



March 7th, 2023

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 8th March 2023** at **10:00 am** in **Boardroom Monaghan Row Newry** and via **Microsoft Teams**.

Committee Membership 2022-2023

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

Agenda

1.0 Apologies and Chairperson's Remarks.

- Apology Cllr. Devlin

2.0 Declarations of Interest.

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

- Item 6 - LA07/2022/1069/F - application was presented at the Planning Committee Meeting on 8 February 2023 - all Councillors were present for the discussion/decision.

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

 *Planning Committee Minutes - 08.02.2023.pdf*

Page 1

5.0 Addendum List - Planning Applications with no representations received or requests for speaking rights. (Attached)

- 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. **REFUSAL**

 *Addendum list - 08-03-2023.pdf*

Page 12

Development Management - Planning Applications for determination

6.0 LA07/2022/1069/F -Change of use of the former bank (Class A2) to an amusement arcade/adult gaming centre facility and alterations to shop front - 80-82 Market Street Downpatrick. (Attached)

APPROVAL

- In line with the Operating Protocol no further speaking rights are permitted on this application (Andy Stephens, Philip Campbell and Cllr. G Sharvin (objectors) will be available to answer any queries Members might have).

 *LA07-2022-1069-F DCO Market Street.pdf*

Page 13

 *80 82 Market Street Downpatrick.pdf*

Page 22


7.0 LA07/2022/0151/O - Replacement dwelling and detached garage - 94 Teconnaught Road Kilmore Downpatrick. (Attached)

REFUSAL

- A request for speaking rights has been received from Sam Hawthorne Hawthorne Assoc Ltd, in support of the application. **(Submission attached)**

 *LA07_2022_0151_O 94 Teconnaught Road_DPK.pdf*

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 *(Item 7)-LA07-2022-0151- O - (Support).pdf*

Page 32

8.0 LA07/2022/1565/F - Dunleath Park Downpatrick. (Attached)

APPROVAL

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

- Addendum list

 *LA07-2022-1565-F Dunleath Park Skate park Committee Report.pdf*

Page 34

9.0 LA07/2021/2127/O - Dwelling on a farm. Site to the South of the sheds & outbuildings at 32 Old Road Wateresk Dundrum BT33 0QQ. (Attached)

REFUSAL

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

 *LA07-2021-2127-O-CO_Report.pdf*

Page 41

10.0 LA07/2022/0243/O - Erection of two dwellings (gap site) - Lands approximately 50m south of 14 Sandy Brae Attical. (Attached)

REFUSAL

- A request for speaking rights has been received from Colin O Callaghan Agent; Conor Fegan BL, and Cathal Sloan applicant, in support of the application. **(Submission attached)**

📎 LA07-2022-0243-F.pdf

Page 52

📎 (Item 10)- LA07 2022 0243 F 14 Sandy Brae (Support).pdf

Page 65

11.0 LA07/2022/1181/F - The Square Mary Street Rostrevor BT34 3GU. (Attached)

APPROVAL

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)

- Addendum list

📎 LA07-2022-1181-F.pdf

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12.0 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. (Attached)

APPROVAL

- The applicant has withdrawn their request for speaking rights on this application and it will now move to the addendum list with an opinion to **APPROVE**

📎 LA07.2022.1076.F Battery Energy Storage System Crabtree Ballynaahinch 24.02.23.pdf

Page 75

13.0 LA07/2021/0589/F - Lands at the former St Clare's Primary School and Convent High Street Newry. (Attached)

APPROVAL

Proposed restoration of Listed Chapel Building (Grade B2) to provide a Community Hub; part demolition and conversion of the existing St Clare's Convent building to deliver 13 no. apartments comprising a mix of 7 no. 1-bed apartments & 6 no. 2-bed apartments; demolition of existing buildings associated with the former Primary School and redevelopment of the site to provide a further 75 no. dwellings comprising a mix of 18 no. semi-detached dwellings, 17 no. townhouses, 16 no. own door apartments (mix of 1-bed and 2-bed), 6 no. bungalows, and 18 no. 2-bed apartments; including provision of road improvements at the junction of High Street and Abbey Way; car parking; cycle stands; landscaping; open space; and all other associated works

- A request for speaking rights has been received for items 13, 14 and 15 from Clonrose Developments in support of the application. **(Submission attached)**

📄 *LA07.2021.0589.F St Clares 23.02.23 9.14.pdf*

Page 98

📄 *(Items 13, 14, 15) St. Clares Newry.pdf*

Page 129

14.0 LA07/2021/0550/LBC - Restoration/refurbishment works to listed chapel building (grade B2) to facilitate conversion to a community hub facility with all associated works - Chapel building at the former convent of Poor Clare's High Street Newry. (Attached)

CONSENT APPROVED

📄 *LA07.2021. 0550.LBC St Clares LBC Consent.pdf*

Page 131

15.0 LA07/2021/0592/DCA - Lands at former St Clare's Primary School and convent High Street Newry. (Attached)

CONSENT APPROVED

Demolition of existing buildings associated with the former St Clare's Primary School and convent of Poor Clares to facilitate redevelopment of site for 89 no. dwellings (social/affordable), Community Hub and all other associated works

📄 *LA07.2021.0592.DCA St Clares Demolition Consent.pdf*

Page 137

16.0 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

- A request for speaking rights has been received from Mark Tumilty Agent and Eugene McCreesh Applicant; in support of the application. **(Submission attached)**

📎 2022 0299 - Drumalt Road.pdf

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📎 (Item 10)- LA07 2022 0299-O Drumalt Rd Dorsey.pdf

Page 152

17.0 LA07/2022/0692/F - Proposed replacement dwelling and garage - 24 Carrivekeeney Road Newry Co. Down. (Attached)

REFUSAL

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

📎 LA07-2022-0692-F Carrivekeeney Road.pdf

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📎 (Item 17) - LA07-2022-0692-F - (Support).PDF

Page 160

18.0 LA07/2021/1143/O - Site for dwelling and detached garage - 40m north-east of no. 6 Dundalk Road Newtownhamilton. (Attached)

REFUSAL

- A request for speaking rights has been received from Brendan Quinn Agent, in support of the application. **(Submission attached)**
- A request for speaking rights has been received from Councillor B O'Muiri, in support of the application.

📎 LA07-2021-1143-O Dundalk Road Signed.pdf

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📎 (Item 18)-LA07-2021-1143-O (Support).pdf

Page 175

19.0 LA07/2022/0704/F - Erection of a dormer style farm dwelling and detached garage - Lands approx. 190m north of No 14 Old Road Crossmaglen Newry BT35 9AL. (Attached)

REFUSAL

- Application removed from the addendum list at the request of Councillor Murphy, as the applicant is unable to attend.

📎 LA07-2022-0704-F N of 14 Old Road signed.pdf

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20.0 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). (Attached))

APPROVAL

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

- Addendum list

📄 *LA07.2020.1082.F Greenway.pdf*

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For Noting

21.0 Historic Action Sheet. (Attached)

📄 *Planning HISTORIC TRACKING SHEET - Updated February 2023.pdf*

Page 197

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

(Officials)

| | |
|-----------------|---|
| Mr C Mallon | Director of ERT |
| Mr A McKay | Chief Planning Officer |
| Mr Pat Rooney | Principal Planning Officer |
| Mr A Hay | Principal Planning Officer |
| Mr M McQuiston | Senior Planning Officer |
| Ms N Largey | Legal Advisor |
| Mr Peter Rooney | Legal Advisor |
| Ms S Taggart | Democratic Services Manager (Acting)(Teams) |
| Ms L Dillon | Democratic Services Officer (Teams) |
| Ms L Cummins | Democratic Services Officer (Teams) |
| Ms C McAteer | Democratic Services Officer |
| Ms P McKeever | Democratic Services Officer |

P/010/2023: APOLOGIES AND CHAIRPERSON'S REMARKS

No apologies were received.

P/011/2023: DECLARATIONS OF INTEREST

There were no Declarations of Interest.

P/012/2023: 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 7 - LA07/2022/0273/F– Cllrs. Devlin and Harte were not present at the Planning Committee Meeting on 14-12-2022
- Item 8 - LA07/2020/1651/F – Cllrs. Byrne, Larkin, Lewis, Murphy, McAteer and McEvoy attended the site visit on 18-01-2023
- Item 9 - LA07/2022/0578/O – Cllrs. Burgess, Byrne, McAteer, Murphy, McEvoy, Devlin, Reilly and Lewis attended the site visit on 18-01-2023

MINUTES FOR CONFIRMATION

P/013/2023: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 11 JANUARY 2023

Read: Minutes of Planning Committee Meeting held on Wednesday 11 January 2023. (Copy circulated)

AGREED: On the proposal of Councillor Murphy, seconded by Councillor Devlin, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 11 January 2023 as a true and accurate record.

FOR DISCUSSION/DECISION

P/014/2023: ADDENDUM LIST

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

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Burgess, it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 08 February 2023:

- LA07/2022/1438/F - Proposed single storey side and rear extension, and new patio area - 25 Main St Bessbrook. **APPROVAL**

- LA07/2022/1586/LBC - Proposed single storey side and rear extension, and new patio area - 25 Main St Bessbrook **APPROVAL**

LOCAL DEVELOPMENT PLAN (CLOSED SESSION)

Agreed: On the proposal of Councillor Harte, seconded by Councillor McEvoy, it was agreed to exclude the public and press from the meeting during discussion on the following items:

P/015/2023: LDP: Progress Report – Quarterly Update

Read: Report dated 8 February 2023 by Mr A Hay, Principal Planning Officer regarding the Local Development Plan: Progress Report – Quarterly Update.

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

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

P/015/2023: LDP: Progress Report – Quarterly Update

AGREED: On the proposal of Councillor Burgess, seconded by Councillor Murphy, it was agreed to note the LDP: Progress Report – Quarterly Report provided in the report dated 8 February 2023 from Mr A Hay, Principal Planning Officer regarding the Local Development Plan.

DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION

P/016/2023: PLANNING APPLICATIONS FOR DETERMINATION

(Councillors Devlin and Harte withdrew from the discussion/decision on this application)

(1) LA07/2022/0273/F

Location:
54 Market Street Downpatrick

Proposal:
Change of use application from existing shop (Use Class A1)

Planning Application was brought back to Committee to confirm reasons for refusal following overturn of the Case Officer opinion at the Planning Committee Meeting on Wednesday 14 December 2022.

Mr McKay advised Members it was not possible to frame reasons for refusal based on DCAN1 as it was an advice note, and he had taken the rationale as set out by Councillors regarding points 4 and 5 of DCAN1 and translated it into a refusal reason based on policy, as was required, and suggested the following wording:

'The development is contrary to para 3.8 of the SPPS in that the development as proposed would, if permitted, result in the break up of a continuous shopping frontage along Market Street and also have a detrimental impact on the wider neighbourhood of Downpatrick specifically community groups, churches and schools, by virtue of an accumulation of adult gaming facilities in the area'.

Ms Largey said she considered the concern of Members related to the impact of the proposal on Market Street and the primary retail core as well as the wider area, and she said that wording should be included to reflect the concerns of Members in respect of the application location, in addition, she said, for the purposes of clarity, a reference to DCAN1 should be included, so it was clear to the applicant and in any subsequent appeal that it was a material consideration in the Committee's decision.

Councillor Byrne agreed with the suggested wording, and as pointed out by Ms Largey, agreed wording be included to the effect the decision was backed up by points 4 and 5 in the advice note DCAN1. Councillor Byrne and Councillor Murphy indicated they were content for Planning to finalise the appropriate wording.

AGREED: **On the proposal of Councillor Byrne, seconded by Councillor Murphy, it was agreed the wording for refusal in respect of Planning Application LA07/2022/0274/F be amended to that suggested by Planning Department and to include a reference to DCAN1.**

(2) LA07/2020/1651/F

(Councillors Burgess, Devlin, Harte, O'Hare and Reilly withdrew for the discussion/decision on this application.

Councillor Hanna said whilst he was not at the site visit on 18th January 2023, he was at a previous site visit and was very familiar with the site and did not feel his decision would be impacted by his failure to attend.

Location:

75m north of 18 Ballinasack Road, Mullaghbawn, Newry

Proposal:

Erection of dwelling (Change of house type from that previously approved under P/2006/2002/F) (Amended description)

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

As Planning Application LA07/2020/1651/F was the subject of a site visit on 18 January 2023, and in line with the updated Operating Protocol, no further speaking rights were permitted on this application.

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

Issues raised:

- Mr Rooney said the timeframe for commencement of works would have been clearly stated on the formal notice issued to the applicant / agent and it was this formal notice that should have been relied upon by the applicant and not the planning portal.
- Mr Rooney said pre commencement conditions had to be carried out prior to carrying out any other works on the site and he said these conditions were imposed for road safety reasons. He said there were PAC decisions to support the view that if an access was not implemented on site as specified within the conditions, prior to any other development works being carried out, then the approval granted, would be considered lapsed.
- Mr O'Callaghan said the applicant considered work was carried out within the timeframe.
- Mr O'Callaghan acknowledged the visibility splays were a pre commencement condition but said there was a natural splay already in place with no works required on the right side and only minimal works would have been required on the left side.
- Mr O'Callaghan said he did not consider foundations to be erroneously sited, he said there was a considerable degree of overlapping and a certificate of lawfulness had previously been granted under similar circumstances.
- Mr Rooney said determining weight could not be given to previous approvals granted as they had lapsed.
- Ms Largey said case law was clear in that the decision notice was the relevant document to be relied on, and not the planning portal and the timeframe would have been clearly set out in the decision notice.
- Ms Largey said the pre commencement conditions had not been complied with in accordance with the plans and a previous judicial review had outlined concerns with what had been approved and what had been carried out, and she said there were certainly more concerning issues than the agent was suggesting.
- Ms Largey said the agent had confirmed the visibility splays had not been provided on one side of the access.
- Ms Largey advised Members there were objective issues that would be very difficult to justify if the Committee decided to overturn the recommendation by Planning.

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Proposal:

New Dwelling and Domestic Garage

Conclusion and Recommendation from Planning Official:

Refusal

The Chairperson advised Planning Application LA07/2022/0578/O had been deferred at the request of Councillor Hanna, as the agent had advised the Planning Consultant was not available to attend the Planning Committee Meeting on 8 February 2023.

(4) LA07/2020/1043/F

Location:

Proposed residential development of 22 no two storey dwellings, detached garages and associated site works

Proposal:

Land 30m north of 4A Tollymore Road

Conclusion and Recommendation from Planning Official:

Approval

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 objection

A written objection was received from Mr G Kendall (circulated separately due to personal information).

In support

Mr Barry Fletcher, 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 the separation requirement distance to the boundary was 10 metres, and the separation distance from the application site to the boundary was 10.1 metres and 10.5 metres to the rear of the property.
- Mr McKay said Planning was satisfied the applicant had done all that was required in terms of advising any other interested parties and he said any other future disputes that may arise would be a civil matter.
- Mr Fletcher confirmed all outstanding issues had been resolved.
- In addressing concerns raised regarding overlooking issues outlined in the objection letter, Mr McKay said the proposed building and the existing building were back to back, the requirement needed was 20 metres of separation, provided, on the application side, the 10 metre separation distance was achieved.

- Mr Fletcher said he had worked with Planners to address overlooking concerns and during the design process the site location had been moved further away from the objector's house.
- Mr Fletcher said there was a 1.8 metre fence, two large mature trees and three proposed trees to be planted in front of the fence and he said it would be the same as the rear of every property in the development.

AGREED: On the proposal of Councillor Devlin, seconded by Councillor McEvoy, it was unanimously agreed to issue an approval in respect of Planning Application LA07/2020/1043/F as per Officer recommendation the information contained within the Case Officer report and presented to Committee.

(5) LA07/2021/1995/F

Location:

Lands to the NW of 26 – 34 Boulevard Park and SW of 59 Boulevard Park, Newcastle

Proposal:

Proposed 2no detached dwellings with associated car parking and landscaping

Conclusion and Recommendation from Planning Official:

Approval

The Chairperson advised Planning Application LA07/2021/1995/F had been deferred at the request of Councillor Devlin, as the agent had advised an objector was not available to attend the Planning Committee Meeting on 8 February 2023.

(6) 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 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 objection

Mr Philip Campbell, Chair, Downpatrick Town Committee and Mr Andy Stephens, Planning Consultant presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Councillor Gareth Sharvin DEA Councillor presented in objection to application.

