing on site, is in keeping with the character of the area, and there are no grounds to sustain a refusal.	
Neighbour Notification Checked	Yes
Summary of Recommendation: Approval	
Conditions: The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission. Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011. The development hereby permitted shall take place in strict accordance with the following approved plans:01, 02 RevB,03 RevB, 04, 05, 06,07. Reason: To define the planning permission and for the avoidance of doubt. The construction of the dwelling hereby permitted, including the clearing of topsoil, shall not commence until the existing building, coloured green on the approved plan 01 is demolished, all rubble and foundations removed and the site restored in accordance with the details on the approved plans. REASON: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out prior to the occupation of any part of the dwelling. REASON: To ensure the provision, establishment and maintenance of a high standard of landscape. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation. Reason: To ensure the provision, establishment and maintenance of a high standard of landscape. The 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 should also be designed to minimise the risk of wrongly connecting the sewage system to the rain-water drainage system, once the building is occupied.	

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

The proposed first floor hallway window coloured yellow on the side elevation shown on drawing 04 shall be fitted with obscured glazing prior to any part of the upper floor coming into use which shall be permanently retained as such thereafter.

Reason: To ensure resident's privacy is not adversely affected.

The existing boundary walls shall be retained where indicated on the site layout drawing 02 RevB and the proposed hedge shall be planted and maintained at a minimum height of 1.8 metres and retained in perpetuity thereafter. These works shall be completed during the first available planting season after the dwelling is occupied.

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

Case Officer Signature: Clare McCoy

Date: 16 March 2023

Appointed Officer Signature: M Keane

Date: 16-03-23

Development Management Consideration

Details of Discussion:

Letter(s) of objection/support considered: Yes/No

Group decision:

D.M. Group Signatures

Date

Planning Application LA07/2022/0537/F – Statement of objection by Peter Beamish

AUTHORITY

I have been given permission by all 10 objectors identified in the Case Officer's report of 16th March 2023 to speak to the Committee on all our behalf's and to again highlight the 29 points of concern relating to application LA07/2022/0537/F which we do not feel have been given fair consideration.

KEY ISSUE - SIZE & CHARACTER

The Case Officer's report cites the building at No. 57 Windmill Road several times as a reference for the proposed development at No. 55 Windmill Road. While the report refers to PPS 2, PPS 3, PPS 7 and PPS 21, the proposal is said to be acceptable in relation to No. 57 rather than to these guidelines.

No. 57 is not, in our opinion, a valid reference since it was built before such guidelines were in place. Specifically, No. 57 was built in 2000 and caused considerable consternation and upset among the residents on either side as they felt they had not been properly informed of the scale and the positioning of what was to be built and were very surprised that it had received planning permission at all. Of course once it was built it nothing could be changed but after a number of the residents raised the matter with the planning authorities the then Divisional Planning Manager (Mr P.J. McBride) tacitly accepted the process had not been handled as well as it might have been and did recognize in writing that the "concerns" arising from the construction of No. 57 which would be considered "if further applications along Windmill Road were submitted." A copy of this letter was included in our objections.

Since then the PPS guidelines, in particular PPS 7, have been amended to "amplify" the protection of "local character" and other PPS 7 guidelines. As such, No. 57 would not meet today's guidelines. However, PPS 7 is not considered or referred to anywhere in the Case Officer's report. We feel that this is a significant oversight and suggests that it is ok for the current application to be compared with what today would be considered an unacceptable practice.

The report acknowledges the proposed height increase to 8 m, the forward movement of the site's footprint by 3.5 m, the new building's increased size and its new alignment with our boundary wall. These are breeches of several PPS 7 and Building on Tradition guidelines (which the report refers to as "relevant guidelines") as well as PPS 21, PPS 2 and PPS 3. The report says that it will give "substantial weight" to the policies of PPS 21, PPS 2 and PPS 3 in considering the application. Yet the report then says that the proposals are acceptable on the grounds of comparison, again, with the house at No 57.

Specifically the Building on Tradition guidelines state that a replacement building should 'generally be placed as close as possible to the footprint of the original house' they also state that 'replacement dwellings should not be of an excessive size in comparison to the original building, and then comments 'The most common offence 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.. the key message is that a building size must be relative to its surroundings.'

The Planning Report says that the proposed dwelling has a similar external footprint to that existing with the exception of the single storey garage. This is incorrect. The proposed plans show a building footprint (including garages) that is 45% bigger than the existing footprint. This together with the change from a chalet style one and a half storey dormer bungalow to a full on two storey house means that, excluding the garages, the proposed house will be 110% bigger, ie. more than double the size of the existing house.

As such, our opinion is that the application has not been considered in the light of the appropriate PPS guidelines but rather in the light of the neighbouring building that no longer meets today's planning requirements and as a result we will have to live with two eyesores instead of one.

The reports states that our privacy would not be compromised by the proposed increase in height of No. 55 but it does not explain how this conclusion was arrived at or justified especially as the building line would be 3.5 metres further forward and we would be overlooked by the full height of a two-storey house.

The report states, 'Similar two storey dwellings exist on Windmill Road'. While there are some older, more substantial buildings at the western end of Windmill Road, the buildings at the eastern end, i.e. Nos. 39 to 70, are essentially chalet style of 1.5 stories (again with the exception of No. 57). The report does not mention this and does not appear to have considered them when appraising the application. The building referred to between No. 61 and 67 is a one and a half storey dormer style house, not a two-storey house, and respects the building line of its neighbours. In fact, it provides a very good model for reasonable development and, subject to appropriate scaling to fit the smaller site at No.55, would fit in extremely well.

CONCLUSION

We are not trying to prevent the applicant from re-building his house at No. 55 and we appreciate we will be neighbours and hopefully good neighbours. However, we feel that the current proposal is much too big for the site and will undoubtedly damage the character and atmosphere for the entire community on Windmill Road.

We are simply asking that the proposal be amended to take into consideration the community of families who have been coming to Cranfield for several generations already. Our own family's ties date back to 1922 when our grandparents and mother (from Armagh) started coming. All of our generation have been visiting Cranfield all our lives and our children and their children are now doing so as well. Our family purchased No. 53 45 years ago in 1978. These ties of longevity are crucial in the development and character of that community.

We can understand that the Applicant does not yet have any history in the local community and we also accept the need to rebuild. However, we feel that the current proposals are too extreme and will destroy much of the character of the place.

In that light and in light of what we have said above, we were surprised and disappointed that the Case Officer seems to have based their recommendation for approval with reference to a building that is out of place where it is situated, does not meet the planning conditions in force today, and is regarded as an appalling eyesore by its neighbours rather than with reference to the Planning Policy Statements and Building on Tradition guidelines that are in force today.

Could we please ask the Case Officer to revisit the site and reconsider their assessment?

Peter Beamish
28th March 2023

Committee Meeting: Wednesday 5th April 2023, Item No 13.

References: LA07/2022/0537/F

Address: 55 Windmill Road, Kilkeel, Newry, BT34 3LP.

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

Dear Members,

I write to you on behalf of the applicant, Mr Ian Hill, welcoming the officer's recommendation to approve the high-quality detached dwelling with garage referenced above. The applicant has positively engaged with the Council and other statutory bodies throughout the planning process, since submission to Council on 23rd March 2022.

The applicant seeks Full Planning Permission for the demolition of the existing dwelling and garage and the construction of a two-storey detached dwelling with attached single storey garage, in-curtilage parking, landscaping, and all other associated site works. The proposed development would be complementary to the existing residential dwellings within the surrounding area along Windmill Road, which is comprised of dwellings of varying heights and non-uniform design.

As you will be aware, all statutory consultees including DFI Roads, NI Water, NIEA, and SES, are signed off with no objection subject to planning conditions. The applicant and design team noted the objections received from 6 no. households throughout the process of this application. The concerns raised by the objectors are summarised and appropriately assessed within the Officers Report.

In summary;

- The proposal for a replacement dwelling at this location has been appropriately depicted through the drawings submitted as part of the evidence base. The scale, height, and footprint of new dwelling against the existing dwelling has been clearly demonstrated through the Site Layout plan which clearly denotes the existing dwelling footprint in green. The new dwelling is in keeping with the building line of No. 57 Windmill Road. A contextual elevation drawing has been prepared demonstrating the

scale and height in comparison to those existing properties stretching from No's 51 to 61 Windmill Road.

- The existing masonry wall which runs along the boundary between No. 53 Windmill Hill is to be retained, and this is clearly noted on the Proposed Site Plan.
- The new dwelling is of a modern architectural style, however the architect has sought to incorporate a cross gabled roof profile which captures the profile of those large front window elements of adjacent properties, such as No. 53 Windmill Road. The orientation of the dwelling and large windows fronting onto Windmill Road make best use of the sea views out across the Irish Sea, which is a common design principle for beach properties.
- The Case officer has carefully considered the impacts with regards to dominance and impact or loss of residential amenity on both property No's 53 and 57 Windmill Road within their report. The Officers Report concludes that the proposal will not have an adverse impact on residential amenity, and although on a larger footprint the proposal is in keeping with the character of the area.
- A Biodiversity Checklist was submitted as part of the evidence base for this scheme, which confirmed that the existing dwelling and garage have negligible bat roost potential and no further bat roost surveying was required. NIEA were appropriately consulted and responded with no objection.

The applicant welcomes the assessment by the Council and all statutory consultees to approve, and respectfully requests members to endorse the officer recommendation so that all relevant legislative processes can be completed.

Tom Stokes *MRTPI MIO*

Director

TSA Planning



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

Application Reference: LA07/2022/0579/F

Date Received: 07/04/2022

Proposal: Proposed 30m telecommunications column, with 3 no. antennae, 2 no. radio dishes and 1 no. equipment cabinet. Proposal includes compound and associated ancillary works.

Location: On lands at Carrickbracken Business Park, immediately west of 121 Camlough Road, Camlough, BT35 7JR

Site Characteristics & Area Characteristics:

The application site comprises a parcel of grassland located to the west of existing buildings located with Carrickbracken Business Park with the proposed access from Camlough Road (Protected Route) through Carrickbracken Business Park. The application site is located just outside the settlement limit of Bessbrook and is located in the countryside. The surrounding area is mixed use comprising residential dwellings, business units, playing fields and educational facilities.

Planning Policies & Material Considerations:

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

- Strategic Planning Policy Statement (SPPS)
- Banbridge/ Newry and Mourne Area Plan (2015)
- Planning Policy Statement 2- Natural Heritage
- Planning Policy Statement 3- Access, Movement and Parking
- Planning Policy Statement 10- Telecommunications
- Planning Policy Statement 21- Sustainable Development in the Countryside
- DCAN 14- Siting and Design of Radio Telecommunications Equipment.

Site History:

There is no relevant planning history on the application site.

Consultations:

- *The Joint Radio Company*- No objections
- *Westica Communications (on behalf of PSNI Information and Communications Services)*- No objections.
- *NIEA*
 - *2nd September 2022*
NED acknowledges the Representation letters and advises that a Biodiversity Checklist should be submitted in order that an assessment can be made on the potential impacts that the development may have on natural heritage interests.
 - *9th January 2023*
NIEA, Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns with this proposal.

NED is content that no habitats or features of natural capital interest worthy of protection are present on site, including those which support protected species such as bats. NED concludes that this proposal is unlikely to result in significant negative impact on wildlife.
- *DfI Roads*- DfI Roads has noted and considered the comments submitted by the agent dated 4 August 2022, uploaded 10 August 2022, via email to Planning. DfI Roads has no objections in principle to this proposal.

The above comment is on the basis that Planning are content that there is no intensification of use of the existing sub-standard access (as per supporting email dated 16 August 2022 which supersedes the amended P1 Form, Question 12 consultation date 10 August 2022). Should this not be the case then please re-consult.
- *Environmental Health*- Environmental Health has no objections in principle subject to compliance with ICNIRP Public Exposure Guidelines.
- *Arqiva*- No objections

Objections & Representations:

Eight letters of neighbour notification were issued on 11/08/2022 and the application was advertised within one local newspaper with statutory expiry on 04/05/2022.

23 objections, 1 letter of support and 1 letter of comment have been received, the issues raised in these representations are summarised briefly below:

Support:

- There is a lack of mobile reception in the area, it is a necessity for individuals and businesses. This infrastructure is necessary for people to run their businesses efficiently and successfully, boosting the local economy and creating new jobs.

Objections:

- Serious health concerns and implications both long term and short term of the proposal with particular concerns with proximity to residential developments, a local football club and High School.
- Size of the mast which would tower over nearby buildings.
- Impact on the AONB.
- Potential impacts on natural habitat, wildlife and protected species in the area.
- Residents within Carrickbracken Close did not get any formal notice.