Mr McKay said Planning Application LA07/2022/1069/F was unusual as it was already the subject of an appeal to the PAC and jurisdiction for the application now rested with the PAC, however, he said, the process required the view of the Planning Committee, whether it was to accept the recommendation or an alternative view so they could ultimately adjudicate on the application.

Issues raised:

- Mr McKay said the Case Officer report indicated there were approximately 11 units within the block from Lidl at 93 – 100 Market Street and the junction of Market Street and St. Patrick's Avenue, of these 7 units including the subject building were in non-retail use.
- Councillor Byrne considered the shop frontage on either side of the application site along the block was predominantly retail.
- Councillor Larkin said Councillor Devlin and Councillor Byrne were privately considering information not disclosed to other Members and asked for legal advice regarding this. Councillor Byrne advised the information he and Councillor Devlin were sharing was page 6 of the Officers report, which, he said all Members had access to. Councillor Devlin expressed her resentment at the accusation made by Councillor Larkin saying it was completely inappropriate and she asked it be recorded that her integrity had been questioned. Ms Largey said there was nothing in Standing Orders to prevent Members privately discussing an application and it was not procedurally an issue.
- Councillor Murphy said under SPPS, there was an obligation to encourage development of an appropriate nature to enhance the attractiveness of the town and asked what weight should be given to the fact the objectors did not consider it complied with SPPS.
- Mr Stephens said he considered clear harm would be done as demonstrated in his speaking notes. He said the company's balance sheet obtained from Companies House indicated a significant increase in turnover in the post covid world – up from 3.8m to 8.45m and no one had considered where this money had come from.
- Mr Stephens said the proposal would not generate link trips or additional footfall and the income would come from other shops and services in the town centre.
- Mr Stephens said there were 13 similar facilities in Downpatrick which, he said indicated a level clearly above saturation.
- Mr Stephens said the PAC decisions outlined in the Case Officer's report was a misrepresentation in that there were no educational facilities or churches in one referred to by the Officer in Wellington Street, Belfast, which was not the case with this application, and therefore he said, a direct parallel could not be made.
- Mr Stephens said community groups were against the proposed application, it would not enhance the town and ultimately, the Planning Committee needed to be consistent in their determinations, and a recommendation of refusal was put forward for a similar recent application at 54 Market Street, Downpatrick.

- Mr McKay said the description of the proposed business was an Amusement Arcade / Adult Gaming Centre, he said, it was predominantly gaming machines, no more detail had been asked for or had been received.
- Mr Stephens said the application had included a planning access and design statement and documentation from Companies House indicated gambling and betting activities.
- In response to a comment made by Councillor Hanna that gambling was a personal choice, Mr Stephens said he was not making a moral point, but rather that the town centres were on their knees, there were already 2 bookmakers in the town and the proposal would not positively impact the town.
- Mr Stephens said an amusement arcade differed to the proposed application in that it provided family entertainment by way of slot machines, dodgems, air hockey etc and was entirely different to that proposed. He said the proposed application was likely to be open 15 hours/day and would have a negative effect on the primary retail core of Downpatrick.
- Councillor Byrne asked if the planners had considered the level of the facility already in Downpatrick or just in the direct primary retail core as outlined in the Case Officer report.
- In response, Mr McKay said a judgement call would have to be made in this regard, he said it was not that straightforward in that there were nuances and he said there was also a need to be mindful about straying into moral judgement.
- Councillor Byrne referred to DCAN1: Paragraph 4 and said at no point had he made any moral comments, but he said the possibility of demonstrable harm needed to be questioned and it was important to know the number of similar outlets across Downpatrick, and that had not been clarified.
- Mr McKay said the focus of the Case Officer report had been the town centre, however if the Committee wished to get more detail regarding the number of amusement arcades, casinos, gaming facilities and bookkeepers across town and the town centre, that could be carried out and the findings brought back to the Committee.
- In response to concerns regarding delaying the application further by deferring it for further information, Mr McKay said the PAC needed to understand the Planning Committee had their procedures.

AGREED: **On the proposal of Councillor McAteer, seconded by Councillor Devlin it was unanimously agreed to defer Planning Application LA07/2022/1069/F to allow time to seek and define the numbers of businesses operating in the Downpatrick area of an entertainment nature, define what they were and their particular operations in relation to DCAN1: Paragraph 4.**

P/017/2023: **HISTORIC ACTION SHEET**

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

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

P/018/2023: **PLANNING COMMITTEE PERFORMANCE REPORT – DECEMBER 2022**

Noted: **Noted the Planning Committee Performance Report for December 2022 was not available.**

P/019/2023: **CURRENT APPEALS AND DECISIONS**

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

The meeting concluded at 12.50pm.

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 08 March 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:

- **LA07/2022/1565/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**
- **LA07/2022/0704/F** - Erection of a dormer style farm dwelling and detached garage - Lands approx. 190m north of No 14 Old Road Crossmaglen Newry BT35 9AL **REFUSAL**
- **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**

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



Comhairle Ceantair an Iúir, Mhúrn agus an Dúin

Newry, Mourne and Down District Council

Application Reference: LA07/2022/1069/F

Date Received: 27.06.2022

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

Location: 80-82 Market Street, Downpatrick



Site Characteristics & Area Characteristics

The lands outlined in red form an 'L' shaped site located at 80-82 Market Street, Downpatrick. The building is currently vacant and was previously occupied by the Bank of Ireland. The existing building is two-storey in height. The ground floor of the building is finished in concrete block with a render finish to the first floor. The site extends to the southeast with rear access and a narrow frontage onto St Patrick's Drive.

The site is within the settlement development limits of Downpatrick as defined in the Ards and Down Area Plan 2015 and the site is also within Downpatrick's Primary Retail core and within

the defined Town Centre. The site is also within the Strangford and Lecale Area of Outstanding Natural Beauty and within an area of archaeological potential and an area liable to flooding.

Site History:

A history search has been carried out for the site highlighting the following; -

R/2013/0377/A - Shop Signage. The Bank Of Ireland. 80-82 Market Street Downpatrick. Permission granted. 18/10/2013.

R/1990/0758 - Erection of bank premises. 80/82 Market Street Downpatrick. Permission granted.

R/1992/0903 - Alterations to bank façade. 80/82 Market Street Downpatrick. Permission granted.

R/1992/0737 - Signage consisting of 2 flags, 1 projecting sign, fascia sign, door mark and A.T.M. Treatment. Bank Of Ireland 80-82 Market Street, Downpatrick

R/1989/0199 - Demolition of existing building and construction of a new building. 80/82 Market Street Downpatrick. Permission granted.

R/1985/0682 - Demolition Of Existing Buildings And Construction Of A New Building To Be Used As A Bank Branch Office. Permission granted

Planning Policies & Material Considerations:

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

- The Ards and Down Area Plan 2015
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 3: Access Movement and Parking
- Development Control Advice Note 1 Amusement Centres.

Consultations:

Consultation issued to Environmental Health in relation to the application and they have responded with no objections subject to operating hours. The premises must not operate outside the hours of 09:00 – 00:00 Monday to Saturday and 11:30 – 00:00 Sunday.

Consultation was also carried out with NIW and DFI Roads. Both have responded with no objection.

Objections & Representations

In line with statutory requirements the application was advertised in the local press on 29.07.2022. Neighbour notification issued on 16.07.2022. To date 6 representations have been received. A summary of the content of the objections is summarised below

- The change of use away from a retail unit to an amusement arcade conflicts with adjacent land uses.
- Long Opening hours and noise
- Impacting on regeneration efforts in Downpatrick.
- Objectors raise concerns that the proposed use, if implemented, could potentially deter future development within the town and would have an impact on footfall.
- Impact on character and Vitality and Viability of town Centre
- Contrary to DCAN 1
- Breaking up Retail Frontage within PRC
- Build up of Adult Gaming establishments.
- Conflicts with the Councils Regeneration and Economic Development Strategy
- Deter future investment in Downpatrick.
- One objection from Matrix Planning was received on 02 August 2022 referred to as a holding response and that there would be a follow up, but to date this has not been received. Matters raised mirror those above.

Consideration and Assessment:

Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The LDP in this case is the Ards and Down Area Plan 2015 (ADAP).

Until such times as a Plan Strategy for the whole of the Council Area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS.

The Strategic Planning Policy Statement states the aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions consistent

with the Regional Development Strategy. Any development needs to be appropriate and needs to ensure the vibrancy of town centres is retained.

As the Strategic Planning Policy Statement for NI 2015 (SPPS) cancelled PPS 5. The SPSS provides strategic subject planning policy for a wide range of planning matters, including town centres and retailing. General guidance and advice in Development Control Advice Note 1: Amusement Centres 1983 (DCAN 1) is also pertinent.

The application site lies within the Town Centre DK23 and the Primary Retail Core (PRC) DK 24 as identified in the Ards and Down Area Plan. Proposals DK23 and DK24 define the extent of the town centre and PRC they do not contain policy.

As regards the compatibility of a gaming arcade in the Town Centre and PRC, Paragraph 6.271 of the SPPS, is the town centres first approach for the location of future retailing and other main town centre uses. Footnote 58 of the SPPS confirms that town centre uses "includes cultural and community facilities, retail, leisure, entertainment and businesses". An amusement arcade and gaming centre comprises a form of leisure and entertainment. Therefore, it constitutes a town centre use as envisioned by the SPPS.

Paragraph 6.279 of the SPPS states that all retailing and town centre proposals must ensure that there will be no unacceptable adverse impact on the vitality and viability of an existing centre. Para 6.281 requires planning applications for main town centre uses to be considered in an order of preference: PRC; town centres; edge of centre; and out of centre location. The current proposal, which is recognised as a town centre use by the SPPS, would be located within the defined PRC. In this respect, the proposal is in accordance with policy and, as such, an assessment of need is not considered necessary.

Reference is made to a recent PAC decision Ref: 2020/A0076, a non-determination appeal for a change of use from a Bank (Class 2) to an amusement arcade and adult gaming at High Street Newtownards. The commissioner found town centre uses to include cultural and community facilities, retail, leisure, entertainment, and businesses. An amusement arcade and gaming centre comprises a form of leisure and entertainment. This case is considered on all fours with the current proposal in that both proposals were change of use applications from Banks to Gaming centres and were located within the designated Town Centre and the PRC. The commissioner found that the proposal was policy compliant with the SPPSs and the Area Plan.

In relation to concerns raised about the potential environmental and amenity issues associated with such a development, the SPPS recognises at Paragraphs 4.11 and 4.12 that there are a wide range of considerations, including noise, visual intrusion, general nuisance and waste management, which should be taken into account by planning authorities when managing development. Supporting good design and positive place making is one of the core planning principles of the SPPS.

General guidance and advice is provided by DCAN 1. Paragraph 3 of DCAN 1 indicates that one of the factors to be considered in relation to a planning application for an amusement centre are its effects on the amenity and character of its surroundings.

Paragraph 4 points out that the effects on amenity and the character of the area will usually depend on the location of the proposal in relation to other development, its appearance, the kind of amusement to be provided, the noise likely to be produced and the hours of operation.

In appeal ref 1998/A196 the commissioner makes reference to DCAN 1 being published in 1983, "therefore predating the broadening of the amusements industry which has occurred in recent years and therefore is directed primarily at the traditional arcades and video games. The bad neighbour issues relating to residential areas, churches, schools etc do not apply in this case". This is particularly true in the current case given its Town Centre location. It is acknowledged the presence of the SERC close to the proposal, however this is a third level education facility and not a school.

Paragraph 5 states out that in an area, where shopping is the predominant use, the likely effect of the development on the character of the shopping centre is relevant.

It goes on to point out that an important consideration will be whether an amusement centre would break up an otherwise continuous shopping frontage.

Downpatrick's Primary Retail Core is essentially linear in shape, consisting mainly of the shops in Market Street, but also includes stretches of Irish Street, Scotch Street, English Street and St. Patrick's Avenue. It also includes are the Grove Shopping Centre. The Primary Retail Core is short and compact, its shopping frontages are largely continuous it contains a mix of professional and financial services, such as Banks and Building Societies.

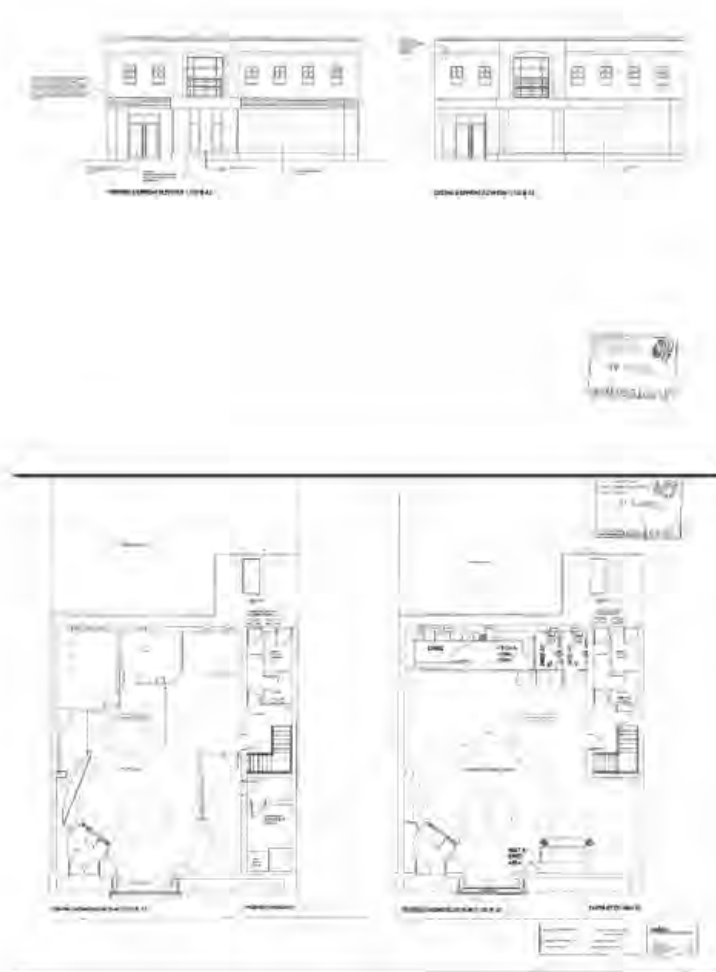
The proposal building stands between Lidl at 98-100 Market Street and the junction of Market Street and St Patricks Avenue. It sits within a block that comprises approximately 11 units.

Of these, 7 units including the subject building are in non-retail use. Historically, the building has been used as a bank; Class 2. It has been vacant since the closure of the Bank of Ireland around approx. summer of 2021. Gaming/Amusement Arcade is a sui Generis use.

The proposal will not result in the loss of a retail unit given the former use as a Bank. The proposed development would not break up an otherwise continuous shopping frontage as non-retail is the predominant use along the street frontage. The main concentration of retail floor space within Downpatrick would continue to be located within the PRC as required by the ADAP

The plans as submitted show that the internal ground floor layout will be reconfigured to provide a spacious area for gaming and ancillary facilities such as its lounge area, meet greet are and coffee making and toilet facilities. The floorspace remains unchanged at 219sqm. Minor changes are proposed to the shop front and no changes are proposed to the access arrangements.





Any signage would be subject to a separate advertisement consent. The supporting planning statement made reference to Ref: 2020/A0076, whereby the commissioner held the view that in the interest of visual amenity, the front windows of the premises were required to permanently contain a display. If this were deemed necessary, this could be conditioned as such in agreement with the applicant.

There are no other amusement arcades in the PRC. Casino Slots and Carousel Casino Slots are located in the town centre but set in back street locations off the main shopping street of St Patricks Avenue. An application for a change of use from a retail unit to an amusement arcade at 54 Market Street has been recommended for refusal by the Council in December 2022.

In terms of the concerns regarding the impact of the proposed development on regeneration efforts on Downpatrick, noise, disturbance, long opening hours etc. There has been no evidence provided to indicate a general nuisance or disturbance at this location that would have an unacceptable detrimental impact upon amenity. The Environmental Health Office have raised no objection to the proposed development. Issues around anti-social behaviour and public order are matters for the PSNI while responsible gaming is a matter for the

owner/manager of the facility and any issues relating to noise and litter would be matters for Environmental Health. Licensing falls to the Council to determine.

In terms of the proposal putting off potential investors to the town or hampering regeneration efforts, there has been no evidence presented as to how this proposal will discourage shoppers from visiting Downpatrick town centre or investors investing in it.

Within the existing retail core there are a mix of uses, whilst the predominant use is retail there are also retail services and office space at ground floor level. There is a good level of footfall presently through this section of the town.

Objections have been taken into consideration however it is important to ensure that planning control is used to deal with planning issues and not with other things. Planning is about land use matters, public order must be maintained, but gambling and public order are not in themselves planning matters.

Having given full consideration to all matters raised during the processing of this application and having regard to the Area Plan and the prevailing planning policy context APPROVAL is recommended.

Recommendation:

Approval

Conditions

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

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

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

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

3. The premises must not operate outside the hours of 09:00 – 00:00 Monday to Saturday and 11:30 – 00:00 Sunday.

Reason: In the interests of residential amenity.

Case Officer: Sean Maguire

Appointed Officer: A.McAlarney

Date: 24.01 2023



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

Application Reference: LA07/2022/1069/F

Date Received: 20.06.2022

Proposal: Change of use of former bank to an amusement arcade/adult gaming centre and alterations to shop front.

Location: 80-82 Market Street Downpatrick.

At the meeting of the Planning Committee on 8 February 2023 it was agreed to defer this application to seek and define the numbers of businesses operating in the Downpatrick area of an entertainment/amusement/gambling nature.

After review the Planning Department has identified the following;

Toals Bookmakers, Market Street (Northern End)

Toals Bookmakers, Market Street (Southern End)

Casino Slots, St Patricks Drive

Carousel Casino Slots / Carousel Bingo, St Patricks Avenue/St Patricks Drive

Amusement Slots, Church Street (Closed, no evidence of recent trading)

R/2011/0320/F Change of use from public house to adult gaming and amusements lounge. 8 Scotch Street Downpatrick. No evidence that this permission was implemented.

LA07/2022/0273/F Change of use from shop to amusement arcade. 54 Market Street Downpatrick. Planning permission refused.

Anthony McKay
01 March 2023



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0151/O

Date Received: 26.01.2022

Proposal: The application is for full planning permission for a replacement dwelling and detached garage

Location: The application site is located at 94 Teconnaught Road, Kilmore, Downpatrick.



Site Characteristics & Area Characteristics:

The application site is located at Teconnaught Road and includes a roadside building. The red line includes a portion of ground to the SW. The building exhibits the characteristics of a dwelling house and comprises a single storey rectangular building fronting onto the road with five chimneys on this portion of the dwelling, vertical emphasis to the windows (which are all blocked up) and slate roof. To the rear of the dwelling but also connected to the front portion of the dwelling is a two storey element also with chimneys on the gable and slate roof.

Site History:

No history on the site.

Planning Policies & Material Considerations:

The site is located within the rural area outside the settlement limits approx. 250m SW of the edge of the village of Kilmore, as identified in the Ards and Down Area Plan 2015.

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

- The Ards and Down Area Plan 2015
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2: Natural Heritage
- Planning Policy Statement 3: Access Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

Consultations:

DFI Roads – No objections

NiWater – No objections

NIEA – NED – no objections subject to a condition

Objections & Representations

In line with statutory requirements no neighbours were required to be notified. The application was advertised in the Mourne Observer on 09.02.2022. No letters of objection or representation have been received in relation to the proposal to date.

Consideration and Assessment:

Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The LDP in this case is the Ards and Down Area Plan 2015 (ADAP).

Until such times as a Plan Strategy for the whole of the Council Area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS.

Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside. In respect of replacement dwellings the policy is broadly consistent with the policies set out in PPS21 apart from a tightening of policy in relation to the replacement dwelling being located within the curtilage of the existing dwelling and not having a visual impact significantly greater than the existing building. Whereby the emphasis has moved from 'should' within CTY 3 to 'must'. 'Replacement dwellings must be located within the curtilage of the original dwelling where practicable'....'Replacement dwellings must not have a visual impact significantly greater than the existing building'.

Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted

for a single dwelling are outlined. One such instance is a replacement opportunity in accordance with Policy CTY 3 of PPS 21.

Policy CTY 3 of PPS 21 provides the policy context and states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

In assessment of this initial criterion, it is considered that the dwelling exhibits the essential characteristics of a dwelling. Although getting into some disrepair due to it being vacant, it exhibits the characteristics of a dwelling house where all four structural walls are substantially intact. The building is a roadside dwelling with the front elevation fronting onto Teconnaught Road. The roof consists of Bangor blue slate. Windows to the front elevation are blocked up but are vertical in emphasis. Bar the two columns at the front door which may have been added at a later date, the building is an attractive building of its era.

Current OS:



3rd Edt:



2nd Edt:



1st Edt:



Advice was sought from Historic Environment Division with regard to the dwelling and whether they regarded it as non-listed vernacular dwelling. After consultation with HED's designation team, they have advised that it qualifies as vernacular. The designations team have recently surveyed and evaluated the property and have added it to their Historic Buildings Database.

Non-listed Vernacular Dwellings

The existing dwelling which is subject to replacement in the opinion of the planning office is an example of a non-listed vernacular dwelling, this has been verified by Historic Environment Divisions' Designations Team. Retention of such a dwelling is encouraged under Policy CTY3 'Replacement Dwellings'. The test within PPS 3 is whether the existing dwelling makes an important contribution to the heritage, character and appearance of the locality. The retention and sympathetic refurbishment, with adaptation (if necessary) is encouraged in preference to their replacement. The building is an attractive vernacular building, it is located close to the Teconnaught Road, and commands views from both directions along Teconnaught Road and when coming towards the Tullynacree Road junction. The adjacent attractive outbuildings

inform the setting of the building given its roadside location, Planning would be of the opinion that it makes an important contribution to the heritage, appearance or character of the locality.

The principle of a replacement dwelling would therefore not be acceptable when taken against policy.

Notwithstanding the above, proposals for a replacement dwelling will only be permitted where all the following criteria are met.

-the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits;

-the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building;

-the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness;

-all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and

-access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

- As this is an outline application no design details have been provided to assess design suitability.



Notwithstanding the above that the principle of demolishing the building and replacing it with another dwelling has been deemed to be unacceptable, it is worth noting that an indicative layout shows an off site replacement to the immediate SW of the dwelling to be replaced. This area is currently heavily vegetated and a bit overgrown with some ash and yew trees present. Given the setting of the outbuildings (which have not been included within the red line), planning deem that a dwelling in this new position would have a visual impact significantly greater than the existing building in situ.

Notwithstanding the above it is worth noting the following:

- All necessary services can be available or can be provided without significant adverse impact on the environment or character of the locality.
- DFI Roads have been consulted on the application and raise no concerns relating to road safety or the flow of traffic, provided it meets with the RS1 form. This would see a new entrance location to be sited 60m from Southern boundary of site with visibility splays of 2.4m x 70m. While the use of the existing access would be preferred, it is acknowledged that this does not meet current visibility standards without the need to demolish the wall to the LHS. The position of the new access would therefore be acceptable.
- There are no issues of residential amenity as the closest dwelling to the proposed siting of the replacement dwellings is more than the recommended distance.

The agent was advised that the application falls into the category of Non-listed Vernacular Dwellings (Under CTY 3) where the retention and sympathetic refurbishment, with adaptation if necessary, is encouraged in preference to its replacement. The agent responded by stating that he would query the structural integrity of such a proposal. The agent has also submitted a condition survey and structural report by Savage Associates and a damp and timber report by Down Property Care Ltd. They conclude that due to the amount of demolition and conversion works required, the only feasible option available is the replacement of the existing building. The report from Down Property Care indicates that there would be extensive work and cost required to bring the property to a habitable standard the owner may want to consider demolition and rebuilding in new.

From reading the reports it would appear that the main external structure of the building is sound. There will be stabilising works required but this would not be deemed to be unusual. Internal walls, floors, ceilings, roof timbers etc require to be replaced but this is not a structural matter. Planning would agree that it will need work done internally, but the report does not say that it is structurally unsound and could not be renovated. While it may make financial sense to demolish and rebuild financial consideration is not a planning consideration in this case. As Planning consider the building worthy of retention, the reports do not alter the view that the building should be retained and not replaced. This is reinforced by the buildings addition to the Historic Buildings database by HED.

As the Planning authority and HED find the replacement to be of vernacular quality then its replacement would be unacceptable in principle it would still remain contrary to CTY 3 of PPS 21.

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.

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.

A new access is being proposed to the south of the site. This will necessitate the removal of significant roadside vegetation which has the effect of opening up views of the offsite replacement in offence of criterion (d).

CTY14 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.

A new building will be unacceptable where:

- (a) it is unduly prominent in the landscape; or
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

The proposed offsite replacement will contribute to a build-up of development at this roadside location when viewed with all the buildings to be retained on site in offence of (b).

Given the offsite replacement location proposed to the south of the existing buildings there will be the resultant ribboning of development in offence of (d).

PPS 2 – Natural Heritage

Policy NH 1 - European and Ramsar Sites – International

The potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended). The proposal would not have any likely significant effect on the features of any European Site.

Policy NH 2 - Species Protected by Law

As part of the application, the applicant provided a Biodiversity checklist (November 2021) and a Bat Survey Report (Summer 2021) which were emailed directly to NED. Following consideration of these reports NED notes the site contains a building, hardstanding, hedgerows and mature trees. NED notes the RBS has confirmed the presence of bat roosts

within the building on site and that a derogation licence for bats must be obtained from NIEA prior to the proposed demolition of the building on site. NED conclude that there are no significant ornithological issues associated with the proposal but recommend measures are taken to minimise threats to breeding birds and maintain the available nest sites. NED have placed a condition that at Reserved Matters a Bat Mitigation Plan (BMP) shall be submitted to and approved in writing by the Planning Authority.

On this basis NED do not offer any objections to the proposal.

PPS 3 – Access, Movement and Parking

Policy AMP 2 Access to Public Roads

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and

b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Departments published guidance. Consideration will also be given to the following factors:

- the nature and scale of the development;
- the character of existing development;
- the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement;
- the location and number of accesses; and
- the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.

DFI Roads have been consulted on the application and raise no concerns relating to road safety or the flow of traffic, provided it meets with the RS1 form. This would see a new entrance location to be sited 60m from southern boundary of site with visibility splays of 2.4 x 70m.

Conclusion

Having considered the relevant policies, the proposal does not meet with the criteria as set out in CTY 1, CTY 3, CTY13 and CTY14. The dwelling to be replaced is considered non-listed vernacular and no reason has been forwarded to support its replacement therefore refusal is recommended.

Recommendation: Refusal

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and policies CTY 1 and CTY 3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that proposed dwelling to be replaced makes an important contribution to the heritage, appearance and character of this area

and is capable of being made structurally sound and improved and therefore should be retained.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed replacement dwelling fails to integrate into the landscape given its offsite location and creation of new access.
3. The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed replacement dwelling results in a suburban style build-up of development when viewed with existing buildings and creates a ribbon of development at this location.

Case Officer **C Moane**

Date **28/10/2022**

Appointed Officer **A.McAlarney**

Date **28 October 2022**

Written Submission- Planning Committee Meeting 8th March 2023

Current Council Planning Officers' opinion is that the proposal is contrary to Policies CTY1, CTY3, CTY13 & CTY14.

Policy CTY3 **does not make mandatory** the retention and sympathetic refurbishment, with adaption if necessary of deemed non-listed vernacular dwellings in the countryside. The policy states only it will be encouraged in preference to replacement.

The APPLICATION BUILDING IS NOT listed. The Department of Communities Historic Buildings state - conclude:- "Due to the extent of the alterations from the nineteenth and twentieth centuries onwards to the exterior and interior of the property and resulting loss of much of the original historic fabric, there is insufficient special interest for this dwelling to meet the Criteria for Listing."

Given: the location nature of the replacement dwelling, there are no distant views, it is impossible to agree with the current Planning assessment that the dwelling as a unit makes an important contribution to the heritage, appearance and character of this area especially when considered against the extent of reconfiguration required to convert/renovate from the existing inner room layout arrangement to a fully building control compliant dwelling unit.

Policy CTY3 - Replacement Dwellings states:- planning permission will be granted where it is demonstrated that it is not reasonably capable of being made structurally sound or otherwise improved.

The expert Structural Report of Savage Associates Structural Engineers affirmed in conclusion:- "The entire building, floors, roof and internal structures all require to be removed and the chimneys taken down. This leaves only the bare external walls which will require reorganisation, replacing existing lintels, building up some openings and forming new openings to convert the property into a liveable dwelling and possibly underpinning or new wall constructed on top. Unfortunately, what will be left standing of the existing dwelling will be minimal and the remaining walls will require considerable upgrading. In our opinion, due to the amount of demolition and conversion works required, the only feasible option available for consideration is the replacement of the existing building. "Rory McMahon Meng CEng MStructE, Savage Associates.

As in difference to the Structural Assessment to be compelled to rebuild /reconstruct from the minimal remaining walls is a totally unreasonable scope of ask of improvements and structural repairs. Furthermore it is not in keeping with Planning Policy. Notwithstanding; there would be little left of this structure following the necessary stripping of the defective external render. Renovation works will require new window openings and reorganisation of existing openings together with the complete removal, replacement/rebuild and the complete rearrangement of the internal structure layout to utilise the building as a single dwelling. In other words a virtual rebuild is required. The extents and nature of these works in no way can be considered reasonable and in alignment with Planning Policy.

The results of the as submitted structural assessment inspection reported:-

- ✓ The slated roof is still in place but the underlying structure is in poor condition and requires to be replaced.
- ✓ The first-floor joists are decayed, undersized and unsafe to walk on in a number of areas.
- ✓ The first-floor needs to be replaced in its entirety.
- ✓ The internal stud walls are in poor condition and dilapidated.
- ✓ The ground floor level varies throughout and requires the solid ground floor to be replaced in its entirety.
- ✓ There is likely no foundation to the external walls and any reduction in floor

- levels may undermine the existing stone walls and would require underpinning.
- ✓ Ground to ceiling levels in some areas are unsuitable for modern day living.
- ✓ The lintels over all windows and doors are too low and all require to be replaced.
- ✓ The property consists of a series of additions and extensions with their own ceiling and floor levels. The existing layout is unsuitable for renovation as the building would require substantial alteration.
- ✓ Stone walls are approximately 600-650mm wide and would possibly require considerable underpinning and temporary supports during construction.
- ✓ It is likely that any renovation works will require new window openings and reorganisation of existing openings together with the complete removal and replacement of the internal structure to utilise the building as a single dwelling.

Policy CTY 13 Paragraph 5.58 States:-Landscapes vary, and this needs to be taken into account. The determination of whether a new building integrates into the landscape is not a test of invisibility; rather it requires an assessment of the extent to which the development of the proposed site, including necessary site works, will blend in unobtrusively with its immediate and wider surroundings. It is considered the immediate and wider surroundings have not been afforded adequate consideration.

Policy CTY 14 Paragraph 5.79 states In order to maintain and protect the rural character of an area the new building should respect the traditional pattern of settlement; that is, the disposition and visual appearance of land and buildings in the locality of the proposed development. Accordingly, to be considered acceptable, a new building in the countryside should:

- adopt the spacing of the traditional buildings found in the locality; or
- integrate sensitively along with a group of existing buildings, such as a farm complex, as is in this scenario.

The application site is in compliance.

In conclusion to comply with Council's Planners current opinion is not reasonable or achievable and it is respectfully requested that the Committee grant approval of this application.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/1565/F

Proposal: 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.

Location: Dunleath Park, Downpatrick



Site characteristics and Area Characteristics:

The application site comprises a portion of Dunleath Park. Dunleath Park is an existing amenity open space and recreation area as designated within the Ards and Down Area Plan 2015. It stretches from the Leisure Centre around to the cinema and contains playing fields and a walking trail. This specific application is located between the cinema and the dwellings along Thomas Russell Park. The site is located within the settlement limit of Downpatrick.

Site History:

LA07/2021/0208/F – Dunleath Park, Downpatrick
Recreational Path
Approved 05/05/2021

Planning Policies and Material Considerations

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS 8 and 15, and any other material consideration.

Objections and Representations

Neighbour notification was issued and expired on 04/11/2022

The proposal was advertised in the local press and expired on 09/11/2022

To date, no representations have been received.

Consultations

DFI Roads were consulted on the application. They initially requested further information on parking arrangements. Following clarification from Planning that off street parking would not be required as part of this proposal, due to the town centre location, the position adjacent to cinema parking and the fact that the main users will be children and teenagers already living in Downpatrick. DFI Roads eventually responded that DFI Roads have no objections in principle to this proposal on the basis that planning is satisfied with no off street parking.