Issues raised within objections will be explored below. In terms of neighbour notification, properties within Carrickbracken Close do not adjoin the application site and as such did not qualify for letters of neighbour notification as prescribed in section 2 and section 8 of The Planning (General Development Procedure) Order (Northern Ireland) 2015.

Assessment:

Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP), unless material considerations indicate otherwise. The Banbridge/ Newry and Mourne Area Plan operates as a LDP. The site is located outside any settlement development limit designated in the plan. There are no plan policies pertinent to this specific proposal.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) is material to all decisions on individual planning applications. The guiding principle of the SPPS, set out at Paragraph 3.8, is that sustainable development should be permitted having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

The aim of the SPPS in relation to telecommunications is to facilitate the development of such infrastructure in an efficient and effective manner, whilst keeping the environmental impact to a minimum.

Paragraph 6.239 of the SPPS indicates that the regional strategic objectives for telecommunications include ensuring that, where appropriate, new telecommunications development is accommodated by mast and site sharing; and ensuring that the visual and environmental impact of telecommunications and other utility development is kept to a minimum.

Paragraph 6.243 indicates that in particular, planning authorities should take account of the potential effects of new telecommunications development, and any necessary enabling works, on visual amenity and environmentally sensitive features and locations.

Paragraph 6.244 states that applications for the development of telecommunications equipment should be required to be accompanied by a statement declaring that when operational the development will meet the ICNIRP guidelines.

The application site is located in the countryside, PPS21 is identified by the SPPS as a retained policy document and provides the regional policy context. Policy CTY 1 of PPS 21 states that there are a range of types of development, which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. It points out that planning permission will be granted for non-residential development in the countryside in specific circumstances. This includes telecommunication development in accordance with Planning Policy Statement 10: Telecommunications (PPS 10).

The aim of PPS 10, set out in Paragraph 1.3, is to ensure that new telecommunications infrastructure, such as masts, antennas and associated equipment can be developed in a way that continues to provide NI with world class telecommunication services, while at the same time minimising the impact of new or replacement equipment.

Policy TEL 1 of PPS 10 is entitled 'Control of Telecommunications Development'. The policy states that the Department will permit proposals for telecommunications development where such proposals, together with any necessary enabling works, will not result in unacceptable damage to visual amenity or harm to environmentally sensitive features or locations. Developers will therefore be required to demonstrate that proposals for telecommunications development, having regard to technical and operational constraints, have been sited and designed to minimise visual and environmental impact. Proposals for a new mast will only be considered acceptable where it is reasonably demonstrated that the sharing of an existing mast or other structure has been investigated and is not feasible or a new mast represents a better environmental solution than other. As with the SPPS, TEL1 requires that a proposal when operational will meet the ICNIRP guidelines for public exposure to electromagnetic fields.

The application has been accompanied by supplementary information which outlines the location of existing cells within the area and identifying a gap in the provision to the west of Newry. As there are no existing masts in the vicinity of the site, mast sharing is not a feasible option. Section 6 of the supplementary information contains a site selection process of six other sites and outlines why these sites are not suitable.

The application site is located to the rear of existing business units which provide some level of screening whilst travelling along Camlough Road. Longer range views are possible from Church Road and Mountain Road which are elevated roads to the south of the site. On balance and given consideration to existing development in the area, the proposal is not considered to cause a significant adverse impact on the character of the surrounding area in accordance with Policy CTY1 (PPS21) and Policy TEL1 (PPS10).

As previously stated, the application site is located outside but adjacent to the settlement limit of Bessbrook, CTY15 of PPS21 is applicable. It is not considered that the development will mar the distinction between the settlement and surrounding countryside given the nature of the proposal and will not result in urban sprawl.

A number of objections received have related to health concerns. Para 6.30- 6.31 of PPS10 relate to 'Planning and Health Considerations' and state:

"6.30 As regards health concerns raised about emissions associated with mobile telecommunications, DHSSPS while conscious of the need for further research and contributing financially towards the same, considers that the guidelines of the International Commission on Non-Ionising Radiation Protection (ICNIRP) for public exposure to electromagnetic fields, as accepted by the World Health Organisation, are based on the best evidence available to date. Accordingly where concern is raised about the health effects of exposure to electromagnetic fields, it is the view of DHSSPS that if the proposed mobile telecommunications development meets the ICNIRP guidelines in all respects it should not be necessary for the Department to consider this aspect further.

6.31 All new mobile phone base stations in the UK are expected to meet the ICNIRP public exposure guidelines. However all applications for mobile telecommunications base stations will be required to be accompanied by a declaration that the apparatus when operational will meet the guidelines. Similarly where it is intended to place additional antennas onto an existing mast or site, the operator will need to confirm in a declaration to accompany the application that the cumulative exposure will not exceed the ICNIRP guidelines

6.32 In line with the Stewart Group's recommendations applicants should also provide the Department with a statement for each site indicating its location, the height of antenna, the frequency and modulation characteristics, and details of power output."

The application has been accompanied by a Declaration of Conformity with the ICNIRP Exposure Guidelines and Environmental Health are content with the proposal, subject to compliance with the ICNIRP Public Exposure Guidelines. The supporting information submitted also advised on the height, frequency and modulation characteristics and power output of the proposal. As the health safeguards set by the International Commission guidelines for public exposure would be met, this is considered acceptable. The proposal is considered to comply with the requirements of the SPPS, PPS21, PPS10 and DCAN 14.

PPS2- Natural Heritage

A number of objections have raised concerns in relation to potential impacts on natural heritage. A completed Biodiversity Checklist has been submitted and NIEA have advised that they have considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns with this proposal. NED is content that no habitats or features of natural capital interest worthy of protection are present on site, including those which support protected species such as bats. NED concludes that this proposal is unlikely to result in significant negative impact on wildlife.

Concerns have also been raised by objectors in terms of impacts on the Area of Outstanding Natural Beauty. The application site is not located within an AONB and as such Policy NH6 is not applicable. The proposal is considered to comply with PPS2.

PPS3- Access, Movement and Parking

DFI Roads have been consulted on this application have no objections on the basis that Planning are content that there is no intensification of use of the existing sub-standard access (as per supporting email dated 16 August 2022). The Planning Department are content that the proposed 2 vehicular trips to the site per annum would not represent intensification. The proposed access onto the Camlough Road is a Protected Route. As access cannot be reasonably obtained from an adjacent minor road, the proposal is considered to comply with Policy AMP3 and PPS3.

Recommendation: Approval.

In line with the Council's Scheme of Delegation, given the level of objections received, the application will be presented to Planning Committee.

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 approved shall take place in strict accordance with the following approved plans: 100 Rev E (Site Location Plan, 201 Rev C (Site Plan), 301 Rev C (Elevations)
Reason: To define the planning permission and for the avoidance of doubt.
3. The development hereby approved, shall be operated in full compliance of the ICNIRP guidelines for public exposure to electromagnetic fields.
Reason: In the public interest.
4. Within three months of cessation of the use and operation of the telecommunications mast and equipment on this site, the mast and associated equipment shall be removed, and the land restored to its former condition and use.
Reason: To protect the character and appearance of the area.

Informatives

1. Birds
The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:
 - kill, injure or take any wild bird; or
 - take, damage or destroy the nest of any wild bird while that nest is in use or being built;
 or

- at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- obstruct or prevent any wild bird from using its nest; or
- take or destroy an egg of any wild bird; or
- disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1st March and 31st August).

2. Bats

The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to –
 - i. affect the local distribution or abundance of the species to which it belongs;
 - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - iii. Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e) To damage or destroy a breeding site or resting place of such an animal.

3. Badgers

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- a) kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);
- b) damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;
- c) damage or destroy anything which conceals or protects any such structure;
- d) Disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

4. 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.
5. 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.

Case Officer Signature: E. Eastwood

Date: 20/03/2023

Appointed Officer Signature: A. Donaldson

Date: 21.03.2023



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2022/1061/F

Date Received:

27.06.22

Proposal:

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

Location:

250m North East of 10 Clontafleece Road, Newry

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 a roadside derelict dwelling built into the hillside and a portion of a sloping agricultural field. The side gable of the existing dwelling fronts onto the road and the dwelling is single storey in nature. The building appears to have been recently reroofed prior to the submission of this planning application.

The area is rural in nature characterised by dispersed detached dwellings and farm holdings.



Building to be replaced



Internal view of 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:

There is no planning history associated with the subject dwelling or application site.

Consultations:

- DfI Roads – No objections subject to conditions
- NI Water – Generic response
- HED HM - Content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

- Environmental Health – No objections in principle

During the site visit, it was observed that the building appeared to have been recently re-roofed prior to the application being submitted. A Biodiversity Checklist was submitted alongside the application whereby all questions within Parts 1 and 2 were answered 'no'. This information is deemed accurate and as such, Part 3 of the Checklist was not required to be completed and consultation with NIEA was not necessary. The Planning Department did request the demolition of the building (this will be discussed further below), however the final drawings submitted show the existing building retained as is (no alterations or modifications proposed). There is a cluster of mature trees at the south-eastern corner of the application site. All these trees are to be retained and the proposed development should not interfere with their retention.

Objections & Representations:

Neighbour notification: Given the red line boundary and in accordance with Article 8(2) of the GDPO, no neighbour notifications were required.

Advertisement: The application was initially advertised 20th July 2022. Given the amended proposal description, the application was re-advertised 7th September 2022.

No objections or representations received to date (16.02.23).

Assessment

Proposal

The proposal is a full application for the erection of a replacement dwelling and retention of the existing dwelling for use as a domestic store.

The original submission comprises a 2-storey dwelling with a ridge height of 7.8m from FFL. The proposed materials include a dark grey corrugated fibre cement roof, vertical dark grey timber cladding and grey render where shown, grey aluminium windows and doors and steel rain water goods. The new dwelling is to be sited north west of the existing dwelling which is to be retained. A new access is proposed from Clontafleece Road east of the existing dwelling. The cluster of existing trees east of the existing dwelling is to be retained with additional planting proposed including a new hedgerow defining the new curtilage.

The original proposal is shown below.



Original proposal – Drawing No. P01

Following a site visit, the Planning Department wrote out to the Agent to advise of the following concerns regarding the proposal:

- The existing dwelling should be demolished as it does not bear a relationship with the new dwelling. Given the siting and orientation of the existing dwelling; retention may be difficult;
- The demolition of the dwelling would require an updated Biodiversity Checklist;
- The proposed dwelling requires a fundamental redesign in line with the guidance provided in Policy CTY 3 and Building on Tradition. A smaller dwelling should be proposed given the size of the dwelling to be replace. The size of the proposed curtilage is considered excessive and should therefore be reduced.

The Planning Department also queried the concept of the proposal given the character of the area in a rural countryside location.

In response to the above, the Agent submitted an additional drawing (appendix A) for information purposes alongside a rebuttal document. A summary of the points within the report in response to the Department's concerns are below:

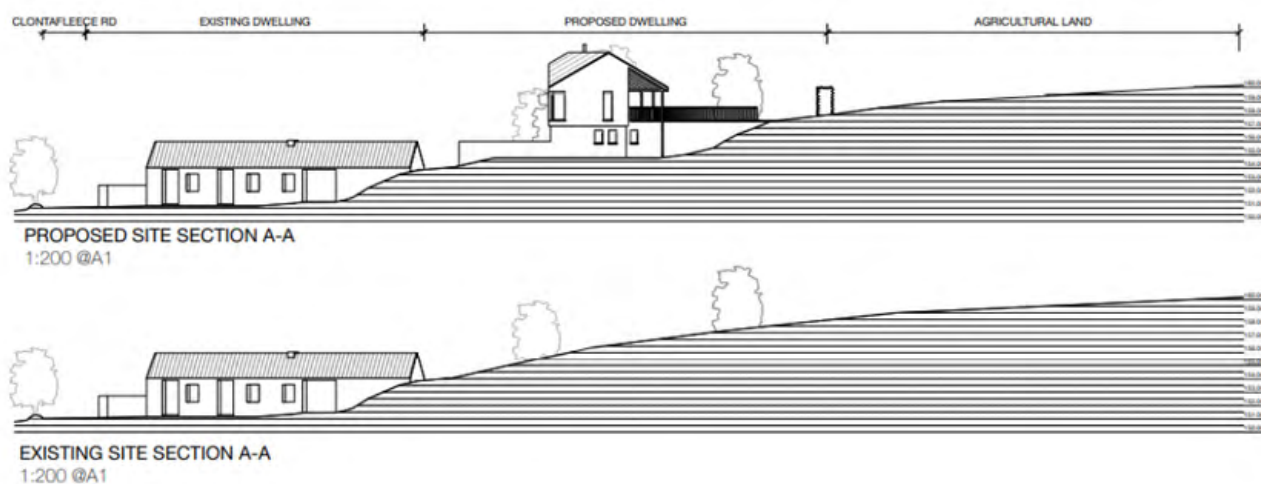
- The existing curtilage is restricted and does not provide space for modern living and amenity space.