DFI Rivers were consulted owing to a portion of the site being affected by predicted pluvial flooding. While they have no objections to the proposal DFI Rivers recommends that the applicant ensures that the proposals take into consideration measures to improve the resilience of new developments in flood risk areas by the use of suitable materials and construction methods.

HED were consulted on the proposal. The application site is in the Area of Archaeological Potential for Downpatrick. The recorded archaeological sites and monuments nearby are indicators of a high archaeological potential for further, previously unrecorded archaeological remains which may be encountered within the application site.

HED (Historic Monuments) has considered the impacts of the proposal and are content that the proposal satisfies PPS 6 policy requirements, subject to conditions for

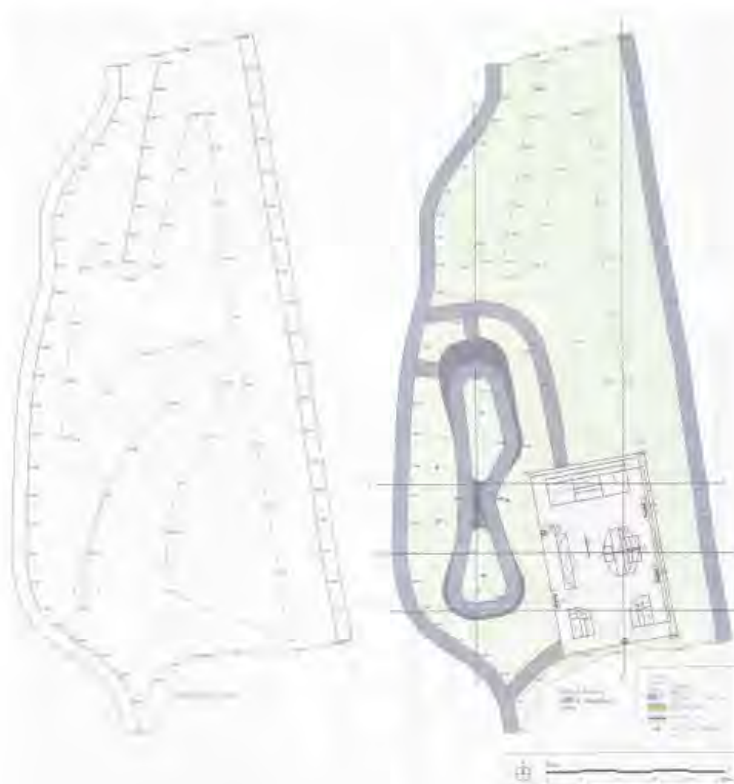
the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6. This will be secured by condition to any approval granted.

Principle of Development

Consideration and Assessment:

The proposal seeks full planning permission for a sprayed concrete skate skateboard facility consisting of ramps and ridges. The proposal also includes a pump track constructed from crushed aggregate. The track would be constructed at variable heights between 0.3 and 1.3m in height. The proposed development would also connect the pump track and skate parks with the existing stone walking path around the site.

Existing and proposed site layout:



Indicative sketch layouts of skate park and pump track:



The Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise.

The Ards and Down Area Plan 201 (ADAP) operates as a LDP. The site is located within the settlement limit of Downpatrick and within an existing area of open space and recreation as designated in the plan. There are no operational plan policies relevant to this proposal.

The Strategic Planning Policy Statement for Northern Ireland (SPPS), which sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area states that one of the regional strategic objectives for open space, sport and outdoor recreation is to safeguard existing open space. It is considered that this proposal will enable increased use of an already existing outdoor provision through offering an alternative activity within the open space, on top of the playing fields and walking track and therefore complies with this strategic objective.

In addition, the guiding principle for planning authorities in determining planning applications is set out in Paragraph 3.8 of the SPPS stating that sustainable development should be permitted having regard to the development and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The proposed pump track will sit approx. 40m from the dwellings at Thomas Russell Park. While the proposal could result in an increase in the number of people at the application site area near these dwellings, it is not considered that a skate park and pump track would result in any more noise than a group of children playing on the existing open space. There would not be any increased vehicular noise over the traffic on St Patrick's Avenue or parking at the cinema given that there is no provision of specific parking for this facility. It is considered therefore that the principle of development is acceptable.

PPS 8

Policy OS 1 – Protection of Open Space is applicable in this case. As the proposal is maintaining and further enhancing an existing area of open space it is considered that it complies satisfactorily with the policy requirements.

PPS 15

DFI Rivers were consulted owing to a portion of the site being affected by predicted pluvial flooding. While they have no objections to the proposal DfI Rivers recommends that the applicant ensures that the proposals take into consideration measures to improve the resilience of new developments in flood risk areas by the use of suitable materials and construction methods.

PPS 6

HED were consulted on the proposal. The application site is in the Area of Archaeological Potential for Downpatrick. The recorded archaeological sites and monuments nearby are indicators of a high archaeological potential for further, previously unrecorded archaeological remains which may be encountered within the application site.

HED (Historic Monuments) has considered the impacts of the proposal and are content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of

archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6. This will be secured by condition to any approval granted.

Summary

Having assessed the proposal against the various planning policies and material considerations which apply to the application and taking into account the input of the Councils consultees, it is determined that the proposal is acceptable in planning terms and approval is recommended subject to the following conditions.

RECOMMENDATION

Non-Delegated application in line with Councils Scheme of Delegation which requires presentation 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 permitted shall take place in strict accordance with the following approved plans 001, 002, 003 and 004.

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

3. **No site works of any nature or development shall take place** until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Newry, Mourne and Down District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

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

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

4. **No site works of any nature or development shall take place** other than in accordance with the programme of archaeological work approved under condition 3.

Reason: to ensure that archaeological remains within the application site are

properly identified and protected or appropriately recorded.

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

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

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

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| Case officer: | J McMullan |
| Authorised by: | A.McAlarney |
| Date: | 21 February 2023 |



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

Application Reference: LA07/2021/2127/O

Date Received: 27/09/2021

Proposal: Dwelling on a farm

Location: Site to the South of the sheds & outbuildings at 32 Old Road, Wateresk, Dundrum, BT33 0QQ



Site Characteristics & Area Characteristics:

Characteristics of site: The lands outlined in red form an irregular shaped site located to the south of 32 Old Road. The site is carved out of a larger agricultural field, adjacent to a farmyard consisting of large barrel-vaulted and several pitched roof agricultural buildings out with the lands in red or blue. The site is generally quite flat and exposed to the south west and south east and consists of improved grassland. In terms of boundary treatments, the site benefits from native species hedging to the north and west, there is no defined boundaries to the south and east.

Characteristics of area: The application site is located outside any settlement development limits as designated within the Ards and Down Area Plan 2015. The area is of typical rural character and predominately agricultural use, located within a Designated AoNB. The site is located in close proximity to Murlough SAC.

Site History:

No relevant planning history associated with this site.

Planning Policies & Material Considerations:

Ards and Down Area Plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

PPS 2 - Natural Heritage

NH 6 - Areas of Outstanding Natural Beauty

PPS 3 - Access, Movement and Parking

AMP 2 - Access to Public Roads

PPS 6 – Planning, Archaeology and the Built Heritage

PPS 21 - Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 10 – Dwellings on Farms

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 - Rural Character

Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

Consultations:

DAERA – The Business ID number has been in existence for more than 6 years and subsidies have been claimed in each of the last six years. The proposed site located on land associated with another farm business.

NI Water - Generic response

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

DfI Rivers – No objections and recommended planning informatives as a precautionary measure.

Shared Environmental Services - 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.

NIEA -

Marine and Fisheries Division - Marine Conservation Advice has reviewed the applicant's response (Tetra Tech's email dated 06/07/2022) to our further information request and we are content that the information provided addresses our concerns regarding climate change, flooding and the potential impacts to MPAs.

Marine Strategy Advice Marine Strategy is content, so long as the issues regarding septic tank and proximity to Dundrum Shellfish Water Protected Area are taken into consideration as previously outlined.

Inland Fisheries Advice Inland Fisheries is content that this application is unlikely to have any significant impact on inland fisheries interests in the vicinity of the proposal assuming appropriate mitigation is in place during the construction phase of the proposal and that all appropriate permissions are in place regarding any charges to the aquatic environment.

Objections & Representations:

3 Neighbours within close proximity of the site were notified on 25/01/2022 and 28/04/2022. This application was advertised in the local press on 22/12/2021. At the time of writing 2 letters of objection have been received from the same neighbouring address.

A summary of the content of the objections is listed below;

- Contrary to CTY 10 as the proposed dwelling does not cluster with farm buildings on the farm
- Potential impact on further development on the objector's farm
- Extent of redline owned and controlled by the applicant. Objector claiming the redline infringes 3rd party lands.

Objections will be considered through the assessment of the application and the applicable planning policies.

Consideration and Assessment:

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

Ards and Down Area Plan 2015

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

PPS 21 - Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for farm dwellings, which are considered acceptable if in accordance with policy CTY10. Criterion (a) require the farm business to be currently active and to have been established for at least 6 years. DAERA advised in a consultation response dated 14/02/2022 that the associated farm has been in existence for 6 years, and the farm business has claimed the Single farm payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment Schemes within each of the last 6 years. This information provides the Council with the main means to determine if farm is currently active and established.

The planning department made the applicant aware of the comments from DAERA and requested comments regarding the lands being associated with another farm business. Based on this information the application meets the policy requirements of CTY10(a).

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

Criterion CTY10(c) requires that new building is visually linked or sites to cluster with an established group of buildings on the farm and where practical, access should be obtained through existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm provided there are no other sites available at another group of buildings on the far, or out-farm, and where there are either;

- Demonstrable health and safety reasons; or
- Verifiable plans to expand the farm business at the existing building group(s).

A specified on the P1C, the farm is registered to 10 Drumcaw Road, which is located approx. 3.6 miles from the subject site. From a site visit it was evident that there is a sizable holding of buildings on the farm associated with the Drumcaw address. The farm maps submitted with this application show that this farm is of a considerable size amounting to lands in excess of 200 hectares (approx. 500 acres). The portion of lands surrounding the subject site amount to approx. 4 fields (6 hectares).

Paragraph 5.41 of PPS 21 states that dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them. The proposed site is an open field that is absent of any established group of buildings on the farm.

It is noted from a site visit that the subject site consisted of a greenfield absent of any other farm buildings. The site is sited immediately adjacent to a farm **holding not associated with this farm**, who have objected to this application. Paragraph 5.41 of the Justification and Amplification states that it will not be acceptable to position a new dwelling with buildings which are on a neighbouring farm holding.

Case officers note that this specific farm business has at least two different sites with a group of existing farm buildings associated with this farm (as confirmed by the agent). One at 10 Drumclaw Road and the other near 152 Ballydugan Road.

Exceptionally, Policy CTY 10 permits an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group(s).

The Council made the agent aware of its concerns with the subject site, welcoming any comments/materials to demonstrate the exceptional test has been met. The agent put forward a case that a dwelling cannot be sited to cluster with farm buildings at 10 Drumclaw Road;

'Due to no availability of safe access on to, and from, Drumcaw Road. Safe access on to, and from, Drumcaw Road is not achievable because, simply, the applicant does not actually own the land to the side of the access point. He does rent this land but cannot excavate and move/change boundaries on some else's property in order to achieve a safe access.'

The Council acknowledge that whilst there may be a need to provide visibility splays at 10 Drumcaw Road, however, if third party lands are required, this would be a private matter between the applicant and the owner of the land. Case officers note planning appeal 2021/A0148 whereby the Commissioner expressed that the requirement of 3rd party lands for visibility splays would not meet the exceptionalities

test, albeit that appeal related to a farm shed the example is still relevant. In addition, other options such as directly north of no. 10 Drumclaw have not been explored by the agent as possible site.

With regards to an alternative site at farm buildings near 152 Ballydugan Road. The agent put forward the case that a farm dwelling cannot be sited at this location

'Because of an existing silo tank and slurry pit. Also, the applicant is a cattle farmer and as such the sheds have slatted floors which would, without doubt, make it very difficult to have a new dwelling near these farm buildings, owing to ground contamination, nitrate issues and smells.....'

There may also be a problem with proposing a dwelling at this location, as Ballydugan Road is classified as a 'protected route'.

Case officers are not persuaded by this argument and in the absence of any verifiable evidence consider that a dwelling could be sited at the farm holding at 152 Ballydugan Road. Generalised arguments regarding risks associated with dwellings close to farms are not persuasive, from my understanding such living arrangements are common practice throughout the Northern Ireland countryside. Furthermore, case officer notes that PPS 21 Annex 1 – Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking permits access for a farm dwelling onto a protected route provided it meets the requirements of CTY 10, contrary to the agent's argument.

Consequently the proposal does not meet the exceptionality clause of criteria CTY 10(c) in that it has not been demonstrated that health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm, or that verifiable plans exist to expand the farm business at the existing building groups to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm. The proposal fails to meet the policy requirements of CTY10(c). As fails to meet criterion (c) of Policy CTY 10 of PPS 21 it also fails Policy CTY 1 of PPS 21 and is not acceptable in principle in the countryside.

Policy CTY 13 - Integration and Design of Buildings in the Countryside, requires a new building in the countryside to be able to be integrated visually within the landscape in which it is set. As this is an outline application the specific siting and design would be determined at the Reserved Matters stage. No concept plans have been submitted, however a new access will be created along the Old Road.

The site consists of a large open field, absent of other development associated with this farm. A dwelling would be considered visually prominent, failing to provide a suitable degree of enclosure. The proposal is considered to rely primarily on the use of new landscaping for integration. Furthermore, the proposed dwelling and garage is not sited to visually link or cluster with an established group of buildings on the farm, failing the requirements of CTY 13.

Policy CTY 14 – Rural character requires new buildings in the countryside to not cause a detrimental change to, or further erode the character of an area. Case officer concludes that the proposal would not accord to this policy in terms of visual prominence and integration with the landscape. A dwelling at this location is considered to add to a ribbon of development along Old Road and would therefore result in a detrimental change to the rural character of the countryside.

CTY 16 ensures that new developments will not create or add to a pollution problem. A septic tank is proposed, a copy of 'Consent to Discharge' must be submitted to the Planning Department prior to the commencement of development. The proposal appears to conform to Policy CTY 16.

PPS 2 - Natural Heritage

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The potential impact of this proposal on European Sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) (Northern Ireland) 1995 (as amended). SES stated 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.

NIEA Marine and Fisher Division has reviewed the applicant's response (Tetra Tech's email dated 06/07/2022) to their further information request and are content that the information provided addresses our concerns regarding climate change, flooding and the potential impacts to MPAs.

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

PPS 3 Access, Movement and Parking

The proposal must accord with AMP2 of PPS3. DfI Roads were formally consulted on three occasions and in the most recent response 27/04/2022 have no objections to this proposal, subject to the access being constructed in accordance with RS1. In view of this officers consider access arrangements to be acceptable.

Consideration of Objections

Considerations of Objections

All of the issues raised (valid planning reasons) in this objection have been fully considered in the assessment of this planning application. Case officers consider the objection lodged by a resident within close proximity to the application site. The neighbour objects to the proposal due to the red line which in their opinion requires a portion of their land.

As such the agent was requested to ensure that the correct certificate was completed on the P1 form and if lands belonging to third parties were required, then Notice must be served. The agent confirmed that the all the correct certificate has been completed and the serving of a notice is not required. The Council wrote to the objector making them aware of the comments and welcomed any response. To date no response has been forthcoming.

The council will not be taking any further action on this matter and point out that in the event of an approval, the 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. Any further dispute will be a civil matter between both parties.

Recommendation:

Having considered the relevant policy, the proposal does not meet with the criteria as set out in CTY 1, CTY 10, CTY 13, CTY 14 of PPS 21 and NH6 of PPS2 and refusal is recommended.

Refusal Reasons:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the SPPS and Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed new dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and it has not been demonstrated that health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm or that verifiable plans exist to expand the farm business at the existing building

groups to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would fails visually integrate into the surrounding landscape and relies upon new landscaping for integration.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - The proposal would be unduly prominent in the landscape and;
 - Add to a ribbon of development along Old Road and would therefore result in a detrimental change to 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.

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| Case Officer: S. Maguire | Date: 11/01/2023 |
| Appointed Officer: A.McAlarney | Date: 13 January 2023 |

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ADAarchitects

design, planning + construction specialists

5 Glansha Road, Glansha, Newry, Co. Down, BT34 1NA

01 03 23

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

REQUEST FOR SPEAKING RIGHTS – Written Submission

**DWELLING ON A FARM - SITE TO THE SOUTH OF SHEDS & OUTBUILDINGS AT
32 OLD ROAD, WATERESK, DUNDRUM, BT33 0QQ
PLANNING APPLICATION REF: LA07/2021/2127/O**

Please note we herewith request speaking rights for the Planning Committee Meeting on Wednesday 8th March 2023. Our written submission is as follows:

1. Policy CTY1 - **There is an overriding reason why this dwelling is essential**

This application is for a Dwelling On A Farm and under policy CTY10 of PPS21 it states that:

*Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
demonstrable health and safety reasons; or
verifiable plans to expand the farm business at the existing building group(s).*

It is clear that there are health and safety concerns in providing an access for a new dwelling at the main farm buildings on Drumcaw Road. The access has been analysed and confirmed by DFI Roads that the required standards cannot be met within the curtilage of the applicant's ownership. It is dismissive to suggest that just because the applicant does not own the required land to provide a safe access, then it is simply a private matter.

Under policy CTY 10 a farm is entitled to a dwelling once every 10 years and therefore it is irrelevant to state that there is no reason why this development could not be located within a settlement.

2. SPPS and Policy CTY10 - **health and safety reasons do exist** to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm

Health and Safety reasons do exist in that the existing access at 10 Drumcaw Road cannot meet the required DFI Roads standards for a safe access. The other possible site at 152 Ballydugan Road would also presents Health and Safety concerns as there are underground slurry tanks making development problematic. This leaves no other option but applying for a dwelling on the application site on Old Road where there are substantially less Health & Safety issues.

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3. Policy CTY13 - While the proposed dwelling is **not visually linked or sited to cluster with an established group of buildings on the farm**, and cannot be for the above reasons, the neighbouring farm buildings are part of the context and setting enabling integration of the proposed dwelling with only minimal new landscaping being required, but not relied on, for integration.

4. Policy CTY14 - While it is stated that the proposal is contrary to CTY14 of PPS21, in that the dwelling would be **unduly prominent** in the landscape, we would contend that as this application is an outline Planning application, then the decision notice can be conditioned to minimise the height of the proposed dwelling. It could state that the proposed dwelling is single storey and must have a ridge height of, say 6.5m, or less. It must also be pointed out that the the proposal is sufficiently far back from the road, and again this can be controlled by the conditions of the outline Planning permission's decision notice, so that **ribbon development is not a significant issue** whatsoever.

5. SPPS, Policy NH6 of PPS 2 – While it is stated 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 we would again state that as this is an outline Planning application, the decision notice produced by Planning can control the siting and materials / finishes to ensure that the proposed dwelling is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality. Planning can quite easily condition the height and position of the dwelling, as well as the materials and finishes.

General Summary

Given the items outlined above it is felt that some of the concerns of Planning, and their reasons for refusal, can be addressed by the conditions of an outline Planning permission. This is only an outline application and Planning can control the type of dwelling approved in terms of height, setting, finishes etc. It would seem that the Committee could encourage Planning in this approach to ensure that the relevant policies are satisfied.

While not mentioned in the matters above, we would point out that this application site enables some 'presence' for the farmer's nearby fields in this area to assist in monitoring cattle and being there at critical times.

The proposal on this site also avoids the various health and safety issues & concerns at the other possible sites available on the farm, some of which have been demonstrated.

Yours faithfully,

John Harkness

John Harkness BA(HONS) Dip ARCH ARB

aspire design achieve



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:

LA07/2022/0243/F

Date Received:

09.02.22

Proposal:

Erection of two dwellings (gap site).

Location:

Lands approximately 50m south of 14 Sandy Brae
Attical

Site Characteristics & Area Characteristics:

The site is within the rural countryside and is outside any settlement development limits as designated under the Banbridge, Newry and Mourne Area Plan 2015 (BNMP, 2015). The site is within an Area of Outstanding Natural Beauty and within a Site of Local Nature Conservation.

The application site comprises the south-eastern portion of a larger agricultural field. The south eastern and north eastern boundaries are defined by a traditional stone wall with a section of the south western boundary defined by a traditional stone wall forming the boundary of the adjoining property and the remaining length of this boundary defined by timber post and wire fencing. Post and wire fencing supplemented by planting defines the north-western boundary of the application red line.

A lane runs along the north-eastern boundary of the site and provides access to 2 adjacent dwellings. Sand-Brae runs along the south-eastern boundary and loops back out onto Tullyframe Road. The topography within the site results in a fall in land levels into the south west corner of the site and there is a rise in land levels to the rear (north west) of the application site.

The surrounding area is rural in character. Parts of the lane on which the application site is positioned has become populated with single dwelling development and associated outbuildings in the last number of years. The grounds of Attical G.A.C is positioned south east of the application site.



Application site



Aerial image of application site

Planning Policies & Material Considerations:

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 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:

- **LA07/2020/1701/O** – Lands approximately 55 metres south of 14 Sandy Brae Attical - Site for dwelling and detached garage (infill development) – 03.11.21
The reasons for refusal were:
 1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
 2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site does not represent a small gap site within a substantial and continuously built-up frontage.
 3. The proposal is contrary to 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;
 - create or add to a ribbon of development and would therefore result in a detrimental change to and further erode the rural character of the countryside.
- **LA07/2017/0145/O** – Lands approximately 55 metres south of 14 Sandy Brae Attical - Site for dwelling and detached garage at existing cluster of development in the countryside – Permission refused, 12.10.2017
The reasons for refusal were:
 1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
 2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure and the dwelling would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.
 3. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21,

Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along this section of Sandy Brae and it does not represent an infill opportunity as there is not a continuous and substantially built up frontage without accompanying development to the rear along the road frontage.

4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape, the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
 5. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings, the building would, if permitted create or add to a ribbon of development and would therefore result in a detrimental change to and further erode the rural character of the countryside.
- This decision was appealed **(2017/A0151)** and the appeal was dismissed 28.03.2018 and the Commissioner sustained all of the Council's reasons for refusal outlined above. The content of the appeal and the above refusal will be considered and discussed further below.
 - **P/2009/0793/O** – 50 metres West of No.10 Sandybrae Road, Tullyframe, Kilkeel - Erection of replacement dwelling – Application withdrawn
 - **P/2003/1409/O** – 50m West of No. 10 Sandy Brae Road, Attical, Kilkeel, Co Down - Site for dwelling with detached garage – Application withdrawn

Consultations:

- DfI Roads – No objections and advised Planning that there should be a limit on the number of dwellings that this rural lane serves. DfI Roads is concerned that this lane is becoming built up and the Private Streets Order should soon be applied. In order to do this would be extremely difficult, as it would not comply with the new Design Guide.
- Water – Recommended approval
- HED - Content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.
- Rivers - FLD3 – If planning deem that the site exceeds 1000m² of hard standing as part of the proposed works then DfI Rivers would require a Drainage Assessment be submitted as part of a new consultation for our consideration. Planning do not consider a Drainage Assessment is required for this development as per Policy FLD 3.

Objections & Representations:

Nos. 134 and 136 Tullyframe Road and 14 Sandy Brae were neighbour notified 10th March 2022 and nos. 4, 6 and 8 Sandy Brae were neighbour notified 13th September 2022.

The application was advertised in the local press 2nd March 2022.

No representations or objections have been received to date (25.01.23).

Assessment

Proposal

The proposal is a full application for the erection of 2 dwellings on an infill site on lands south of No. 14 Sandy Brae, Attical.

The proposed dwellings are both single storey in dwelling. The dwelling on Plot 1 has a maximum ridge height of 5.2m from FFL with the finishes including; natural roofing slates and a zinc clad roof were shown, PVC rainwater goods, smooth painted rendered walls and natural stone, zinc cladding and red cedar cladding where shown and uPVC windows and doors. The dwelling on Plot 1 comprises 2 wings linked together by an entrance lobby. The southern wing reflects an agricultural barn with a curved roof and comprises a living room and open plan kitchen and dining area. The northern wing has a pitched roof and comprises the sleeping accommodation (3 bedrooms and a bathroom).

The dwelling on Plot 2 has a maximum ridge height of 5.25m from FFL with the finishes including; natural roof slates, PVC rainwater goods, smooth painted rendered walls and natural stone, zinc cladding and red cedar cladding where shown and uPVC windows and doors. The dwelling on Plot 2 also comprises 2 wings linked together by an entrance lobby. Both wings have a pitched roof.

A new shared access will be created along the eastern boundary. The existing boundaries are to be retained and supplemented where necessary with native species planting. The site will be subdivided by a 1m high wall between the dwellings to create to different curtilages.

The proposal is shown below.



Proposed plans

Principle of Development

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

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

As the application is for the infill of a site, the relevant policy would be Policy CTY 8 – Ribbon Development. This policy provides the criteria to be met in order to grant permission for an infill site. Supplementary guidance on the assessment of infill sites is contained in Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside.

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

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

This approach will be followed below.

A substantial and continuously built up frontage is defined as including a line of 3 or more buildings along a road frontage without accompanying development to the rear. Paragraph 5.33 of the Justification and Amplification text states that for the purposes of this policy, a road frontage includes a footpath or private lane. The buildings do not have to sit in a straight line, but the exception in the policy requires a small gap in a built up frontage. It would not apply where the site would rely on buildings along two or more separate frontages. A building has a frontage to a road, footpath or lane if the plot on which it stands abuts or shares a boundary with that road, footpath or lane.

The site in question sits along Sandy Brae, south of No. 14 Sandy Brae. Nos. 136 and 132 Tullyframe Road sit SW of the application site and Nos. 14, 8 and 6 Sandy Brae are NE of the site beyond the intervening laneway that leads to Nos. 10 and 12 Sandy Brae.

The aerial image below shows the intersecting laneway between the application site and No. 14 Sandy Brae and the development beyond.



Aerial image of application site

The application site has frontage onto a private lane. The dwelling directly SW of the application site also has frontage onto the same laneway. There is also a laneway that runs along the NE boundary of the application site. This along with the 45-degree bend in the Sandy Brae laneway at the point of intersection with the other laneway breaks the development into two frontages. The Council considers that's Nos. 14, 8 and 6 Sandy Brae lie on the eastern site of the intersecting laneway and the application site alongside Nos. 132 and 136 Tullyframe Rd lie on the western side. This is particularly visible approaching the application site past Nos. 132 and 136 Tullyframe Rd whereby it is visible that the two frontages (eastern and western side of the intersecting laneway) are distinct from one another.

As such, the Planning Department do not consider the existing buildings to constitute an otherwise substantial and continuously built-up frontage for the purposes of the policy and the development of this site would be reliant on buildings along two frontages.

The complex planning history on the application site is also pertinent in the determination of this application. This will be considered below alongside the information submitted by the Agent.

The Agent has outlined that this application has been submitted as "on both previous occasions the applicant has been denied the opportunity to present to the Council's planning committee, unjustly."

Firstly, the Agent is advised that the applicant has the option to appeal the Council's decision with the Planning Appeals Commission.

The agent has provided several examples of "previous decisions where laneways have 'intersected' frontages and been approved by the planning department".

- LA07/2020/1809/F
- LA07/2020/0114/O
- LA07/2019/0899/O
- LA07/2019/1445/F
- LA07/2019/0747/O
- LA07/2021/1207/O
- LA07/2016/1156/F
- LA07/2019/1387/O
- LA07/2021/0755/O
- 2013/A0037
- 2021/A0010

The Planning Department has taken into account the above references provided by the agent and advise that the approved developments above do not stand on all fours with the proposed development under consideration. The references listed above include examples of infill dwellings that have been approved whereby there is an 'intervening access/laneway' within the frontage. As outlined in the previous case officer's report for LA07/2020/1701/O and the Commissioner's report for the previous dismissed appeal on site, the Council considers the Sandy Brae frontage to not be

continuous due to the presence of the dissecting laneway and that this is further exacerbated by the bend in the laneway. The bend in the laneway essentially breaks the frontage in two and as outlined above, when travelling towards the site, the topography and alignment of the Sandy Brae laneway and intersection with the other laneway render the two frontages distinct from one another. Other examples include infill dwellings that have been approved along a bending laneway.

The Agent has advised that “nothing in policy suggests that the line must be unbroken, or that there must be a uniform spacing or setback. It does not disclude a line of buildings with an access between two adjoining plots.”

The agent goes on to state that “although there is a bend in the lane, the Policy does not presume against curved frontages and many examples have been approved in this district on curved frontages.” The Planning Department acknowledges that CTY 8 does not preclude development along curved frontages as supported by approval LA07/2019/0747/O.

However, this is not directly comparative with the proposed development in that there were no other public lanes/roads that adjoined/intersected the lane (frontage) which essentially rendered the frontage into two. Other examples provided include approvals for dwellings under Policy CTY 2a whereby “the spirit and the thrust of the Policy” was met and approved by Planning Committee despite the application site being physically disconnected from other development plots. The Agent argues that the existence of the laneway at the side of the application site at Sandy Brae should also not be fatal. Again, the existence of the laneway to the side of the application site essentially breaks the frontage into two whereby the application site does not represent a small gap site within a substantial and continuously built-up frontage.

The Commissioner for 2013/A0037 found that the subject laneway has one frontage despite intermittent vegetation and irrespective of the bend. The Commissioner found that there was a sequential awareness of development the laneway and that the site read as a small gap site between the buildings either side. The Agent is drawing comparisons between that appeal and Mr Sloan's application in that the intermittent vegetation was not determinative as the PAC concentrated on the sequential awareness.

The Agent also refers to recent appeal 2021/A0010 for a dwelling within a cluster whereby the Commissioner advised that “although the proposal does not strictly comply with the fourth criterion, I consider that the proposed development would meet the thrust of the policy.” The Agents suggests that “while the issue was determinative for the purposes of Policy CTY 2a of PPS 21...the principle is precisely the same insofar as it relates to the question of whether or not the lane to the side of Mr Sloan's house means he is or is not bounded by other development and the question whether this lane fragments the development along the built up frontage.” The Agent goes on to advise that “by logic, the presence of a laneway to the side of this site, even if it breaks the frontage, should not be determinative”.

As outlined in the report for the previous application on Mr Sloan's site (LA07/2020/1701/O) and within the Commissioner's report for 2017/A0151 “visually, travelling south-west towards the site, the angle of the intersecting laneway and

disposition of No 14 and the site are such that one might think it was a single frontage until reaching the start of the curtilage of No. 14 itself'. The Commissioner goes on to dismiss the appeal as this perception was not apparent when travelling in the opposite direction.

Within the supporting information, the agent refers to the appeal on the application site and requests that the Council clarifies how the Council feels the Policy includes a requirement that there must be a perceptible continuity of built frontage from all approaches or that the perception of a continuously built up frontage from a single approach only is not sufficient to meet the requirements of the Policy.

The Council advise that the site and approach to the site must be considered in its entirety. One cannot assume that the application site is within a continuously built-up frontage merely supported by the viewpoint from one position along the laneway. The entire approach towards the site is relevant.

The Agent also referred to case law – Duff Judicial Review [2022] and Corbett v Cornwall Council [2022] EWCA Civ 1069.

The Commissioner for the Duff case summarised that “there is no indication within the policy text itself that a gap which provides a visual break in the development appearance of the locality cannot be a small gap site for the purposes of CTY 8...Whether a site offers a visual break of such importance or significance is, again, a matter of planning judgement; but it is a matter of common sense, and consistent with the guidance contained in Building on Tradition, that the larger the site, the more likely it is to offer an important visual break.” The agent argues that the application site at Sandy Brae is not visible from the Tullyframe Rd and is only visible upon approach along Sandy Brae and therefore cannot be considered a visual break. The agent also states that the narrow lane is not so significant that it can be considered as a break in the frontage. The Agent goes on to state that the “element that is considered to break the frontage in the applicant's case is but a mere narrow laneway. The site itself is not wide enough nor in a position that qualifies as a visual break.”

The exceptional test of CTY 8 refers to a small gap site within a substantial and continuously built up frontage. The Planning Department's concerns with the application site along Sandy Brae is that it does not lie within a substantial and continuously built up frontage whereby “this (the laneway), along with the 45 degree bend in the Sandy Brae laneway at the point of intersection with the other laneway, breaks the development into two frontages, both physically and visually...the development would be reliant on buildings along two frontages.” (2017/A0151) The agent appears to be focusing on views from Tullyframe Road and dismissing the views when approaching the application site along Sandy Brae Road in both directions. The views from Tullyframe Road are less critical given the distance and angles of view, along with intervening vegetation and development at varying points. The development of the site would impact the rural character of the area and would add to ribbon development alongside the development to the SW of the site which is visible upon approach to the site and is not an exception under the policy. The proposal is contrary to Policy CTY8 of PPS21 and the related provisions of the SPPS.