- Significant benefit in the retention of a historic vernacular building and mature trees.
- The western and eastern boundaries have been reinstated as shown on historical maps and northern boundary created a larger curtilage.
- The size of the proposed replacement is 217m², the existing dwelling is 103m².
- Proposed form is simple – no projecting dormer windows or bay windows.
- Form is a contemporary re-interpretation of a long narrow dwelling with pitched roof form. The tapered roof form allows for larger window openings to maximise solar gain in key habitat rooms.
- Visual impact of 2 storey is reduced by excavating into the land and building into hillside.
- The proposed materials reflect the agricultural barns across the county.
- Proposed dwelling has relationship with existing dwelling that suits sloping context of the site in a contemporary reinterpretation of a farm dwelling and outbuilding.

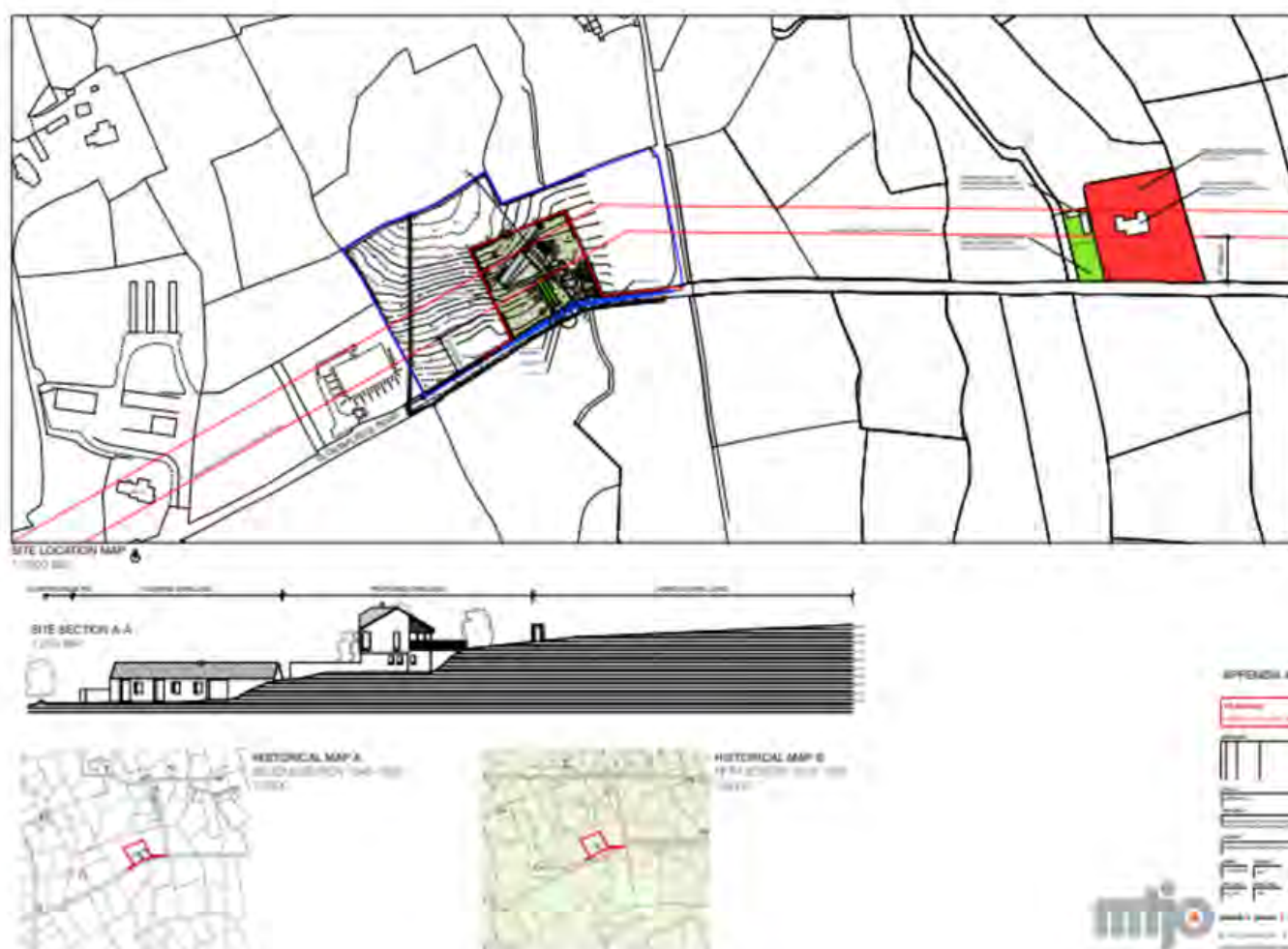
A 3D image of the proposal was provided as well as a reference made to an adjacent approval for a replacement dwelling - LA07/2021/1718/F.

The Planning Department advise that all applications are assessed on their own merit; nevertheless, the application referred to by the Agent does not stand on all fours with the proposed development in that the dwelling approved under LA07/2021/1718/F is sited directly in line with the existing dwelling which is approx. 28m from the roadside. The existing dwelling has been conditioned to be demolished prior to the commencement of development. The ground works required for the approved dwelling are shown below in comparison to the ground works required for the dwelling under consideration.





3D image of proposal



Appendix A

The concerns of the Planning Department remained whereby the Agent was advised that the application would be moved forward recommended for refusal.

In response, amended plans were submitted showing a reduction to the proposed curtilage. The proposed house type has not changed and the existing building is still to be retained. The final drawings under consideration are shown below.

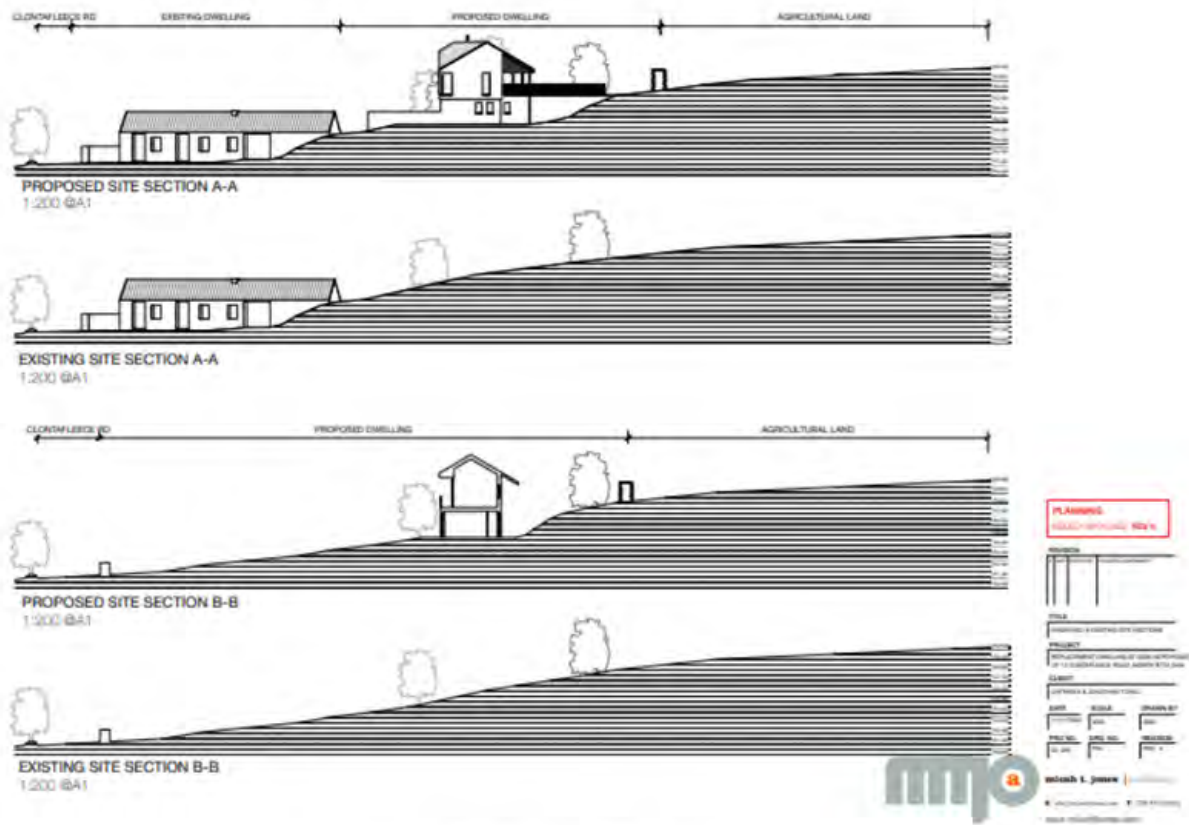
Note: Following the submission of the plans below, the Department afforded the applicant one final opportunity to address the Department's concerns whereby the Department explained to the Agent that there are occasions when an existing building can be retained (with alteration/modification), however this is usually when the existing structure is non-listed and vernacular, and does not make an important contribution to the character of the area as outlined within Policy CTY 3 of PPS 21. The Agent was advised that the retention of the existing dwelling is fundamentally unacceptable given the fact it is not considered to be vernacular and essentially contributes to the build up and should be removed from the scheme. The agent was also advised that the curtilage should also be reduced further, and the proposed dwelling positioned closer to the roadside.

The Planning Department also requested photomontages/modelling/3D images of the proposed house type for further consideration and advised that the house type should be reflective of the guidance contained with Building on Tradition.

In response, the Agent queried when the report will be drafted and when it will appear on the Delegated List. As such, the Planning Department have provided ample opportunities for the concerns to be addressed. The final drawings under consideration are provided below.



Proposed plans – P01RevD



Sections – P04RevA

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.

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.

All external walls and are intact. The original roof has been removed and the building has been recently reroofed. Internally there is a fireplace, chimney breast and other domestic features as shown in the photo provided at the beginning of the report. I am satisfied that the existing structure exhibits the essential characteristics of a dwelling for the purposes of this policy.

Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. The SPPS is more prescriptive than the retained policy in PPS 21 in relation to replacement dwellings and so it carries greater weight in the assessment of this proposal. Accordingly, the test as set out in Paragraph 6.73 is that any replacement dwelling must be located within the existing curtilage where practicable and must not have a visual impact significantly greater than the existing building. In these circumstances, greater weight must be attached to the tests set out in Paragraph 6.73 of the SPPS. Other requirements include that the overall size of the new dwelling should allow it to integrate into the surrounding landscape and the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness;

The building to be replaced has a footprint of approx. 93sqm, is single storey in nature and is set back approx. 4m from the road.

Policy CTY 3 states that the dwelling should be sited within the established curtilage of the existing building, unless either:

- (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or
- (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

The agent has advised that there is significant benefit in the retention of a historic vernacular building and mature trees and that the western and eastern boundaries

have been reinstated as shown on historical maps and the new northern boundary has allowed for the creation of a larger curtilage.

Photos of the existing dwelling and curtilage are shown below.





The footprint of the proposed dwelling is approx. 217sqm and is 2 storeys in nature.

Photo of the proposed of the dwelling is shown below.



The Planning Department acknowledge that the existing plot is slightly restrictive. The topography of the application site is noted, particularly the lands to the north of the existing dwelling (proposed siting of new dwelling). The Department also acknowledge the cluster of trees to the west of the dwelling.

Whilst I recognise that the proposed dwelling could not be accommodated within the established curtilage at present (due to the existence of the existing building and mature planting), the need for the increase in floor area is not justified given the fact that it is considered that the proposed dwelling would have a significantly greater visual impact than the existing building.

The agent's reference to the existing dwelling as vernacular is noted, however the Planning Department notes the current condition of the dwelling and lack of contribution it makes and does not consider it in the public interest to seek or justify the retention of this building. It is considered this building should be demolished as part of this replacement application, to accommodate an on-site replacement and prevent further sprawl and development to more elevated exposed grounds.

On this basis, I am satisfied that the existing curtilage with the inclusion of a modest portion of lands west of the subject building (within the blue line shown on the site location map) would comfortably accommodate a modest sized 1 ½ storey dwelling designed specifically for this plot and would also allow for the retention of the trees to the east of the existing dwelling and integration.

I consider the site to not be unduly restrictive with the demolition of the existing dwelling and incorporation of a modest portion of lands to the west; which would ultimately retain the linear form without the need to extend the curtilage to the north on higher elevated lands. The introduction of a significantly larger dwelling on a much larger and open plot/curtilage would not be beneficial in visual amenity terms.

The application site is enclosed by a stone wall along the roadside boundary and trees along the eastern boundary. The remaining boundaries are undefined. The land rises from the roadside to the north whereby excavation of the lands to the north of the existing dwelling is required. The proposed cross sections are shown below.



Critical views of the application site are along Clontafleece Road travelling east towards the application site. The lack of established boundaries, particularly along the western boundary would be apparent and although new planting has been proposed, this would take time to establish and mature.