The Agent also made reference to the case of *Corbett v Cornwall Council* [2022] EWCA Civ 1069 whereby the Court of Appeal found that "immediately joining" did not require an elaborate explanation and should not be given "an unduly prescriptive meaning" and that "there is a degree of flexibility in them...They allow the decision maker to judge, on the facts, whether the site and proposed development can be regarded as sufficiently close to the settlement in question to be 'immediately adjoining' it". The Agent advised that "following this reasoning, the correct legal approach here necessitates the Council to apply planning judgement when deciding if the laneway means that the site is not within a substantial and continuously built-up frontage is the fundamental issue at this stage".

The Planning Department acknowledge that previous planning permission has been granted for infill dwellings whereby there is an intervening laneway/access within the continuous and built-up frontage. AS such, the Council are aware that there is a degree of flexibility for the decision maker to make a planning judgement. Nonetheless, the circumstances on ground differ to the planning references listed above provided by the Agent.

Alongside the list of 'precedents' provided, the Agent stated that "planning decisions issued by Newry, Mourne and Down Council are issued from a corporate entity. Applicants must expect consistency and cannot expect to have a different outcome to their planning application that previous applicants". This point is also echoed in a letter submitted by O'Hare Solicitors. The Planning Department acknowledge that Council decisions are issued from a corporate entity and that the recommendation of an individual case officer is not the final corporate decision. However, as outlined in a recent appeal 2021/A0049 "each case must be decided on its own site-specific merits" whereby the Commissioner visited 2 previous planning applications which were granted approval by the Planning Committee and advised that the decisions were "poor planning decisions of themselves which are contrary to planning policy" and that it is not considered "in the public interest that such decisions are repeated." This essentially gives the Council the capacity to arrive at planning decisions on a site-specific basis despite previous poor planning decisions that may have been made.

Given the above, the proposed site cannot qualify as a gap site and no infill opportunity therefore arises and the first test in Policy CTY 8 is not met. In this circumstance (as accepted by the PAC), such matters of development pattern, plot size, frontage width and scale of development are irrelevant.

The proposal does not meet any exceptions listed under Policy CTY1 and there are no overriding reasons why this dwelling is essential at this location, the proposal is contrary to the SPPS and policies CTY1 and CTY8 of PPS21.

Policy CTY 2a

While the agent has indicated that he considers this application to be and an infill site under CTY 8, for completeness the application is also considered under CTY 2a. Policy CTY 2a provides scope for 1 dwelling (singular) within an existing cluster provided all criteria is met. This application proposed 2 dwellings and therefore there is no scope within Policy CTY 2a for the proposed dwellings (plural).

Design, Scale, Size and Massing

Paragraph 6.70 of the SPPS confirms that *"All development in the countryside must integrate into its setting, respect rural character and be appropriately designed."* These considerations must be assessed under policies CTY13 and CTY14 of PPS21.

Policy CTY13 (a-f) permits a building in the countryside that can be visually integrated into the surrounding landscape, and it is of an appropriate design. Criterion (g) of CTY13 refers to dwellings on a farm and is not applicable to the proposal.

As mentioned above, the site is cut from a larger agricultural field, however a new boundary has not been created. At the time of the previous application and appeal, the site lacked boundary definition to its NW boundary. A post and wire fence has been erected alongside and supplemented with trees and planting.

It is evident that the NE boundary is not long established and would require several years to mature. However, on balance, it is considered that retaining all boundaries of the site would maintain the character of the area and would provide a sense of enclosure of the site. It is considered that natural screening of the site could be achieved by way of landscaping conditions (planted at a minimum height pre-commencement of development). The site slopes downwards NE to SW. The single storey nature and low ridge height of the dwellings ensures integration can be achieved. The design of both house types is also considered acceptable in this rural area given the adjacent house types. It is considered that the proposal complies with CTY 13 of PPS 21 in that the proposed development could visually integrate into the surrounding landscape.

Policy CTY14 (a-e) permits 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 site is currently in use as an agricultural field. As mentioned above, the proposal is not considered to be a gap site within a substantially and continuously built-up frontage and would therefore add to the ribbon development along Sandy Brae and therefore is contrary to criteria (b) of CTY 14 in that the proposal will result in a suburban style build-up of development when viewed with existing and approved buildings.

Access and Transportation

Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. Paragraph 5.16 of Policy AMP2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road. DfI Roads have been consulted and have no objections. Their comments have been noted above.

PPS 2: Natural Heritage

The application site is within an Area of Outstanding Natural Beauty, as such Policy NH 6 is applicable. Given the character of the area and the adjacent house types within the AONB, the proposal is considered to comply with NH 6.

The site is also within a Site of Local Natural Conservation Importance. NIEA were consulted on the previous 2 applications whereby no objections were offered. Site

conditions have not changed since then (with the exception of the creation of a new planted boundary which is to be retained as part of the proposal.)

CTY 16: Development Relying on Non-Mains Sewerage

Planning permission will only be granted for development relying on non mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem. The application has outlined on the P1 form that a septic tank is the proposed means of disposing sewage. A condition can be attached to any approval to ensure that prior to commencement of development the applicant shall submit a copy of a consent to discharge for the proposed site.

Recommendation:

Refusal

Reasons for refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site does not represent a small gap site within a substantial and continuously built-up frontage.
3. The proposal is contrary to 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;
 - create or add to a ribbon of development and would therefore result in a detrimental change to and further erode the rural character of the countryside.

Case Officer Signature: Eadaoin Farrell

Date: 25.01.23

Appointed Officer Signature: M Keane

Date: 25-01-23

Application for planning permission for the erection of two dwellings (gap site) at Lands approximately 50m south of 14 Sandy Brae (LA07/2022/0243/F)

1. This is a straightforward application for two dwellings in the Attical countryside on a gap site. The application falls to be considered under CTY 8. Under CTY 8, the applicant is required to show, amongst other things, that the gap site sits *"within an otherwise substantial and continuously built-up frontage"* (CTY 8). It is this requirement which officers do not consider is satisfied here.
2. CTY 8 says that a *"substantial and continuously built-up frontage"* includes *"a line of 3 or more buildings along a road frontage without accompanying development to the rear"* (CTY 8). The site in this case falls within that definition. The existing buildings relied on as making up the *"substantial and continuously built-up frontage"* (CTY 8) are those at nos. 6, 8, and 14 Sandy Brae Road and their outbuildings; and the dwelling at no. 136 Tullyframe Road (see appended annotated map).
3. Officers in their report are recommending refusal as they do not accept that the site lies within a *"substantial and continuously built-up frontage"* (CTY 8). Their concern is that both (a) the 45-degree bend in the Sandy Brae Road; and, (b) the laneway serving nos. 10 and 12 break up the otherwise *"substantial and continuously built-up frontage"* (CTY 8).
4. Neither of these concerns are fatal to the approval of this application.
5. In response to (a) (i.e. the concern about the bend), there is nothing in CTY 8 to suggest that the *"substantial and continuously built-up frontage"* (CTY 8) has to be in a straight line. In fact, there is ample authority to support the contrary view — namely, that curves or bends do not necessarily break up what is otherwise a *"substantial and continuously built-up frontage"* (CTY 8). Officers acknowledge in their report that *"CTY 8 does not preclude development along curved frontages"* (underlining added). That view has also been taken by the Planning Appeals Commission. In appeal 2013/A0037 (which was an appeal concerning CTY 8), it was held that *"irrespective of the bend, the site reads as a small gap site [...] [and] lies within an otherwise substantial and continuously built-up frontage"* (underlining added). The Council must give appropriate weight to the interpretation of CTY 8 adopted by the Planning Appeals Commission (*In the matter of an application by ABO Wind (NI)* [2021] NIQB 96, at paragraphs 34 to 38). It rightly acknowledges the flexibility inherent in CTY 8.
6. In response to (b) (i.e. the concern about the intersecting laneway), there is also nothing in CTY 8 which suggests that the existence of an intervening laneway / access within a frontage is in and of itself enough to break up an otherwise *"substantial and continuously built-up frontage"* (CTY 8). A laneway between two buildings does not necessarily break up the frontage. In response to examples provided by the applicant of planning permission having been granted in this district under CTY 8 in similar circumstances to the present, officers in their report have *"acknowledge[d] that previous planning permission has been granted for infill dwellings whereby there is an intervening laneway / access within the continuous and built-up frontage"*. It appears to be accepted, therefore, that the existence of an intervening laneway / access does not necessarily break up an otherwise *"substantial and continuously built-up frontage"* (CTY 8). As officers later put it in their report, there is *"a degree of flexibility for the decision maker to make a planning judgement"* (underlining added). That is consistent with a recent court judgment on CTY 8, which rejected the idea that any visual break within a frontage is fatal under CTY 8 (*In the matter of an application by Duff* [2022] NIQB 37, at paragraph 53).
7. Neither (a) (curved frontage) nor (b) (intervening lane / accessway), therefore, operate as an automatic barrier to concluding that there is a *substantial and continuously built-up frontage"* (CTY 8). Members must exercise their own planning judgement. In doing so, they are free to disagree with officers. There are good reasons for doing so here.

- (a) Officers consider there to be two perceptibly distinct frontages, broken up by the bend in the laneway and the intersecting laneway. That is a highly technical and artificial interpretation of how development along Sandy Brae Road should be viewed. It is not how an ordinary member of the public travelling along that road would interpret it. A much more natural interpretation is that there is a single, continuous frontage along the lane, which is not dissected or broken up by the gentle bend or the existence of the lane.
 - (b) To say, as officers do, that *"the bend in the laneway essentially breaks the frontage in two"* is to overstate the nature and significance of the bend. It is a gentle, 45-degree bend which is a common feature of countryside lanes. It is not a harsh bend which separates the built form into two distinctly perceptible frontages. The continuity in built form is not affected by the bend.
 - (c) The intersecting laneway does not act as a dissecting feature either. It is a simple gravel lane, serving only a single dwelling and a derelict building on a mountainside. It is narrow. It is not dissimilar to an agricultural lane. It cannot reasonably be read as *"render[ing] the two frontages distinct from one another"*. It is not a dissecting feature in the landscape. It sits within and forms part of the continuous frontage.
 - (d) In a previous appeal relating to a similar proposal on this site, the Commissioner acknowledged that *"travelling south-west towards the site, the angle of the intersecting laneway and disposition of No 14 and the site are such that one might think it was a single frontage until reaching the start of the curtilage of No 14 itself"*. This is not challenged by officers in their report. It is highly relevant that from at least one viewpoint, it does seem to be accepted that a single frontage can be perceived. Officers retort, however, that the same perception is not experienced when travelling in the opposite direction. For the reasons stated above, that is not accepted; and, in any event, the existence of a *"substantial and continuously built-up frontage"* (CTY 8) is a matter which must be assessed holistically and as a matter of judgement. It is not at all clear why the conclusion should be that there is no *"substantial and continuously built-up frontage"* (CTY 8) when it appears to be accepted that from at least one approach there is a perception of a *"substantial and continuously built-up frontage"* (CTY 8).
8. Members need not be concerned about the refusal on appeal on this site either. That is not a bar to granting permission now. The determination of this application really comes down to a matter of planning judgement. It is open to members to reach a different view on the planning merits to the Commissioner provided that they give adequate reasons for doing so (*R (Blacker) v Chelmsford City Council* [2023] EWCA Civ 25, at paragraph 22). The arguments just set out give a sound basis on which to approve this application.
9. This application will provide important accommodation for rural dwellers in the Attical countryside on a lane which already has a perceptible ribbon of development along it. The erection of two dwellings on this small gap site will sit comfortably within the substantial and continuously built-up frontage already perceptible along the Sandy Brae Road. The interpretation relied on by officers that the gentle bend in the road or the narrow gravel lane dissects the frontage in two is artificial and should be overturned in favour of the more realistic interpretation relied on by the applicant.



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

Application Reference: LA07/2022/1181/F

Date Received: 29.07.2022

Proposal: 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).

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

1.0 Site Characteristics and Area Characteristics

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

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

1.2 The application site forms and incorporates the central area of Rostrevor and therefore, it is not uncommon to have a high surrounding of listed buildings. There are a mix of listed and record only buildings including:

- HB16/06/071 – Former Police Station (Record only D1)
- HB16/06/045 – Formerly Made of Mourne Craft Shop (Record only D1)
- HB16/06/018 – The Ross Inn (Grade B)
- HB16/16/040 – Ye Olde Corner House (Grade B1)
- HB16/06/046 – 13 The Square (Grade B2)

- HB16/06/047 A – 11 The Square (Grade B)
- HB16/06/047 B – 9 The Square (Grade B)
- HB16/06/047 C – 7 The Square (Grade B)
- HB16/06/048 B – Rock House (Grade B)
- HB16/06/049 – Rock Cottage (Grade B)

1.3 The application site is located at a central point with Rostrevor Village known as the Square. The application site provides an area upon which people can sit and is of amenity value. Beyond the application site there is parking and access to a number of buildings utilised as residential, business and office space.

1.4 The proposal consists of public realm/improvement works to the square to include:

- Resurfacing of resin bond surface in both Brittany Bronze and Autumn Gold
- Granite Sett Banding in colour slate grey
- Grass area to include grass reinstatement where necessary
- Benches and table to be retained and cleaned and inscription added as per drawing (0643 02 F).
- Existing Service boxes to be wrapped with adhesive, printed with information signage

Image 1 Photograph of the application site



Image 1 Photograph of the application site



2.0 Planning Policies and Material Considerations

The Planning application has been assessed against the following:

- The Regional Development Strategy 2035
- Banbridge, Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement (SPPS) for Northern Ireland 2015
- PPS 2 Natural Heritage
- PPS 3 Access Movement and Parking
- DCAN 15 Vehicular Access Standards
- PPS 6 Planning Archaeology and the Built Heritage

3.0 Site History

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

- P/2000/0013/F at The Square, Church Street, and Bridge Street, Rostrevor for Environmental improvements including alterations to carpark, amenity area, footways and carriageways. Approved
- P/2010/0542/F at 1-5 Sangsters Court, Rostrevor for the Erection of new street cabinet to facilitate provision of new fibre optic infrastructure across

the BT network. Cabinet dimensions approx. 1600mm high *1200mm wide *450mm deep. Approved.

4.0 Consultations

4.1 Consultations were issued to the following consultees:

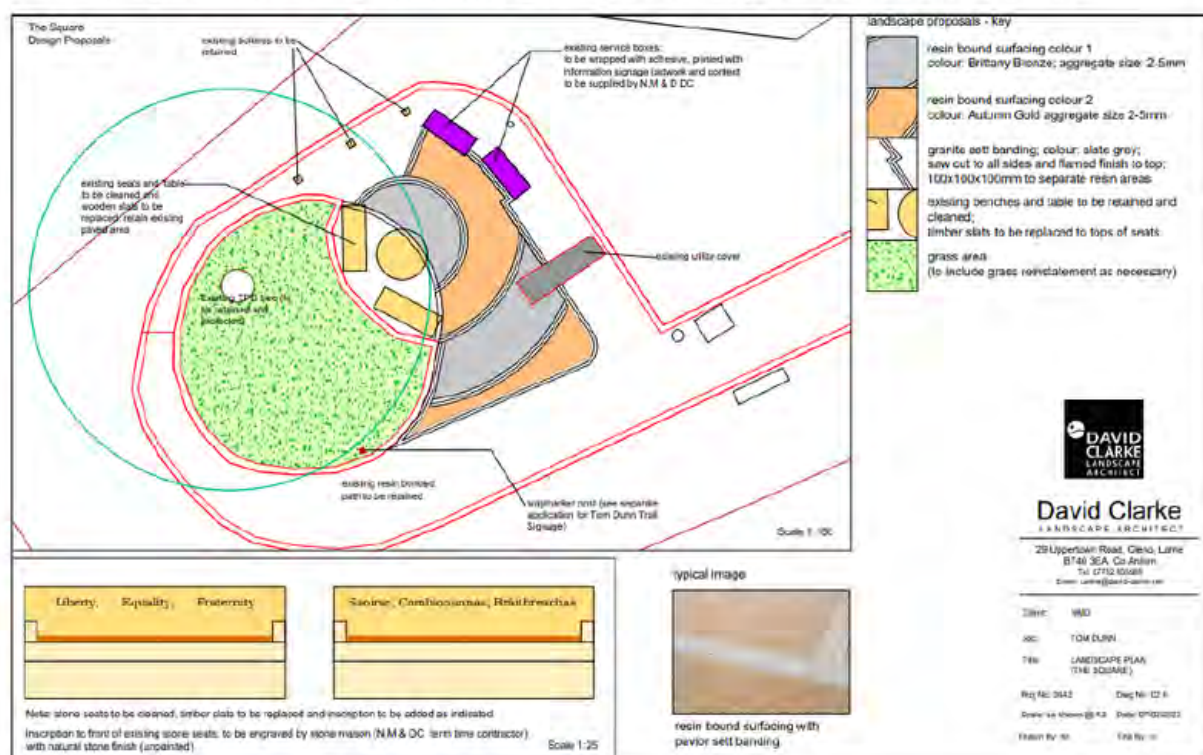
- Historic Environment Division – advised that due to the scale and nature of the application it would have a negligible impact on listed buildings/structures and monuments.
- DFI Roads – offered no objection to the proposal.