Although the application site is located approx. 500m east from the development limit of Warrenpoint/Burren, the area is rural in character and isolated in nature and is just north of a Site of Local Conservation Importance NC 03/141.

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. Section 05 refers to replacement dwellings and provides guidance on the size, scale and form of a replacement dwelling.

Para 5.2.1 of BoT states that “the replacement dwelling should be of a form and scale that integrates well with the characteristics of the site. **Replacement dwellings should not be of an excessive size in comparison to the original building** or be located a significant distance away from the original footprint unless there are clear and evident benefits.” Para 5.4.0 goes on to state that “**replacement projects** will tend to be **most successful** where they **defer to the form and shape of the building they are replacing.**”

The agent has also referred to the guidance within BoT in particular contemporary reinterpretation of traditional forms, siting, materials used and respecting the natural contours of the site.

The Planning Department acknowledge the fact that development in the countryside does not preclude contemporary reinterpretation of traditional forms. The agent has advised that the proposed dwelling "has a relationship with the existing dwelling that suits the sloping context of the site in a contemporary reinterpretation of a farm dwelling and outbuildings" and refers to BoT and settlement patterns such as farm groupings and states that "it would be difficult to cluster the proposed dwelling around the existing dwelling in a courtyard pattern to suit the modern day living therefore it is clustered in a scattered pattern to suit sloping mountainous terrain".

This application is for a replacement dwelling whereby the overall size of the new dwelling must not have a visual impact significantly greater than the existing building and the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness.

I consider the proposed dwelling's positioning in relation to the retained building does not reduce its impact. The overall size and scale is considered excessive. The retention of the existing building contributes to build up. The location of the proposed dwelling on higher ground as observed from a site visit and sections provided is also noted. The proposal would be open to views when travelling along the public road and would result in a visual impact significantly greater than the existing dwelling to be replaced. By virtue of its size, scale and siting it would fail to satisfactorily integrate into the landscape. Given the above, I am not satisfied that the overall size of the new dwelling would allow it to integrate into the surrounding landscape and I consider the new dwelling would have a visual impact significantly greater than the existing of the replacement dwelling.

Regarding the design of the proposed dwelling, the Planning Department previously requested a redesign of the proposed house-type. No changes to the house type have been received. The Department also requested 3D images of the house-type for further consideration. These also have not been received.

Para 5.1.4 of BoT states that design priorities for replacements includes "establish(ing) the right scale of the replacement building and make sure it fits comfortably on the original site and integrates well with retained outbuildings and well-established mature landscape features". BoT also provides a list of design features that should be avoided in the countryside including:

- Varying length of roof planes;
- Excessively high eaves lines;
- Overhanging fascias and soffits on verges and eaves

The Department notes the varying length of roof planes and eaves lines as well as the proposed veranda and retaining walls into the sloping landscape to the rear of the dwelling; all of which are not appropriate design features within the rural countryside and AONB. The design of the proposed dwelling is such that it would not blend in unobtrusively with its immediate and wider surroundings and consequently, it would damage the rural character of the area.

Policy CTY 13 and CTY 14

New dwellings in the countryside must be able to visually integrate into the surrounding landscape and be of an appropriate design. New dwellings in the countryside *must also not cause a detrimental change to, or further erode the rural character of an area.*

The overall size and scale is considered excessive. The proposal would be open to views when travelling along the public road and would result in a visual impact significantly greater than the existing dwelling to be replaced. Given the lack of established boundaries to the north and west of the site (particularly the west) the proposed dwelling would appear prominent in the landscape owing to its scale and siting. As such, 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. The ancillary works including the cutting of land and the creation of an extended curtilage would not integrate into their surroundings. The design of the building would be inappropriate for the site and its locality. These proposed works would also damage rural character. The retention of the existing dwelling as storage given its prominent roadside location, would also add to a build-up of development at this location.

The proposal is considered contrary to Policies CTY 13 and 14.

Planning Policy Statement 2

The application site is located within an Area of Outstanding Natural Beauty and as such Policy NH6 is applicable. This policy requires development proposals in Areas of Outstanding Natural Beauty (AONB) to be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife. It is considered that the siting of the development will harm the character of the area and will have an adverse impact on the AONB setting. The open and elevated nature of the site means that there are critical views from various public viewpoints. It is considered that the siting and scale of the proposal is not sympathetic to the special character of the Area of Outstanding Natural Beauty.

Accessibility & Transportation

DfI Roads were consulted and offered no objections subject to consultations. There is enough in-curtilage space for the manoeuvring and parking of at least 2 vehicles.

Summary

The Planning Dept has afforded the agent a number of opportunities to address its concerns to achieve a more appropriate and sympathetic development at this location, however minimal revisions have been made and no willingness has been made to

engage with the Planning Dept, whereby the agent has requested the application be progressed as is to a Delegated List.

The Planning Dept consider the proposals to be unacceptable for the reasons outlined, and as such a refusal is recommended.

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 proposed replacement dwelling is not sited within the established curtilage of the existing building, and it has not been demonstrated that the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling and that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits;
 - the overall size of the proposed replacement dwelling does not allow it to integrate into the landscape and 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 criterion (a) (b) (c) (d) (e) and (f) of Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the dwelling if permitted would be a prominent feature in the landscape, the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the dwelling to integrate into the landscape, it relies primarily on the use of new landscaping for integration, ancillary works do not integrate with their surroundings, the design of the dwelling is inappropriate for the site and its locality and it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape,
4. The proposal is contrary to criterion (a) and (e) of Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - the dwelling would, if permitted, be unduly prominent in the landscape.

- the impact of ancillary works would damage rural character and would therefore result in a detrimental change to the rural character of the area.
5. The proposal is contrary to Policy NH 6 of Planning Policy Statement 2, Natural Heritage in that:
- (a) The siting and scale of the proposal is not sympathetic to the special character of the Area of Outstanding Natural Beauty in which it is located within.

Case Officer Signature: Eadaoin Farrell

Date: 16.02.23

Appointed Officer Signature: M Keane

Date: 16-02-23

Planning Application Ref. LA07/2022/1061/F: Submission to Newry, Mourne and Down District Council Planning Committee, 5th April 2023

prepared by Fleming Mounstephen Planning and Micah T Jones Architect

Introduction: This Statement is submitted in support of Planning Application Ref. LA07/2022/1061/F for a replacement dwelling and retention of the existing dwelling, known as Jemmy's House, to be used as a domestic store at 250m North East of 10 Clontafleece Road, Newry.

The Principle of Development: the Planning Department acceptance of the principle of a replacement dwelling on the site under PPS 21 Policy CTY 3 is welcomed. There are no objections from consultees and there are no letters of objection from any third parties. As such, the question before the Planning Committee is whether the proposed dwelling is acceptable in terms of its siting and design. It is contended that the siting and design of the proposed dwelling are acceptable, cause no harm to the public interest and there is no justification for a refusal.

Proposed refusal reason 1 and Policy CTY 1: this reason falls if the other refusal reasons are addressed. The principle of a replacement dwelling is acceptable at the site.

Proposed refusal reason 2 and Policy CTY 3: the following points are noted in relation to its compliance with Policy CTY 3:

- the principle of a replacement dwelling is acceptable and the existing curtilage is restrictive;
- the proposed site layout results in demonstrable benefits including the provision of an improved access and the retention of trees;
- the design concept of the proposal is an imaginative solution based on a contemporary re-interpretation of a traditional rural form as explicitly provided for in PPS 21 policy and Building on Tradition guidance;
- the retention of the existing dwelling, which is vernacular, within the overall scheme represents sustainable development and retains the heritage of the site – a visual link with the past and rural culture. Its proposed use and siting, relative to the new dwelling, clearly establish it is an integral part of the overall scheme; and
- the size and curtilage of the new dwelling are acceptable when considered on their own merits and relative to other new replacement dwellings, notably, Ref. LA07/2021/1718/F (see below) where a larger dwelling was approved on a larger, new curtilage with greater visual impact.

Proposed refusal reasons 3, 4 and 5 and Policies CTY 13, CTY 14 and NH 6: the proposed dwelling is visually integrated into the countryside, for example, by way of:

- retention and incorporation of the existing vernacular dwelling into the layout;
- retention of mature trees and planting; and
- reinstatement of historic site boundaries.

There are limited public views of the site when approaching the site from either direction. When approaching from the west, there will be a brief view when passing the NI Water site before the site is screened by 60m approx. of existing mature roadside hedging. The site is screened when approaching from the east by existing mature trees and roadside hedging. It

will not be unduly prominent. It is a contemporary re-interpretation of a traditional rural form. It is smaller and less visually prominent than Ref. LA07/2021/1718/F located 250m away.

Specifically, in relation to the Area of Outstanding Natural Beauty, it is contended that the contemporary re-interpretation of a traditional County Down rural form (as provided for in PPS 21 policy and Building on Tradition guidance) which retains and incorporates Jemmy's house (which appears on Second Edition OS Maps from 1842-1846) is a sympathetic response to the special character of the AONB.



View on approach from the west



View on approach from the east

Planning Application Ref. LA07/2021/1718/F: the proposed dwelling is acceptable when considered on its own merits, without reference to Ref. LA07/2021/1718/F. However Ref. LA07/2021/1718/F, a replacement dwelling approved in August 2022 at a site 250m east of the subject site, is relevant. Of particular note, it established approval of:

- a dwelling on a new site beyond the curtilage of the dwelling to be replaced;
- a much larger curtilage than the curtilage of the dwelling to be replaced;
- a two-storey dwelling where the building to be replaced is single storey;
- a siting set back from the Clontafleece Road with rising ground to the rear; and
- the use of new landscaping around the new curtilage.

Conclusion: the proposed development – its siting and design – is a specific response to the subject site. The application is consistent with the policy requirements of the SPPS, PPS 21 Policy CTY 3 Replacement Dwellings, other relevant policies and guidance as contained within the Building on Tradition design guide and, as such, the Committee is respectfully requested to grant planning approval.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/1179/O

Date Received: 25/07/2022

Proposal: Erection of dwelling and detached garage.

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

Site Characteristics & Area Characteristics:

The application site is located outside any settlement limits as defined within the Banbridge / Newry and Mourne Area Plan 2015.

The site is agricultural land on the edge of the public road, the site is quite narrow and long with a rectangular shape extending from the public road to the north east. The site rises from the road edge to the rear of the site. adjacent and north of the site is No 143 which is a single storey dwelling, mature vegetation runs along the boundary between the site and No 143. To the south is No 141 a detached one and a half storey dwelling which has a garage and large shed positioned entirely to the rear of the property. The boundary with No 141 is defined to the rear by vegetation and to the front of the site by a mix of a wall and timber fence.

The site is located within a rural area, a small number of properties are within the vicinity of the site, at present the rural character of the area remains.

Site History:

P/2014/0762/O - Site for dwelling and garage - Between 141 and 143 Tullyah Road, Whitecross – Permission Refused 21/01/2015.

LA07/2021/0063/LDP - Proposed erection of a domestic garage of block construction with a corrugated metal roof on a concrete base - 143 Tullyah Road, Whitecross – Permitted Development.

Planning Policies & Material Considerations:

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

- Banbridge / Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 21 – Sustainable Development in the Countryside

- Planning Policy Statement 3 – Access, Movement and Parking / DCAN 15
- Building on Tradition.

Consultations:

DFI Roads – No objections.

NI Water – The latest response from NIW states that if the applicant wishes to utilise water from a borehole to supply the proposal then this would not need an NIW connection and as such there is no need for NIW to comment in relation to Water and Sewerage Services.

Objections & Representations:

The application was advertised on 17/08/2022, one neighbouring property was notified on 12/08/2022, no representations or objections have been received.

Consideration and Assessment:

Strategic Planning Policy Statement for Northern Ireland

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

Planning Policy Statement 21 – Sustainable Development in the Countryside

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

Principle of Development

The Agent, in a supporting statement, stated that it is considered that the application fits with Policy CTY 8 of PPS 21. The application has been assessed on this basis.

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

The application site has a detached dwelling adjacent and north No 143, there are no other buildings currently positioned at No 143. Adjacent and south is No 141 a detached dwelling with a garage and large shed set entirely to the rear of the dwelling.

The buildings to the rear are not clearly visible from the public road and are accessed using the driveway of No 141, these buildings are accompanying development to the rear of No 141. It is considered that there is one building on either side of the site which have a frontage with the road as the garage and shed of the adjacent property is set entirely to the rear. With regards to the garage and shed consideration must be given to their relationship with the parent building and in this case the buildings are set entirely to the rear of the dwelling and not clearly visible when travelling along the public road, the buildings to the rear of No 141 are not seen as having a frontage to the road.

The agent for the proposal has stated in supporting information that they consider the buildings at No 141 to have a frontage with the road.

Planning appeal 2017/A0204 states;

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

The garage and shed at the adjacent property are located to the rear and as such do not lay on or contribute to being part of the frontage. As such, the application site is not considered to be a gap within an otherwise substantial and continuously built up frontage but instead it is considered that it would create a ribbon of development. Previous application P/2014/0762/O was refused on this application site by the Council and at that time it was also considered that the proposal failed to meet policy CTY8, the large shed was in place at the time of the previous application, the circumstances have not changed and it is still considered that there are only two buildings with a frontage to the road.

The size of the plot is seen to be in keeping with the plot size of the existing properties and have a similar frontage.

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

Policy CTY 13 of PPS 21 requires a building to be visually integrated into the surrounding landscape. The application site although located on the road edge will be screened from views by existing development on either side and existing vegetation. A suitably design dwelling could be placed on the site as not to be prominent and the existing boundaries as stated will provide enclosure and help integration. As the proposal is an outline application details of any design have not been provided, it is considered that a single storey dwelling with a ridge height not exceeding 5.5 metres would be appropriate in this location. It is considered that the proposal is in keeping with Policy CTY13.

CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A new building will be unacceptable where it will be unduly prominent,

result in a suburban style build-up of development when viewed with existing buildings, and where it creates or adds to a ribbon of development.

As previously stated a well-designed dwelling could integrate on the application site and not be a prominent feature. A dwelling on the site would result in a suburban style build-up of development when viewed with existing buildings in the area and a dwelling on the site would create a ribbon of development along Tullyah Road. It is considered that the proposal fails to comply with parts b and d of Policy CTY14.

Access and Parking

DFI Roads has raised no objections to the proposal subject to an acceptable site layout being submitted as part of any Reserved Matters.

Development relying on non-mains sewerage.

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

Recommendation: Refusal

Reasons for Refusal:

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

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

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 create a ribbon of development and would therefore result in a detrimental change to and further erode the rural character of the countryside.

Case Officer: Wayne Donaldson

Date: 15/12/2022

Authorised Officer: Pat Rooney

Date: 15/02/2023

1. This is an application for a dwelling in a gap amidst an existing ribbon of development, which is provided for under Policy CTY 8 of PPS 21. Extending a ribbon of development normally runs contrary to Policies CTY 1, 8 and 14 of PPS 21 but when infilling a small gap in a built up frontage, this qualifies as an exception.
2. To obtain permission for a dwelling in a gap, a site must be located within a line of at least three buildings. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. The issue here is that a large shed is offset, behind a dwelling but projecting beyond its sides.
3. The settled position of the PAC is that this definition is inclusive. It is not limited, definitive or exhaustive. Other possibilities and permutations exist.
4. The Policy is simply and plainly worded. It rules out nothing. It does not say that a line must be straight or that it must be unbroken. Importantly, for this applicant, it does not state that all three buildings to either side must be located on their own individual plots or that buildings must be aligned in any particular way on their respective plots.
5. The PAC has a very simple approach to this issue: a building has a frontage if the plot on which it stands abuts or shares a boundary with the road. Its view is that accompanying development to the rear is not a determinative issue, because the definition only includes situations without accompanying development to the rear: it does not exclude them.
6. CTY 8 makes no reference to the size of the buildings, nor where they must be situated. It makes no mention of them being main or secondary buildings, or if two buildings can or cannot be sited beside or behind each other if on the one plot. It does not indicate they should have own curtilages or access, nor that they should have a particular impact when viewed from the front. The policy does not state that buildings should be prominent or that they cannot be ancillary or subordinate even.
7. Members will note how much has been spoken about what the Policy does not say. That is for good reason: the policy offers a single potential definition and Members are free to apply their own judgement beyond that.
8. In appeal 2016/A0066 the PAC ruled that *in using the word "includes" in the definition of a substantial and built up frontage Policy CTY8 sets a baseline for acceptable forms of infill development. In doing so it does not exclude situations where there is accompanying development to the rear. In that appeal a garage was located close to the dwelling and was "barely discernible". "It nonetheless is detached and I therefore accept that it represents a separate building with a frontage to the road as does the dwelling itself"*.
9. The planning department has adopted a strict position, for unknown reasons. It is not protecting the character of the area, because there is an existing ribbon of development that will remain suburban whether this application is approved or not.
10. In application LA07/2022/1078/O, a case at Annalong, the Council actually "welcomed" a submission that highlighted the PAC's approach: i.e. *"I note nothing in Policy that distinguishes between in curtilage buildings, such as the garage associated with 133 Tullybrannigan Road, and individual road frontage buildings on separate plots. Consequently, the garage is a building with a frontage to the road for the purposes of this Policy"*. The Council commented that *"it is further acknowledged that PAC decision 2017/A0109 supports this position, confirming that there is no differentiation between a main or subordinate building for the purpose of CTY 8 and clarifies that a building has frontage to a road on which it stands abuts or shares a boundary with the road"*. It was also acknowledged that *"The Planning Department do not dispute the PAC ruling"*. If the PAC rulings were not disputed in the aforementioned case, why dispute it here? Put simply, the issue is that the shed is behind the house and officers feel that a shed behind a house cannot be taken into account, if it is an ancillary building / if it does not have its own access and / or if it cannot readily be seen from the road. The PAC have a settled position: that none of these issues matter, hence Members are free to apply their own judgement in this assessment.

11. The buildings the applicant relies upon are 141 and 143 Tullyah Road and a large shed to the side and rear of 141. Officers state the shed cannot be relied upon, wrongly indicating it is “wholly to the rear”. Factually, the shed is located to the side and rear. It is so substantial it occupies the entire width of the plot.
12. Officers state that the buildings to the rear of 141 “are not clearly visible from the public road and are accessed using the driveway of No 141”, and that these buildings are accompanying development to the rear of No 141. However, CTY 8 has no written or implied requirement that the buildings must actually be visible from the road. The contentious building is free standing. It is of considerable permanence and some longevity. It falls within the statutory definition of a building and given the extent to which it dominates the dwelling, it cannot be excluded from this assessment. Since Policy CTY 8 has no written or implied requirement to have an individual access, the shed to the rear of 141 cannot be discounted easily especially when its footprint is more than double that of the house (which is a substantial building in its own right) – the shed is almost 5000 sq ft. It is far from an ancillary or subservient domestic structure.
13. Officers feel that consideration must be given to the relationship with the parent building and in this case the buildings are purportedly set entirely to the rear of the dwelling and are supposedly “not clearly visible when travelling along the public road”. Members are reminded that this is not actually how the Policy was written nor is it how it was intended to be applied. The PAC, in appeal decision 2017/A0204 state: *“It is correct that any building along a frontage, which policy does not distinguish between in terms of main or subordinate buildings, can contribute to a substantial and continuously built up frontage”*. Whereas the PAC suggest, and what officers appear to rely upon, is that *cognisance must still be taken of the spatial relationship of the buildings within that plot to the actual frontage in order to determine if they form part of that substantial and continuously built up frontage*, Members will note the relationship between the shed and house: the shed dominates the house; it is very distinguishable from the house; it evidently has a different purpose (that may not be domestic even given its metal-clad finish) so again Members are perfectly free, indeed are compelled to apply their own judgement in this matter.
14. Officers refer to a previous refusal on the site: P/2014/0762/O. Significantly, the assessment of that application was silent in relation to the shed. Further, the decision was substantively taken by the former planning authority with the new Council simply issuing the paperwork. Members are therefore free to determine this application as they see fit, in this evidential context, and are not bound by the previous refusal. Contrary to what has been suggested in the planning report, circumstances have now changed.
15. PAC decision 2018/A0208 is another useful reference, and it has been mentioned by the applicant but not rebutted. It also confirmed that *“irrespective of the orientation on the plot, a building has a frontage to a road if the plot on which it stands abuts or shares a boundary with the road”*.
16. In closing, of the 4 tests laid out in Policy CTY 8, three are not contentious. Everything rests on whether the large shed at 141 can be taken into account.
17. The shed reads as neither an ancillary nor a subordinate building. It clearly contributes to this substantial and continuously built-up frontage. Incidentally, as the site offers no visual break or relief from the developments to either side, it is not worthy of special protection.
18. Members are free to apply their own judgement and the weight of evidence, including PAC decisions, combined with the sheer size, shape, bulk, materials and finishes of the subject shed suggest it cannot be excluded.
19. The applicant possesses a Certificate of Lawfulness for a garage at the side of his property. If the Committee saw the site but did not accept the shed at 141, the applicant could build the approved garage to leave no doubt that there are at least three buildings on this frontage. A brief deferral would resolve that. That would not delay this application significantly, and would be pragmatic.
20. We would close by thanking you for your time and consideration in this matter and are happy to take questions.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/1532/F

Date Received: 20/09/2022

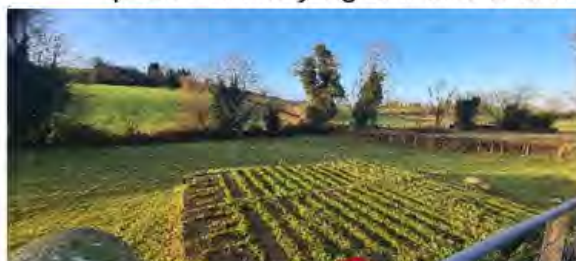
Proposal: Proposed dwelling on a farm

Location: Approximately 150m NE of 11 Ardkeeragh Road, Newry, BT34 1NW

1. Site Characteristics & Area Characteristics:

1.1. The application site is currently accessed through an agricultural yard. The application site is currently a field used for grazing. The north western boundary abuts the Ardkeeragh Road and is defined by a hedgerow. The south western boundary is defined by mature trees along a stream with a livestock proof post and wire fence. The north eastern boundary abuts existing agricultural buildings and the eastern elevation is defined by livestock proof post and wire fencing. The application site slopes south from the existing agricultural buildings towards the stream.

1.2. The application site is located outwith any settlement limit as defined by the Banbridge, Newry and Mourne Area Plan 2015. The surrounding land use is predominately agricultural and with single houses.



2. Site History:

There is no relevant planning history on the application site.

3. 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 Standards
- Building on Tradition: A Sustainable Design Guide for the NI Countryside

4. Consultations:

DAERA: Confirm Farm business is both active and established.

DfI Rivers: Content Subject to minimum 5m working strip.

DfI Roads: Content subject to conditions.

NI Water: Generic response received.

5. Objections & Representations

In line with statutory requirements the application was advertised in Oct 2022. No neighbours were identified to be notified.

No representations have been received to date 23/02/2023.

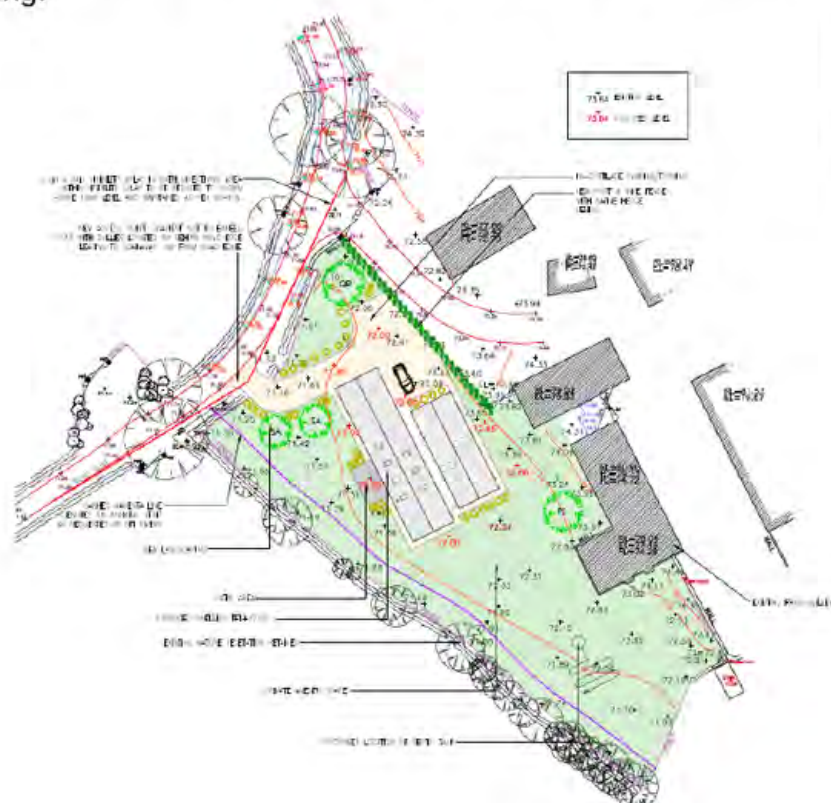
6. Consideration and Assessment:

The Proposal

6.1. The application was internally discussed, and the Planning Department raised concerns with the design and detail of the proposal. The concerns were based on the assessment that while the Clachan type concept of the development is acknowledged as traditional, the design of the dwelling particularly the modern fenestration and its conspicuous nature due to the size, scale and massing of the proposed building are not appropriate for the sites rural location. Concern was also raised with the lack of proposed site levels on the drawings. The agent provided an amended site layout with sufficient proposed site levels, examples of other approval and the design of the proposal was not amended. The assessment is made on the information currently before the Planning Department.