5.0 Objections and Representations

5.1 52 neighbours were identified and notified of the application. The application was advertised in the local press on the 9th August 2022. No objections or representations have been received to date (15.02.2023).

6.0 Assessment:

Image 2 Extract from drawing 0643 02F Proposed Site Block Plan



Banbridge Newry and Mourne Area Plan 2015

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

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

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

Strategic Planning Policy Statement (SPPS) 2015

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

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

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

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

PPS 2 Natural Heritage

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

Policy NH 6 – Areas of Outstanding Natural Beauty

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

- a) the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and*
- b) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and*
- c) the proposal respects:*

- *local architectural styles and patterns;*
- *traditional boundary details, by retaining features such as hedges, walls, trees and gates; and*
- *local materials, design and colour*

6.7 Taking into account the above policy, the proposal is compliant. The proposal is for resurfacing and enhancing the current area. It is considered that the siting and scale is considerate. With regards to the wrapping of the existing service boxes; a condition will be incorporated to any decision notice to ensure this is appropriate within the designations.

PPS 3 Access Movement and Parking

6.8 The nature of the proposal would not take away or create any further parking. The parking remains the same. The proposal would not attract any further tourism or individuals to the area due to its nature. DFI Roads were consulted as part of the application process and offered no objection. The proposal is therefore compliant to the policies set out within PPS 3.

PPS 6 Planning Archaeology and the Built Heritage

Policy BH 11 Development affecting the setting of a listed building

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

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

Policy BH12 New Development in a Conservation Area

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

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

(f) trees and other landscape features contributing to the character or appearance of the area are protected; and

(g) the development conforms with the guidance set out in conservation area documents.

6.11 As part of this application it was necessary to consult Historic Environment Division due to its location within a conservation area and its proximity to a number of listed buildings set out above. Historic Environment Division acknowledged the applications proximity to listed buildings/structures and monuments but considered that the proposal would have a negligible impact on any building. The application has minimal elements and is in keeping with what is currently on the site. Therefore, the proposal is considered to comply with policy.

6.12 Taking into consideration the above assessment it is considered that the proposal is compliant with policy and would create an environmental improvement to the area. Approval is recommended.

7.0 Recommendation – Approve

7.1 Drawings in which the application relates to: 05, 02F

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: 05, 02F**

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

- 3. The proposed wrapping of the service boxes shall be agreed in writing with the Planning Dept prior to any wrapping taking place, and shall be carried out as agreed.**

Reason: to ensure a high standard of quality and appropriateness within the AONB.

Informatives:

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

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| Case Officer Signature: Roisin McGrane |
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|---|
| Date: 15.02.2023 |
| Appointed Officer Signature: M Keane |
| Date: 15-02-23 |



Comhairle Ceantair
**an Iúir, Mhúrn
agus an Dúin**

**Newry, Mourne
and Down**
District Council

1.0 Application Reference: LA07/2022/1076/F

2.0 Date Received: 07.07.22

3.0 Proposal: Proposed Battery Energy Storage System (BESS) 150MWh (75MW/2hrs), new Access and ancillary Development

4.0 Location: Lands approx. 200m South East of No 12 Crabtree Road, Ballynahinch

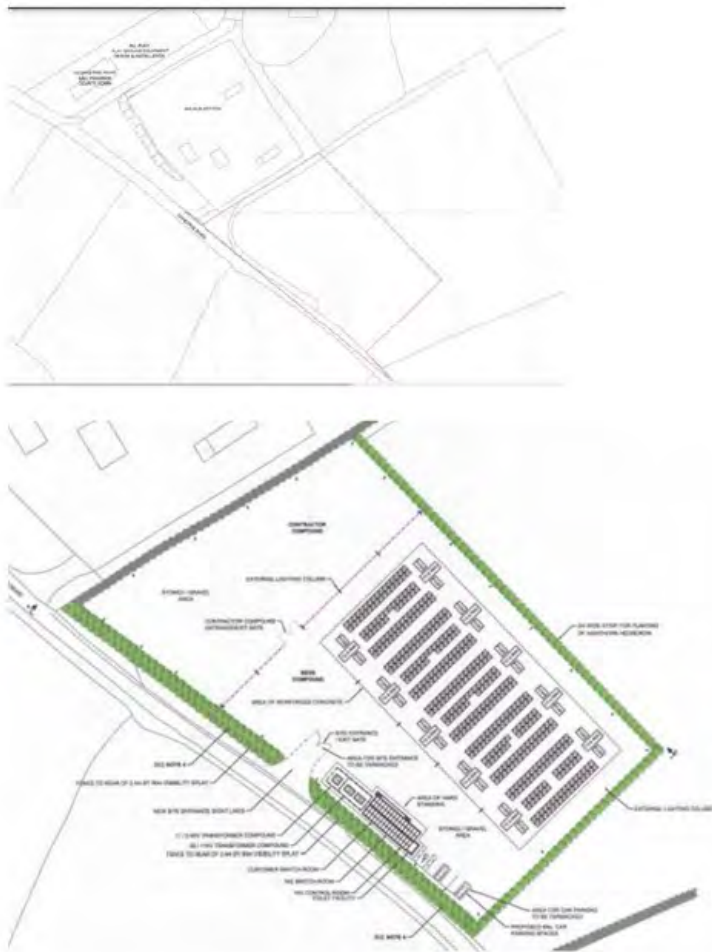
5.0 Site Characteristics & Area Characteristics:

The site comprises the W portion of a much larger roadside, agricultural field situated immediately adjacent and SE of an existing and substantially sized NIE substation (approx. 3ha) known as Ballynahinch Main.

Ground at the site is relatively flat at the road frontage with the NE portion (midway) rising gently in a NE direction and rises beyond this providing a backdrop. Ground on the opposite side of the site also rises that the site is found with a backdrop to each side. The site sits below the existing substation and is surrounded by existing vegetation along the outer boundaries.

The surrounding area is characterised by agricultural and drumlin landscape with a dispersed settlement pattern. The site is immediately viewed on approach and from the highest point of the road from a long distance to the SE of the site (see photo) from this perspective the site benefits from the rising backdrop along with the existing NIE substation.

The site is located within the open countryside identified within the Ards and Down Area Plan 2015.



Application Site



Aerial View

6.0 Photographs:



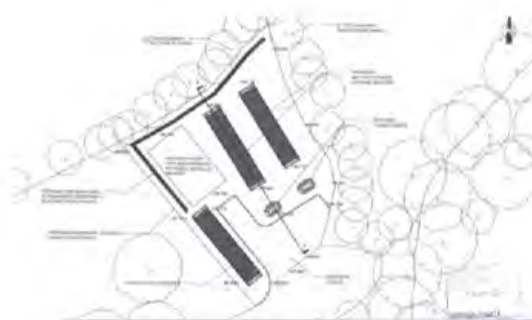






7.0 Relevant Site History:

LA07/2021/1168/F – Installation and erection of a battery energy storage compound, which includes several components of plant and machinery along with associated development. Lands 63m to the north-east of no.12 Crabtree Road, Ballynahinch (Granted 06.04.22)



LA07/2021/0595/PAN – Battery energy storage system (29.9MW)., new access and ancillary development. Lands 200m SE of 12 Crabtree Road Ballynahinch

8.0 Planning Policies & Material Considerations:

- Regional Development Strategy 2035 (RDS)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge/ Newry and Mourne Area Plan 2015 (BNMAP)

- PPS 2 - Natural Heritage
- PPS 3 - Access, Movement and Parking
- PPS 6 - Planning, Archaeology and the Built Heritage
- PPS 15 (Revised) - Planning and Flood Risk
- PPS 21 - Sustainable Development in the Countryside
- DCAN 10 (Revised) - Environmental Impact Assessment
- DCAN 15 - Vehicular Access Standard

9.0 Consultations:

- NIEA Water Management (07.12.22) – Content
- NIEA Regulation Unit (08.11.22) – No objection
- NIEA Natural Environment Divisions (08.11.22) – No concerns
- HED (28.10.22) - Content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works.
- HSENI (20.10.22) – The Health and Safety Executive for Northern Ireland (HSENI) reviewed the letter dated 31 August 2022 from Les Ross Planning and the accompanying clarification letter from Project Design Engineering of the same date.

HSENI's advice to Councils for planning applications involving Battery Energy Storage Systems (BESS) falls into two categories:

1. Safety concerns regarding fire and explosion
2. Applicability of COMAH and HSC

Safety concerns regarding fire and explosions HSENI commissioned a hazard assessment regarding the risk of a fire or explosion from a single BESS container.

In summary, this work demonstrated that:

- An explosion from a single BESS container can cause an overpressure resulting in the partial demolition of a house up to 45 meters away.
- A hydrogen fluoride plume generated by a fire can cause serious injury up to 45 metres away.

HSENI advise the Council to take a cautionary approach when considering a BESS facility planning application and determine if any dwelling is within 45m of a BESS container.

HSENI bases this advice on the following:

1. Previous incidents involving BESS facilities
2. The lack of robust evidence or UK/European standards to offset this cautionary approach.

Regarding the consequences of a fire or explosion, the applicant can provide their modelling work to demonstrate a reduced radius of effect compared to the HSENI work. The applicant's modelling work must utilise a robust and recognised methodology to be valid.

Specific battery technology may reduce the risk of a fire or explosion and be demonstrated by experimental testing, but this does not eliminate the risk.

As stated in previous correspondence, UL 9540 A is a test method. Demonstrating non-propagation in a test carried out to UL9540A has relevance to NFPA 855 in the United States of America. The applicant can use NFPA 855 as an example of international good practice. Regarding the legal standing of NFPA 855, HSENI advises the Council to consult with the Northern Ireland Fire and Rescue Service.

Hazardous Substance Consent (HSC) and COMAH

Concerning the applicability of Hazardous Substances Consent (HSC) and COMAH, the Council and COMAH, **the CA must consider dangerous substances stored or produced during normal operation and from loss-of-control scenarios.**

HSENI agrees that the CLP Regulation classifies batteries as articles. It is the opinion of HSENI that an article alone does not bring an establishment under COMAH.

HSENI will advise the applicant to provide details (type and mass) of any dangerous substance stored (including that contained within the battery) for the following reasons:

- HSENI is not the enforcement authority for HSC. It is for the Council to decide if HSC is applicable, including considering the classification of batteries under CLP.
- The presence of other dangerous substances, for example, hydrogen or biomethane, can impact the applicability of HSC or COMAH.

For a loss-of-control scenario, the applicant should demonstrate it has considered such events and the mass of dangerous substances that such an event can generate.

The applicant can then demonstrate with evidence that it is not reasonable to foresee that a fire, explosion, or another event could produce dangerous substances above their thresholds.

Consideration by the Planning Authority:

The Planning Department has considered the advice from HSENI in relation to a cautionary approach should be taken in relation to potential explosion causing overpressure resulting in partial demolition of a house or impact by a hydrogen plume up to 45m from the BESS. As demonstrated below residential properties

exceed the 45m required distance to be set back from the development and the non-residential property is also 190m away from proposals (see map below).

Regarding the consequences of a fire or explosion the agent has provided and Emergency Response Plan and has set out that BESS units proposed from 'UL9540A testing carried out at cell, module and rack level has demonstrated that no flames will be present, no propagation will occur between adjacent cells and no flying debris or explosion will ensue, as the materials within the LFP batteries are non-combustible'. The system 'contains several layers of fault detection and warning through the Battery Management System and 24/7 remote monitoring to detect faults before they develop'.

HSENI sought additional information on the type and mass of dangerous substances. Correspondence dated 2nd September 2022 outlined that the battery technology proposed at the site is that if a Lithium Iron Phosphate battery which are 'not producing dangerous substances during normal operation'. The potential release of gas in relation to 'analysis of the gases produced during the large-scale free test to UL 950A demonstrated that Hydrogen Fluoride gas was not produced at any time during the test'. On the basis of information provided there are no known hazardous substances falling within the category of named substances under The Planning (Hazardous Substances) Regulations (NI) 2015 – Schedule 2 Hazardous Substances and Controlled Quantities, Part A Named Substances therefore Hazard Substance Consent (HSC) or Control of Major Accident Hazards (COMAH) is required.



Distance from nearest properties

- Northern Ireland Fire and Rescue Service (NIFRS) (04.10.22) –

NIFRS is the enforcing authority for The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010. NIFRS' interest is in relation to fire safety, firefighting, protecting life and property in the event of fires, harm to the environment and other emergencies.

Measures Relevant to the Planning Application

NIFRS considers the following measures are relevant for the preparation of the planning application. Measures in the event of fire or other emergency in relation to;

- 1 the provision of means of escape;
- 2 the provision of a free-flowing exiting system;
- 3 the means of securing the means of escape;
- 4 giving warning in the event of fire;
- 5 prevent false alarms;
- 6 reduce the risk of fire;
- 7 reduce the risk of spread of fire;
- 8 the means of extinguishing fires;
- 9 the means of detecting fires;
- 10 limit damage to the environment;
- 11 the provision of access routes and vehicle hardstanding areas for fire appliances; and
- 12 the provision of facilities for firefighting, including water supplies; fire mains, firefighting shafts, operating mechanisms, smoke venting and compartmentation.

NIFRS would wish to ensure that the design demonstrates compliance with the Fire Safety requirements of Building Regulations (Northern Ireland) Technical Bulletin E, or by an alternative way of demonstrating compliance.

Suitable and sufficient facilities, access and water supplies for the Fire & Rescue Service should feature as a distinct element of the design, be provided during construction and then be maintained after the completion of the facility.

During the construction phase and then following construction, NIFRS would wish to be provided with details on the facilities, access and water supplies and be provided with a site layout plan showing these for emergency planning purposes.

The above premises will become "relevant premises" as defined by The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010. NIFRS is the enforcing authority and carries out audits of relevant premises to ensure compliance.

The legislation requires owners, occupiers and persons responsible for premises to carry out a Fire Risk Assessment and to consider the risk from fire to employees, persons legally in the premises and others who may be affected by what takes place in the premises. The significant findings of the risk assessment must be recorded. Risk must be reduced as far as reasonably practicable and general fire precautions put in place to deal with any remaining risks. Appropriate emergency procedures in the event of fire must be developed with training provided for employees. The risk assessment must be reviewed periodically or after significant changes in the workplace.

It is also the view of NIFRS that any planning application for a large-scale battery storage facility, should take cognisance of, and be in accordance with the guidance provided in the documents published by the Energy Institute, as below:

- ❑ Battery Storage Guidance Note 1: Battery Storage Planning (2019)

□ Battery Storage Guidance Note 2: Battery Energy Storage System Fire Planning and Response (2020)

Consideration of NIFRS response:

As the proposed development will fall within the remit of 'relevant premises' will be subject to auditing and inspection of the premises. Whilst this is outside the remit of the planning authority to control there will nevertheless be conditions attached to ensure the applicant is made aware of their statutory obligations in relation to this.

○ Rivers Agency (07.09.22) –

There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. The site may be affected by undesignated watercourses of which we have no record.

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 – DfI Rivers PAMU have reviewed the Drainage Assessment by O'Sullivan Macfarlane Environmental Consulting and our comments are as follows:

The applicant is proposing to use soil infiltration as a means to drain the storm water runoff from the site. However, the granting of permission to discharge to underground strata (and the effectiveness of such), is outside the remit and area of expertise of DfI Rivers. Consequently, DfI Rivers cannot comment on the viability, or otherwise, of this method of storm water discharge. Revised PPS15 (Annex D18) considers only discharge to a watercourse or to NI Water infrastructure.