6.2. The current proposal features two large linear sections connected with a single storey internal link with one section two storey and the other single storey. The two-storey section is located adjacent to the existing agricultural buildings to

the northeast and the single storey section located south. The proposal features a large rear garden which is defined by the existing post and wire fencing.



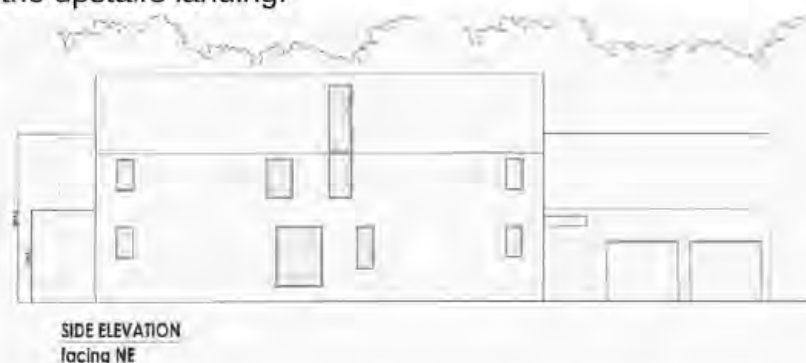
6.3. The front elevation (facing the Ardkeeragh Road) features floor to ceiling glazing on the northern half of the two-storey section, the internal link provides pedestrian access to the dwelling and single storey section features a blank gable.



- 6.4. The southwest elevation (also visible when traveling north) feature two vertical emphasis windows, large sliding patio doors, four roof lights, a large square opening to a covered patio and a floor to ceiling L-shaped combination window on the two-storey section servicing the upstairs bathroom.



- 6.5. The northeast elevation features two vehicular doors to the integrated garage on the single storey section. The two-storey section features a high solid to void ration with seven windows presented in an informal layout and a large floor to ceiling L-shaped combination window on the two storey section servicing the upstairs landing.



- 6.6. The rear elevation features two-storey floor to ceiling glazing on half two-storey gable and floor to ceiling glazing on the single store. The vertical walls and apex roof extends approximately 2 metres beyond the gable glazing to create

a covered patio. Both the roof and the walls will be clad in black corrugated metal across the entire building.



Principle of Development

6.7. 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. As the site is located outside the development settlement limits as designated in the BNMAP 2015, the principle of development is established under PPS 21: Sustainable Development in the countryside, Policy CTY10 – Farm Dwellings. The principle of development is established under policy CTY10 – Dwellings on Farms, PPS 21 'Sustainable Development in the Countryside'.

6.8. As established above the principle of development is outlined in Policy CTY 10 – Dwellings on Farms which states planning permission will be granted where the following criteria is met –

- a) The farm business is currently active and has been established for at least 6 years.
- b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application
- 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:

1. Demonstrable health and safety reasons; or
2. Verifiable plans to expand the farm business at the existing building group(s).

6.9. As outlined above, within DAERA's response it was confirmed that the farm business ID has been established for more than 6 years (Farm Business allocated 04/05/1999). DAERA advise that the application site is located within a field that has not been subject to claims within the last 6 years. However, CTY 10 does not require the application site to be subject to SPF claims. In consideration of this information, I am satisfied that the farm holding has been active and established for the last 6 years.

6.10. The history associated with this farm holding has been outlined in detailed within the Planning History section above. I am satisfied that 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.

6.11. The proposed siting is adjacent existing farm buildings. The proposed dwelling will be seen to cluster with the existing farm buildings when viewed from the Ardkeeragh Road. I am satisfied that the new building is visually linked and sited to cluster with an established group of buildings on the farm.

6.12. Design, Scale, Size and Massing

6.13. CTY 13 states *Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. A new building will be unacceptable where:*

- (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.*

6.14. The application site is located at the bottom of a Drumlin Valley topography and adjacent several existing agricultural buildings with mature

trees providing an interruption of views on approach. I do not consider the proposal would present as a prominent feature in the landscape. Criterion a is met.

6.15. The ancillary works include a permissible level of cut and fill that would not be uncommon for most developments. The works do not result in any hard retaining features or walls. The works to create the new access will involve replanting the hedge. Criterion d is met.

6.16. The proposal retains the existing vegetation on the south west boundary and abuts existing farm building along the north east. The proposal does not rely on the use of new planting for integration criteria b and c are met.

6.17. The form and proportions of a new building are key elements in the design and strongly influence its visual impact on the landscape. The design, including layout, form, proportions and presentation of the building are considered inappropriate for the site and its locality. As stated above the site is located within an area characterised by agricultural land use with single dwellings, typically single storey bungalows. The proposal presents suburban style design aspects through the presence of floor to ceiling apex glazing with a high void to solid ratio across both gables 7.5m and 5.5m in height. In the round, the combination of the large expanse of glazing, the covered porch, four roof lights, large L-shaped combination windows, the contemporary corrugated panelling and the large footprint, massing and scale is considered to result in a large suburban dwelling in the countryside. The proposal is considered to be contrary to criterion e.

6.18. Policy CTY 14 states 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."

6.19. The Planning Department consider the proposed dwelling to bear little relationship to the scale or form of the existing buildings adjacent the site and

of the structure to be replaced which brings into question the suitability of the design of the building for the site and its locality in terms of its scale and design.

6.20. The application site provides negligible intervisibility between any other sites with a similar house-type. For the reasons outlined above, the Planning Department consider that the proposal fails to comply with criterion (a) of CTY 14 in that the proposal does not respect the traditional pattern of settlement exhibited in that area.

6.21. 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. Supplementary guidance on the assessment of Farm Dwellings is contained in *Building on Tradition* and advises the following: "It is often possible to form or consolidate a traditional farm courtyard by locating a new house adjacent to or even adjoining an existing farmhouse and outbuildings. Traditional building forms can be used singly or in combination within an overall farm grouping. The scale of a larger house can be reduced by breaking it down into several smaller blocks. Lean-to structures back to back against higher walls are a useful device to reduce the apparent size and scale of a building."

Impact on Amenity

6.22. The nearest neighbouring dwelling is No. 11 Ardkeeragh Road approx. 145m from the proposed dwelling. Given the separation distance and staggered siting of the proposed dwelling and existing, I am satisfied that the proposed dwelling will not impact the amenity of No 11 Ardkeeragh to an unacceptable level in terms of overlooking, loss of light or overshadowing.

CTY 16

6.23. A septic tank has outlined on the P1 form as the means of sewerage. A Consent to Discharge condition will be attached to ensure that CTY 16 is complied with and to protect the environment.

Accessibility & Transportation

6.24. DfI Roads were consulted and have no objection to the proposal subject to conditions.

7. Recommendation: Refusal

8. Refusal Reasons/ Conditions:

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 2 storey dwelling is considered to be inappropriate for the site and its locality.

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:

- (b) result in a suburban style build-up of development when viewed with existing and approved buildings and;
- (c) not respect the traditional pattern of settlement exhibited in that area.

Case Officer Signature: EMcArdle
Date: 23.02.2023
Authorised Officer Signature: M Keane
Date: 23-02-23

LA07/2022/1532/F – Item no.11 - Approximately 150m NE of 11 Ardkeeragh Road Newry BT34 1NW.

The first reason for refusal states that the proposal is contrary to the SPPS and Policy CTY13 of PPS21 in that the design of the 2 storey dwelling is considered to be inappropriate for the site and its locality.

The case officer states in their report that the proposal would not present as a prominent feature in the landscape and that it does not rely on new landscaping to integrate yet states that the scale and massing of the proposal results in a large suburban dwelling in the countryside. we feel that this is a clear contradiction in the report and the refusal would appear to be based entirely on the design language of the proposed.

The case officer has also stated that the area is characterised by agricultural land use with single dwellings, typically single storey bungalows. The second element of this statement is misleading. The Ardkeeragh Road has 16 Dwellings on it, 6 are single storey, 5 are 1.5 storey and 5 are 2 storey. There is a clear pattern of 1.5 and two storey dwellings in the locality, not to mention the large agricultural buildings that are found more so in the locality, which the proposal seeks to emulate. It is also worth noting that the dwelling is not a full two storey, it has lower wall plates than a two storey dwelling, much like a 1.5 storey dwelling, though dormers have not been used due to design guides recommending against and also they did not suit the design language of the proposal.

The total front elevation of the proposal has an overall area of 76.2sqm and the voids on this are 20.2sqm. There is clearly a higher solid to void ratio on this elevation and all public facing elevations, contradictory to the case officer's assessment that the solid to void ratio is unacceptable.

The design is a long narrow plan, identified in building on tradition as the direction to take, with a maximum gable depth of 6.6m. the overall scale, massing and materials (which the case officer identified as contemporary, yet building on tradition states the material is traditional) of the proposal is set out in policy guidance as a good example of building in the countryside and is emulative of the adjacent farm buildings which the proposal is read in conjunction with. Criterion E of CTY13 requires the proposal to be appropriate for its site and locality and we are explicitly adhering to this with a design that was specifically created for the site, to emulate adjacent buildings and nestle into the landscape, having a maximum ridge height that sits 1m and 1.6m lower in the skyline than that of the adjacent farm buildings. The proposals integration is clearly identifiable on the submitted sectional drawings showing the proposal in conjunction with the adjacent farm buildings. The proposed design is rural in nature, not suburban, and follows the design guidance set out in policy CTY13 and building on tradition and in our opinion is clearly in compliance with these.

Policy CTY14 requires the intervisibility of the proposal with existing and approved development, The vulnerability of the landscape and the siting, scale and design of the proposal are to be considered with any new building. The planning department have stated that the proposal bears little relationship to the existing buildings adjacent to the site and the structure to be replaced. Firstly, there is no structure to be replaced and a site section was provided showing the proposal clustering and sitting lower in the landscape than the adjacent buildings. the materials of the proposal also match the adjacent buildings, furthering its relationship. Policy CTY14 requires the intervisibility of the proposal to be assessed against development, not house types. the proposal has

large intervisibility with the only buildings that it can be seen in conjunction with and that is the farm buildings.

In appeal 2019/A0016 for a farm dwelling the commissioner stated that “the fact that the proposal would present visually as part of a cluster, would ensure that there would be no resulting detrimental change to or erosion of rural character.” This statement was in reference to CTY14 and is relevant to this application as the case officer has stated in their report that “The proposed dwelling will be seen to cluster with the existing farm buildings when viewed from the Ardkeeragh Road. I am satisfied that the new building is visually linked and sited to cluster with an established group of buildings on the farm.

The case officer has stated in the report that the building does cluster with the farm, doesn’t rely on new vegetation for integration, yet states that the proposal is inappropriate for the site.

We are explicitly complying with all the criterion set out in policies CTY10, CTY 13 & CTY 14 and the assessment of the design created by a qualified architect is incorrect and misguided. We highlighted to the case officer 5 separate applications (LA07/2020/1183/F, LA07/2020/1261/F, LA07/2020/0887/F, LA07/2019/0235/F, LA07/2018/1682/F) in the NM&D council area that used a similar design language and were approved by the case officer, yet in this instance past precedence and clear conformity with policy and guidance has been overlooked.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0800/O

Date Received: 16/05/2022

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

Location: Lands approx. 35m South West of 55 Maphoner Road, Mullaghbawn.

Site Characteristics & Area Characteristics:

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

The site is an agricultural field which rises from the road to a crest and then slopes to the rear boundary. No 55 is adjacent and north of the site, this property is one and a half storey in design and is set back from the road edge with access via a private laneway, the property has a few outbuildings within its boundary. To the south is No 53 a one and a half storey dwelling with outbuilding to the side, this property is located close to the road edge. A few mature trees are positioned along the boundary of the site and No 53, the remaining boundaries of the site are quite open and offer little screening of the site.

The site is located within a rural area, there are a number of properties and other buildings within the vicinity of the site.

Site History:

No relevant planning history.

Planning Policies & Material Considerations:

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

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

Consultations:

DFI Roads – No objections.

NI Water – No objections.

Objections & Representations:

The application was advertised on 08/06/2022, two neighbours were notified on 01/06/202, no representations or objections have been received.

Consideration and Assessment:**Strategic Planning Policy Statement for Northern Ireland**

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

Planning Policy Statement 21 – Sustainable Development in the Countryside

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

Principle of Development

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

The application site has No 53 and associated outbuilding to the south, these buildings are considered to have a frontage with the public road. No 55 and its associated outbuildings which are located to the north of the site have their access lane running along the boundary with the application site, however the dwelling and buildings are set back from the public road with agricultural land between the road and buildings, as such it is not considered that these buildings have a frontage with the public road.

The agent has submitted some information to argue that the site meets the requirements for an infill opportunity and that the properties on either side have a frontage with the public road, consideration has been given to the information.

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

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

Another recent appeal decision 2020/A0121 states;

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

The above appeal decisions further support the Planning Authority's assessment that the laneway leading to No 55 does not constitute a frontage with the public road, as such No 55 and any associated buildings do not have a frontage with the public road and the proposal fails to meet policy requirements.

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 the ribbon of development at this part of the Maphoner Road.

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

Integration, Design and Rural Character

Policy CTY 13 of PPS 21 requires a building to be visually integrated into the surrounding landscape. The application site is an open agricultural field located on the edge of the public road and as such a dwelling on the site would be considered a prominent feature in the landscape. Although a few mature trees are located along the boundary of the site and No 53 the site at present is quite open to views and would be unable to provide a suitable degree of enclosure for a dwelling to integrate into the landscape. To provide a suitable degree of enclosure and screening this would rely on the use of new landscaping. It is considered that the proposal fails to comply with parts a, b and c of Policy CTY13.

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

As previously stated the site is open and so any dwelling on the site would be prominent. A dwelling on the site would result in a suburban style build-up of development when viewed with existing buildings in the area and a dwelling on the

site would add to the ribbon of development along Maphoner Road. It is considered that the proposal fails to comply with parts a, b and d of Policy CTY14.

Area of Outstanding Natural Beauty

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

Access and Parking

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

Development relying on non-mains sewerage.

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

Recommendation: Refusal

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, if permitted, would result in the extension of ribbon development along Maphoner Road and does not represent an exception to policy.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is prominent and unable to provide a suitable degree of enclosure for a building to integrate into the landscape and the proposal relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted be unduly prominent and result in a suburban style build-up of development when viewed with existing and approved buildings and would add to the ribbon of development and would therefore result in a detrimental change to and further erode the rural character of the countryside.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2, Natural Heritage in that the

siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Case Officer: Wayne Donaldson **Date:** 28/02/2023

Authorised Officer: Ashley Donaldson **Date:** 09/03/2023

Policy CTY 1 of PPS 21 indicates that there are certain types of development acceptable in principle in the countryside and that will contribute to the aims of sustainable development. There are a number of cases when planning permission will be granted for an individual dwelling house. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8. Policy CTY 1 goes on to state that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.

Whilst the main thrust of Policy CTY8 is to resist ribbon development as this is detrimental to the character, appearance and amenity of the countryside, the policy exceptionally provides for the development of a gap site where the following four specific criteria are met:

- (a) The gap site is within an otherwise substantial and continuously built up frontage;
- (b) the gap site is small sufficient only to accommodate up to a maximum of two houses; (c) the proposal respects the existing development pattern along the frontage in terms of size, scale, siting and plot size; and
- (d) the proposal meets other planning and environmental requirements.

For the purposes of the policy the definition of a substantial and continuously built up frontage includes **a line of three or more buildings along a road frontage without accompanying development to the rear**. A building has frontage to the road if the plot in which it stands abuts or shares a boundary with the road. The application site is located on lands abutting onto the Maphoner and between number 55 and 53 Maphoner Road Mullaghbawn BT35 9TR. The application site measures approx 45m metres in width along the road frontage.

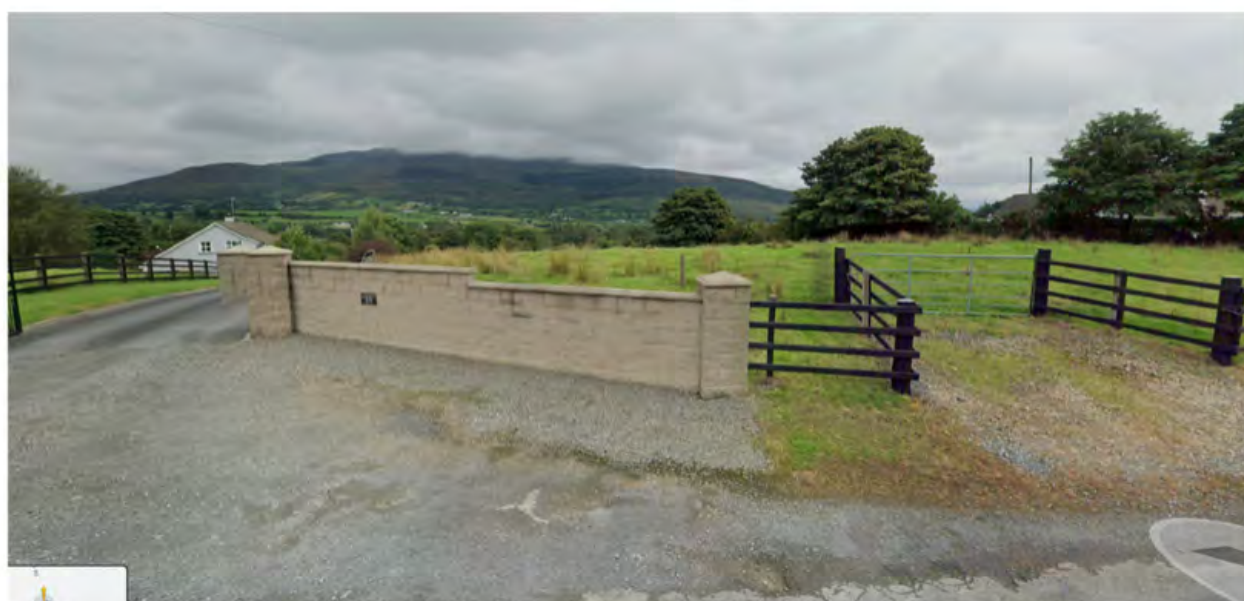
The buildings that are considered to make up the substantial and continuously built up frontage in this case are shown on the attached maps and the attached site photograph.

(Dwellings known as 55 and 53 Maphoner Road Mullaghbawn BT35 9TR) which are located either side of the application site and building number 2 (Existing Greenhouse Outbuilding of 55 - as shown in the attached site photograph). It is considered that buildings 1 (55 Maphoner Road - but noted marked as 57 Maphoner road on the Ordnance Survey Maps), 2 (Existing Greenhouse Outbuilding) and 3 (No. 53 Maphoner Road) located along this stretch of the Maphoner Road Mullaghbawn BT35 9TR constitutes a substantial and continuously built up frontage in accordance with the first element of CTY 8. (Please see the attached site photograph of the application site which clearly shows the application site and the surrounding buildings all with Road Frontage)

The second element of CTY 8 requires that the gap site is small sufficient only to accommodate up to a maximum of two houses. In this case the application is for a site for one dwelling. The overall application site measures apex 45 metres in width along the Maphoner Road Mullaghbawn BT35 9TR. The justification and amplification text at paragraph 5.34 is clear that the gap site is between houses or other buildings, as such for the purposes of policy the said gap is the distance between the buildings at 55 and 53 Maphoner Road Mullaghbawn BT35 9TR which measures approx 45metres. It is considered that the site is small enough only to accommodate one dwelling, therefore satisfying the second element of CTY 8.

The third element of CTY 8 requires that the proposal respects the existing development pattern along the frontage in terms of size, scale, siting and plot size. The adjacent plots have a similar size frontage and it has to be considered that the plot size is comparable to the existing plots along the stretch of Maphoner Road Mullaghbawn BT35 9TR and as indicated above and are reflective of the existing development pattern.

Overall it has to be considered that the proposal complies with the requirements of CTY 8, and the principle of development should be considered acceptable subject to all other policy and environmental considerations being met.



Google Streetview showing the application site and front of No. 55 Maphoner road with its Boundary Driveway Walled Entrance - surely the case is that this property has a “frontage to the Maphoner road”



Committee Application

Development Management Officer Report	
Case Officer: Sean Maguire	
Application ID: LA07/2022/0292/F	Target Date:
Proposal: Demolish the current modular unused 110m2 community centre. Proposal to build a new traditional 170m2 community centre on the current playground and provide a small carpark on the old community centre ground	Location: 2 Oriel Drive Downpatrick
Applicant Name and Address: Newry Mourne and Down District Council Downshire Civic Centre Ardglass Road Downpatrick BT30 6GQ	Agent Name and Address: Downshire Civic Centre Ardglass Road Downpatrick BT30 6BQ
Date of last Neighbour Notification:	14 June 2022
Date of Press Advertisement:	21 February 2022
ES Requested: No	
Consultations: NI Water Strategic Applications – Initially raised concerns there may be a conflict with the proposed location of the new building with existing. Following discussions with applicant NIW now have no objections. DfI Roads - No objections to this proposal subject to access being constructed with approval plans and subject to no works commencing on site until the appropriate Abandonment Order is operative Environmental Health NMDDC - No objections	
Representations: None have been received to date.	
Summary of Issues:	

Site Visit Report
Site Location Plan: 
Characteristics of the Site and Area The lands outlined in red forms a rectangular shaped site located along Oriel Drive. The site is currently occupied by an existing community building with a modular design and an existing playground area. The building has a single storey construction and is fully enclosed by metal fencing. The site presently provides no in-curtilage parking and is reliant on on-street parking. The site is relatively exposed given its position in an area of open greenspace, with views onto the site from Oriel Drive and the Flying Horse Road. The existing dwellings in this area comprise the 2 storey terraced house types of medium density. The application site is located within the settlements of Downpatrick. It is located on the inner edge of the settlement limit of Downpatrick as designated in the Ards and Down Area Plan 2015. The entire site is located within lands zoned as Existing Amenity Open Space and Recreation.
Description of Proposal Demolish the current modular unused 110m² community centre. Proposal to build a new traditional 170m² community centre on the current playground and provide a small carpark on the old community centre ground.

Planning Assessment of Policy and Other Material Considerations

Ards and Down Area Plan 2015

Strategic Planning Policy Statement of Northern Ireland

PPS 2- Natural Heritage (AONB)

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

PLANNING HISTORY

R/1999/1156/F - New playground incorporating safety surfacing below swings, slide, climbing frame etc. Opposite junction of Oriel Drive and Dalraida Road, Downpatrick. Permission granted.

R/2003/1382/F - Positioning of a mobile classroom for local community group. Oriel Drive Downpatrick BT30 6HL. Permission granted.

R/2012/0483/F - Renewal of temporary planning application - positioning of a mobile classroom for a local community group meeting facility. Oriel Drive Downpatrick BT30 6HL. Permission granted.

REPRESENTATIONS:

13 Neighbours within close proximity of the site were notified on 08/03/2022. This application was advertised in the local press on 02/03/2022. To date no objections or representations have been received.

SUMMARY OF PROPOSAL:

The proposed community building will have a single storey construction with a rectangular shaped footprint, comprising of a standard pitched roof construction. The building will have a simple design with a maximum ridge height of 4.9m above finished floor level. The building will measure 17m x 10m providing a gross floor space of 170m². The finished floor level as proposed is 48.800m.

The proposal will create a new vehicular entrance from Oriel Drive providing 10 in-curtilage parking spaces. The building will be re-sited to a more centralised position within the site and playground area will be located to north west.

The proposed materials and finishes consist of Walls - Insulated masonry cavity walls. Painted render finish, Roof - Concrete tile with uPVC fascia, soffit and barge boards (Colour TBC), Windows - double-glazed white uPVC frames with concrete sills, External doors - to be insulated galvanised steel. (Colour TBC), Rainwater goods - uPVC gutters & downpipes (Colour TBC) & Canopy - Galvanised mild steel canopy.

Ards and Down Area Plan 2015

Article 45 of the Planning Act (NI) 2011 states that subject to this Part and section 91(2), where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with application, must have regard to the local development plan, so far as material to the application, and to any other material considerations. As per the current development plan – The Ards and Down Area Plan 2015, the site lies within the defined settlement of Downpatrick.

As mentioned above, the site is located within the settlement limit of Downpatrick as designated in the Ards and Down Area Plan 2015. The site has a current and long associated community use. Taking into account the planning history i.e., community building and the current land zoning case officers are content with the principle of development.

Policy COY 1 Community Uses

The proposal has been assessed under The Ards and Down Area Plan 2015- Plan Policy COY 1- Community Uses. Planning permission will be granted for community uses provided all the following criteria are met:

- There is no significant detrimental effect on amenity-

The subject site is within the grounds of an existing community facility. The proposed replacement building will be larger in scale, however it is still considered of a scale appropriate to this site. Given the siting and distance from nearest neighbouring dwellings, the proposal is not expected to give rise to any overshadowing or loss of light. It will retain a visual presence in Oriel Park and when observed when travelling in both directions along the Flying Horse Road. Existing boundary treatments are to be retained which is expected to prevent any anti-social behaviour. Environmental Health have raised no objections with the scheme. The planning department consider that there is no significant detrimental effect on amenity.

- The proposal does not prejudice the comprehensive development of surrounding lands, particularly on zoned sites

The planning department consider that the proposal does not prejudice the comprehensive development of surrounding lands.

- The proposals are in keeping with the size and character of the settlement and its surroundings.

The proposed building is of an appropriate size for this form of development. Whilst it is acknowledged the proposed building will have a larger footprint than the existing, it is in keeping with the size and character of the surrounding environment.

- Where necessary, additional infrastructure is provided by the developer.

The accompanying P1 form indicates that foul sewage will be disposed via mains system. NI Water Strategic Application initially raised concerns requesting that a Pre-Development Enquiry application (PDE) should be applied for in relation to the site as there may be a conflict with the proposed location of the new building with existing NI Water Infrastructure which is traversing through this site. Following receipt of the PDE NI Water are content with the proposal subject to recommended planning conditions.

- There are satisfactory access, parking and sewage disposal arrangements-

The submitted P1 indicates that 1 additional visitor/customer will be attending the site daily with 17 others attending daily. It is noted that historically parking arrangements where suffice to accommodate the existing community use on site. This proposal however will now provide 10 in curtilage parking spaces within the site. DfI Roads has raised no objections, subject to access, parking and movement arrangements being constructed with the approved plans. NI Water have raised no objections to the scheme.

PPS 3 – Access, Parking and Movement

DfI Roads has been consulted with regard to PPS 3. The submitted P1 indicates that 1 additional visitor/customer will be attending the site daily with 17 others attending daily. It is noted that historically parking arrangements where suffice to accommodate the existing community use on site. This proposal however will now provide 10 in-curtilage parking spaces within the site. DfI Roads has raised no objections, subject to access, parking and movement arrangements being constructed with the approved plans.

Neighbour Notification Checked

Yes

Summary of Recommendation

On balance it is considered that the proposed development will not harm the character of the locality, nor will it negatively affect the residential amenity of Oriel Drive.

Conditions:

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: 001-Rev-C, 002-Rev-C, 004-Rev-C, 005-Rev-C, 006-Rev-C & 007-Rev-C.

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

3. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing 007-Rev-C **prior to the commencement** of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 4% (1 in 25) over the first 10 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

5. The proposal shall not become operational until all hard and soft landscape works have been carried out in accordance with the approved details shown in drawing 007-Rev-C, and to the appropriate British Standard or other recognised Codes of Practise. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

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

6. No development shall take place on-site until the method of sewage disposal and storm sewer disposal has been agreed in writing by the Planning Authority in conjunction with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure that a feasible method of sewage disposal is available at the site.

Informatives

1. The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.

2. No work shall commence on site until the appropriate Abandonment Order is operative. This may take some time to complete.

Case Officer Signature: S. Maguire

Date: 15 March 2023

Appointed Officer: A.McAlarney **Date:** 15 March 2023

Development Management Consideration

Details of Discussion:

Letter(s) of objection/support considered: Yes/No

Group decision:

D.M. Group Signatures _____

Date _____

Committee Application

Development Management Officer Report	
Case Officer: Ryan Gallagher	
Application ID: LA07/2022/1738/LBC	Target Date:
Proposal: Installation of New Lighting Protection System	Location: Newcastle Centre 10-14 Central Promenade Newcastle
Applicant Name and Address: Marie Ward NMDDC Downshire Civic Centre Ardglass Road Downpatrick BT30 6RA	Agent Name and Address: NMDDC Downshire Civic Centre Ardglass Road Downpatrick BT30 6RA
Date of last Neighbour Notification:	
Date of Press Advertisement:	14 November 2022
ES Requested: No	
Consultations: Consult HED 15/11/2022 Consult HED 11/02/2023	
Representations: N/a	
Letters of Support	
Letters of Objection	
Petitions	
Signatures	
Number of Petitions of Objection and signatures	
Summary of Issues:	

Site Visit Report		
Site Location Plan:		
		
Date of Site Visit: 12/12/2022		
Characteristics of the Site and Area		
The site is located within the town centre of Newcastle as designated by the Ards and Down Area Plan 2015 and is also included within Area of Outstanding Natural Beauty. This application relates to Annesley Mansions' ('Newcastle Centre'), 10-12 Central Promenade, Newcastle (Grade B2) which is of special architectural and historic interest and is protected by Section 80 of the Planning Act (NI).		
Description of Proposal		
Installation of New Lighting Protection System		
Planning Assessment of Policy and Other Material Considerations		
The following policy documents provide the primary planning context for the determination of this application: • Ards and Down Area Plan 2015 • Strategic Planning Policy Statement for Northern Ireland • Planning Policy Statement 2 (Natural Heritage) • Planning Policy Statement 6 (Planning, Archaeology, and the Built Heritage)		
PLANNING HISTORY		
Application Number: R/2014/0661/F	Decision: Permission Granted	Decision
Date: 29 January 2015		
Proposal: Sculpture trail on Newcastle Promenade		

Application Number: LA07/2015/0884/A Decision: Consent Granted Decision Date: 20 November 2015
 Proposal: Name and address, single letter gable wall text signage
 Application Number: LA07/2015/0079/F Decision: Permission Granted Decision Date: 29 September 2016
 Proposal: Change of use of Ground Floor Units from Retail to Café/Restaurant
 Application Number: LA07/2018/0654/A Decision: Consent Granted Decision Date: 24 August 2018
 Proposal: Conversion of existing six sheet display unit incorporated into an existing Adshel bus shelter to a six sheet digital display screen
 Application Number: LA07/2021/0657/LBC Decision: Consent Granted Decision Date: 20 July 2021
 Proposal: Proposed installation of telecoms apparatus
 Application Number: LA07/2021/2087/F Decision: Permission Granted Decision Date: 11 March 2022
 Proposal: Reinstatement of 2 sash windows to rear elevation of building.
 Application Number: LA07/2021/1752/LBC Decision: Consent Granted Decision Date: 11 March 2022
 Proposal: Demolition of extension building adjoined to original B2 listed building and all associated remedial works
 Application Number: LA07/2022/0201/LBC Decision: Consent Granted Decision Date: 13 May 2022
 Proposal: Removal of tiered seating and steps. Widening of corridor between theatre and display room. Create new store using a section of existing store.

CONSULTATIONS

HED Consult 15/11/2022
 HED Consult 11/02/2023

EVALUATION

The proposal seeks Listed Building Consent for the installation of new lightning protection system.

Proposed Specification:

The lightning protection installation shall comply with the requirements of the latest version (including all amendments) of BS EN 62305 and BS 7671. New lightening protection tape to be provided along roof (eaves)perimeter and rising from eaves to main ridge level via hipped roof ridges. Vertical, down conductors (to external elevations) are to be 25 x 3mm PVC covered copper tape clipped to the external walls to locations and details as indicated on plans. The vertical, down, conductors are to be fixed in least prominent positions, i.e: behind downpipes and to external stone corners (currently painted blue). The vertical, down, conductors are to be RAL colour matched to existing elevation and roof surfaces, i.e: grey to roof, blue to corners and white to elevations

SPPS

Paragraph 6.13 of the SPPS states that development involving alteration to a listed building may be permitted, particularly where this will secure the ongoing viability and upkeep of the building.

PPS 6

Policy BH 8- Extension or Alteration of a Listed Building

Proposals for the extension or alteration of a listed building will only be granted consent where all the following criteria are met:

- (a) The essential character of the building and its setting are retained, and its features of special interest remain intact and unimpaired
- (b) The works proposed make use of traditional and / or sympathetic building materials and techniques which match or are in keeping with those found on the building; and
- (c) The architectural details (e.g., doors gutters, windows) match or are in keeping with the building

Initial consultation with HED highlighted a number of issues namely

1. It is understood that the Lightning Protection System (LPS), as indicated on drawing 69001-P01, must comply with BSEN 62305 and BS 7671. This drawing is stated as 'Indicative only for the purpose of tender' and HED considers the installation excessive to comply with the required 10m maximum separation. A more refined installation layout is requested, minimising hip ridge drops to the front elevation.
2. HED Historic Buildings is content with the use of RAL colour matched vertical down conductors to the elevations, positioned behind rainwater goods where possible, but would request that protection tape at roof level be lead covered.
3. We require details of exact position, and fixing of, strike rods to the stone chimneys - are these horizontal or vertical?

Following revisions HED comment positively as follows

1. As indicated on drawing 69001-P02, the installation layout has been refined to minimise hip ridge drops and all down conductors to the front elevation to be behind downpipes.
2. We acknowledge annotation on drawing 69001-P02 indicating that all protection tape at roof level be lead covered.
3. We acknowledge inclusion of detail 04 on drawing 69001-P02 which clearly indicate the unobtrusive nature of the proposed strike rods to the stone chimneys, and consider this to be acceptable

HED have considered the impacts of the proposal on the listed building and following revisions consider it satisfies the requirements of para 6.13 of the SPPS and policies BH8 of PPS 6.

Neighbour Notification Checked

Yes/No

Summary of Recommendation

Consent Granted

Conditions:

1. The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011

2. The development hereby permitted shall take place in strict accordance with the following approved plans Nos. DDC157-G-1-00, 69001-P02

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

Informative:

1. The drawings to which this decision relates are Nos. DDC157-G-1-00, 69001-P02

Case Officer Signature: Ryan Gallagher

Date: 15 March 2023

Appointed Officer: A.McAlarney

Date: 16 March 2023

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 COMMITTEE MEETING 26 AUGUST 2020					
LA07/2019/1302/F	Provision of a dwelling with associated parking and amendment to application R/2011/0794/f to remove parking area for apartments and replace with shared amenity space - to rear of Nos 65-69 South Promenade, Newcastle.	Defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can be secured for this proposal.	A McAlarney	Awaiting Consultee response.	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	NIEA requested further information. Agent advised	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	Amendments with Consultee	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/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	On agenda for December 2022 meeting - deferred	N
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	N
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 – meeting cancelled and to be reconvened – on agenda for Cttee	Y

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				meeting – 05-04-2023	
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	N
PLANNING COMMITTEE MEETING 16 NOVEMBER 2022					
LA07/2020/1651/F	Erection of dwelling (Change of house type from that previously approved under P/2006/2002/F) (Amended description) 75m north of 18 Ballinasack Road, Mullaghbawn, Newry.	Defer for a site visit at December Planning meeting	P Rooney	Site visit – 18-01-2023 – return to Planning Committee on 08-02-2023 Defer for clarification in relation to the points raised by Legal	N
LA07/2022/0210/F	Retention of existing outdoor customer seating area - Ground floor unit 12 Seaview Warrenpoint BT34 3NJ	Removed from the schedule at the request of Councillor McAteer as the representative from objectors is unable to attend the meeting	P Rooney/M Keane	On agenda for December 2022 meeting – deferred – on agenda for Cttee Meeting 05-04-2023	Y

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2022/0226/F	This is a category 11 section 54 application - Ground Floor Unit 12 Seaview Warrenpoint BT34 3NJ	Removed from the schedule at the request of Councillor McAteer as the representative from objectors is unable to attend the meeting	P Rooney/M Keane	On agenda for December 2022 meeting – deferred – on agenda for Cttee Meeting 05-04-2023	Y
PLANNING COMMITTEE MEETING 11 JANUARY 2023					
LA07/2022/0030/F	Approximately 265 metres west of No. 30 Levallyreagh Road Rostrevor Erection of replacement dwelling and garage with associated ancillary site works	Defer	P Rooney/M Keane	On agenda for Cttee Meeting – 21-04-2023	Y
LA07/2022/0578/O	Approx. 55m North-west of 61 Dromore Road Ballynahinch - New Dwelling and Domestic Garage	Defer for a site visit	A McKay/A McAlarney	Site visit 18-01-2023 – return to Planning Committee 08-02-2023 – removed from schedule – return to Planning Committee	N
PLANNING COMMITTEE MEETING 08 FEBRUARY 2023					
LA07/2021/1995/F	Proposed 2no Detached Dwellings with associated Car Parking and Landscaping - Lands to North West of 26-34 Boulevard Park	Defer until the February Meeting as objector unable to attend		Return to Planning Committee	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	and South West of 59 Boulevard Park Newcastle.				
PLANNING COMMITTEE MEETING 08 MARCH 2023					
LA07/2022/0299/O	Proposed site 2 no infill dwellings and garages - Between 55 & 57 Drumalt Road Dorsey Newry (100m West of 55 & 60m South of 57).	Defer for a site visit	Pat Rooney	Site visit held 29-03-2023 – on agenda for Cttee Meeting 05-04-2023	Y
LA07/2022/0692/F	Proposed replacement dwelling and garage - 24 Carrivekeeney Road Newry Co. Down.	Defer	P Rooney/A Donaldson		
END					