The applicant proposes to use a swail to deal with surface water drainage.

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

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

○ EH (02.09.22) - Environmental Health have examined the noise impact assessment submitted as part of this application and accept its conclusion that the proposed development will give rise to rating noise levels that are below the measured background sound level in the area, at each assessed residential receptors, thus giving rise to a low impact in the context of BS4142 guidance.

Environmental Health also note that artificial lighting provisions will only to be operated when required by maintenance personnel and so the site will remain unlit at all other times.

Environmental Health have no objection in principle and recommend informatives are attached.

- o DFI Roads (30.08.22) – No objection

10.0 Objections & Representations:

The application was advertised in local newspapers on the 25th July 2022.

No neighbours within 90m of the site therefore statutory notification is not applicable in this instance.

No objections lodged.

11.0 Consideration and Assessment:

11.1 Development Management Regulations:

The development has been considered under The Planning (Development Management) Regulations (Northern Ireland) 2015 as an energy storage system falling within part 2 of the regulations as Energy Infrastructure for the purposes of electricity generation and therefore requires the submission of a Proposals of Application Notice which was submitted under LA07/2021/0454/PAN.

The regulation also requires a pre-application community event to be undertaken prior to submission of the formal submission of the major application. Due to the Coronavirus pandemic temporary modification to the legislation was in place and the agent carried out public consultation by way of corresponding with nearest neighbours and information video shared on You Tube (June 21) as well as an online consultation portal, two public notices within the local paper advertisement, a web-based link and advised local elected representatives.

Supporting evidence of this process was submitted as part of this application to demonstrate that this had been carried out in accordance with legislative requirements at the time (See Pre-Application Community Consultation report dated July 2022).

11.2 Proposal:

The proposal consists of a Battery Energy Storage System (BESS) involves the storage of electricity when there is a surplus and will discharge into the network during periods of deficiencies.

The development will be located within a rectangular shaped compound of around 2.5 hectares, surrounded by green coloured palisade security fencing which includes security camera and infrared technology along with external lighting columns. The existing hedgerow along the roadside will be retained with replanting behind visibility splays and additional hawthorn hedge planting along remaining boundaries.

The site will hold 447 outdoor battery cabinets each placed on concrete pads incorporating ventilation and cooling system this will be connected to a central management system on site and controlled remotely. Twenty bi-directional power conversion systems (PCSK) (2.2m height and 3m width) are connected to the battery cabinet groups along with ten transformer ring/ main units (2.34 m high and 5.6m width). A customer switch gear/ control room and NIE switch room is located immediately beside the roadside and operates in isolation and controls the export power from the BESS. A WC has also been provided adjacent to this for visiting personnel which is connected to a cesspool tank which will require the retention and collection of waste from the site. Proposals also include stoned gravel area for servicing and personnel.

11.3 EIA Screening:

The proposal falls within the threshold of Category 3 (a) – Energy Industry of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017. The Local Planning Authority has determined through an EIA screening that there will be no likely significant environmental effects and an Environment Statement is not required.

11.4 Planning Act:

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.

11.5 The Regional Development Strategy (RDS) 2035 (RG5 and 9):

The RDS is an overarching strategic planning framework supporting sustainable development whilst encouraging economic growth across the region. To underpin growth, it is acknowledged there is need for modern and sustainable infrastructure to deliver reliable and secure sources of energy.

The RDS goes further in stating that new generation infrastructure must be carefully planned and assessed to avoid adverse environmental impacts with the decision maker having to balance impacts against the benefits from a secure renewable energy stream, and the potential for cleaner air and energy for industry and transportation.

The Battery Energy Storage System (BESS) site has been identified as being located at a strategic location on the national electricity infrastructure. Which is well placed with its location sited immediately adjacent to an existing large scale NIE substation to provide linkage to the existing electricity network providing supply to the SE area including Ballynahinch, Newcastle and Downpatrick where there is greatest demand from population and industry. The site will be capable of significant electricity storage providing '150 MWh of battery storage capacity and is designed to operate at 75 MW for 2 hours'.

The site will form an essential part of the regional grid infrastructure controlled by SONI (the entire electricity system is managed from a single control centre

operated by SONI Ltd), as reliance on coal/ gas power stations become less with increased use of renewable energy sources which are less predictable in provision that such battery storage systems become important in supporting renewable energy sources.

Proposals feed into the ethos of the RDS in promotion of environmentally sustainable systems to meet modern needs rather than reliance on coal powered electricity systems, delivery of a sustainable and secure energy supply whilst reducing carbon footprint. Ensuring and maintaining the frequency of the grid during normal operating limits with a wide range of benefits including versatility (batteries can power less than one second and quickly deployed during outages), reduction of carbon dioxide emissions, low cost, security of supply and no adverse impact to the environment.

Development proposals are in conformity with the provisions of the RDS for the reasons set out above.

11.6 Ards and Down Area Plan 2015



The Ards and Down Area Plan 2015 is the operational Local Plan for this site, which identified the site as being within the open countryside. It has not been designated for a particular land use by the Local Area Plan.

There is no specific Development Plan policy relevant to the use as a Battery Energy Storage System (BESS) nor any recognised use class for such development.

In planning policy terms proposals will be considered under prevailing planning policy specific to development within the open countryside with the following policies deemed applicable for development of this nature which includes consideration and an assessment under the SPPS, PPS21, PPS2, PPS3, PPS6, PPS15, PPS18, PPS21 and PSRNI (PSU8).

11.7 SPPS and PPS21

As there is no significant change to the policy requirements for development in the countryside following the publication of the SPPS and it is somewhat less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the application in accordance with paragraph 1.12 of the SPPS.

11.8 CTY 1 – Development in the Countryside

PPS21 set out the planning policies for development in the countryside with CTY1 identifying different types of development which are in principle acceptable in the countryside. A battery energy storage system (BESS) is not one of the types of non-residential development listed. However, the policy states that a range of other types of non-residential development may be acceptable in principle in the countryside for example certain utilities with proposals for such development to be considered in accordance with existing published planning policy.

11.9 CTY 8 – Ribbon Development

Whilst a small switch room building is included in proposals there is no building development to either side of the site in which development is visually linked or related to, therefore proposals will not contribute to a ribbon of development at this location.

11.10 CTY 13 – Integration and Design of Buildings in the Countryside and CTY 14 – Rural Character

Proposals incorporate an ancillary building along with the battery units, transformer and bi-directional power converter within an enclosed compound. The site comprises the cut out of a large roadside agricultural field which is situated immediately S of an existing and substantial sized NIE substation. The site benefits from flat ground at the immediate roadside with rising ground to the E and to the SE, with land on the opposite of the road also rising westwards that the landscape creates a bowl in which the development nestles.

The site in terms of topography sits at a lower level than the existing substation and is visually linked and clustered with this arrangement that it would not appear misplaced within its surroundings. Land at No .34 Crabtree Road is at the highest point to the SE with a long distance view of 250m away from the site. Land beyond this drops steeply towards No. 28 Crabtree Road and gradually rises again towards the SE field boundary whereby views are impeded by existing landform as well as natural vegetation along the length of the road including the application site (vegetation along the site approx. 1.5m height).

Overall site has been carefully selected in terms of avoid undue prominence as the site lies lower than the existing substation, clustering with this will not appear visually misplaced within this rural setting fulfilling the requirements of policy along with the retention and some additional planting of native species hedging will integrate proposals without adverse impact on the rural setting.



View from 34 Crabtree Rd

11.11 SPSS and PPS2 – Natural Heritage

DAERA NED in their consultation response dated 08.11.22 advised that they have no concerns in relation to natural heritage interests.

Following additional information received by the agent which included a Construction Method Statement and Drainage Detail Statement having reviewed this information Water Management Unit on the basis of information provided are content with proposals.

DAERA Regulations Unit also have no objections has recorded in their consultation response dated 8th November 2022.

A Habitats Regulation Assessment (HRA) screening has been carried out in line with the Conservation (Natural Habitats, etc) (Amendment) Regulations (Northern Ireland) 2015 and NH1 of PPS2 and it is considered that the proposal will not have a likely significant effect on any other European or National designated sites. General informatives will be included in relation to natural heritage.

Proposals meet the requirements of the SPSS and PPS2.

11.12 Planning Strategy for Rural Northern Ireland (PSRNI), Policy PSU 8 – New Infrastructure

PSU 8 is material to the assessment of this planning application, in that the need for new infrastructure will be balance against the objective to conserve the environment and protect amenity. Development proposals will also have to adhere to several criteria which will be assessed individually below:

Need for the Facility:

These proposals are designed as a component of the national electricity grid to stabilise supply, its purpose is to store electricity when there is surplus generation in the system and discharge electricity into the grid at times of deficient generation. The

BESS can provide 150MWh of battery storage capacity to up to 2 hours and can be quickly deployed more efficiently in comparison to large centralised power stations.

Energy storage is a key driver to unlock renewable capacity and improve the environmental stability of electricity production. Energy storage is recognised as an essential new element in the electricity network. It will form a key part of the ongoing modernisation of the grid and create a more efficient network. The proposed site is both necessary and strategically located at an optimal location.

The site has been identified as a key node to provide supply to an extensive area covering the S including Ballynahinch, Newcastle and Downpatrick. The applicant has been in discussion with SONI and NIE, but formal connection application cannot be made to NIE until planning is secured otherwise the scheme will be commercially unviable without grid connection.

Impact on the Environment (Visual and Ecological Impact)

Visual:

The site is located to the S of an existing NIE substation and S of a previously approved BESS (LA07/2021/1168/F) which has not been developed. It is within this visual context that the visual impact is assessed.

In terms of the separate approved proposal under LA07/2021/1168/F this is visually removed in its entirety from the proposed site and existing substation, that should the current application proceed there is no cumulative or adverse visual impact to the setting likely to occur.

The site is filled with 447 outdoor battery cabinets, 20 bi-directional power conversion systems and 10 transformer / ring main unit sitting on a concrete plinth with heights not exceeding 2.4m with an associated switch gear/ control room 6.3m height. The site is enclosed by a 2m green coloured palisade fence with proposed hedgerow on the outer boundaries grown to a height of 2.4m which will assist in the softening of the visual impact of the proposal. Together with the backdrop of rising land to the E and W and flanked by the substation to the N, although the site is critically viewed from the highest point of the land at No. 34 Crabtree Road (0.3 miles away), the natural land form which descends and rises from No. 34 heading northwards flanked by mature vegetation of existing field boundaries restricts views. With only the immediate roadside view is visually critical and from this perspective the development would read with the existing NIE facility that it would not appear out of place. Even with the other approved BESS there is no visual link between the two. On balance given this the surrounding context will have limited visual impact.

Ecology:

A biodiversity checklist was submitted as part of the application. NIEA Natural Heritage have considered the information before them and in their consultation response dated 18.11.22 have raised no concerns with the proposal.

Impact on Communities:

By the very nature of the development and on the advice of HSENI the Planning Department has taken a cautionary approach in relation to potential explosion and overpressure in the event of the failure of the BESS. From the consideration of HSENI comments above the Planning Authority is satisfied that the nearest property (non-residential) as well as residential development is beyond the 45m radius for potential explosion or overpressure and no hazardous substances are stored at the site (See consideration of this above).

The Northern Ireland Fire and Rescue Service have identified this proposal as a relevant premises and thus going forward the premises will be subject to continual monitoring separately by the fire service.

A noise impact assessment was also submitted as part of the application EH in their consultation response dated 02.09.22 have raised no issue of concern.

Impact on Natural or Manmade Heritage:

The application site is south of Magheradroo, a scheduled medieval church with associated graveyard and enclosure. HED having considered the Archaeological Impact Assessment (AIA) submitted agree the conclusions reached regarding potential impact upon the setting of Magheradroo Church and associated below ground archaeological remains. Due to the topography, location and the design of the scheme as well as proposed landscaping HED consider that the proposal will integrate with the surrounding historic environment and will not result in an adverse impact upon the church. (See HED consultation response dated 28th October 2022)

Existence of Alternative Sites/ Routes

The site is located within the open countryside with the site specifically selected due to its strategic location and connection to Northern Ireland Electricity grid immediately adjacent to existing infrastructure to support the BESS. Given the natural topography and surrounding rural context the development at the site will have limited impact visually in terms of landscape character and is set well away from local residents/ receptors to avoid any amenity issues and will have no significant impact upon heritage or ecology interests.

Provision to Mitigate adverse Effects

Overall consultees are satisfied with proposals and have raised no objection to proposals. The Local Planning Authority will attach the recommended conditions sent out in consultee replies.

11.13 PPS3 – Access, Movement and Parking, Parking Standards and DCAN 15 – Vehicular Access Standards

Transport NI in their consultation response dated 30.08.22 have no objection with proposals.

11.14 PPS6 – HED in their consultation response dated 28th October 2022 have raised no issues of concerns.

11.15 SPPS and PPS15 – Rivers Agency in their consultation response 07.09.22 have raised no issues of concern.

Email sent to agent seeking further detail on drainage and levels this has now been clarified 15.02.23.

11.16 Water and Sewerage

Due to the nature of the development foul and public sewer connections are not required. A swail has been created to the S portion of the site to deal with surface water allowing for natural absorption in the landscape.

11.17 Impact to European Sites:

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal is not likely to have a significant effect on the features of any European site.

Consideration and Assessment Summary:

Having had regard to the development plan and all other material considerations (including SPPS, PSU8 of PSRNI, PPS2, PPS3, PPS6, PPS15, PPS21, DCAN15, DOE Parking Standards,) the proposed scheme merits as a suitable development proposal which complies with planning policy for the reasons set out above.

The application is recommended for approval subject to the necessary planning conditions outlined below.

12.0 Recommendation: Approval

13.0 Draft Conditions:

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

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

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

-

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

3. Once a contractor has been appointed and at least 4 weeks prior to the commencement of all development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Local Planning Authority. The CEMP shall contain all the appropriate environmental mitigation as advised by DAERA WMU in their response dated 7th December 2022. Development shall take place in accordance with the approved CEMP

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

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

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

5. After completing all remediation and decommissioning works under Conditions 3 and 4 and prior to occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. The verification report should present all the remediation, decommissioning and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

6. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by the Local Planning Authority to the satisfaction of the Historic Environment Division, Department for Communities. The POW shall provide for:

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

7. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 6.

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

8. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 6.

These measures shall be implemented and a final archaeological report shall be submitted to the Local Planning Authority within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with the Local Planning Authority to the satisfaction of the Historic Environment Division, Department for Communities.

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

9. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing PD7386403 Rev5 dated 20th July 2022, 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.

10. 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.

11. The Emergency Response Plan (dated 7th July 2022) shall be implemented in full. Any variation to the Emergency Response Plan shall be submitted to and agreed in writing with the Local Planning Authority prior to any amendment. Development shall take place in accordance with the approved details.

Reason: In the interests of public health and safety.

17. Prior to commencement of development a fire risk assessment shall be submitted to the Local Planning Authority detailing the following:

Measures in the event of fire or other emergency in relation to:

- 1 the provision of means of escape;
- 2 the provision of a free-flowing exiting system;
- 3 the means of securing the means of escape;
- 4 giving warning in the event of fire;
- 5 prevent false alarms;
- 6 reduce the risk of fire;
- 7 reduce the risk of spread of fire;
- 8 the means of extinguishing fires;
- 9 the means of detecting fires;
- 10 limit damage to the environment;
- 11 the provision of access routes and vehicle hardstanding areas for fire appliances; and
- 12 the provision of facilities for firefighting, including water supplies; fire mains, firefighting shafts, operating mechanisms, smoke venting and compartmentation.

The Fire Risk Assessment shall be implemented in full. Any variation to the Fire Risk Assessment shall be submitted to and agreed in writing with the Local Planning Authority prior to any amendment. Development shall take place accordance with the approved details.

Reason: In the interest of public safety.

18. The development hereby permitted shall cease on or before 25 years from the date when the operational use commences or as otherwise agreed in writing by the Local Planning Authority and the land restored to its former condition.

Reason: To enable the Local Planning Authority to retain control over the development.

19. The development hereby permitted shall not exceed the maximum capacity of 150MWh.

Reason: To enable the Local Planning Authority to retain control over the development

20. All hard and soft landscape works shall be carried out in accordance with drawing No. and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out within the first planting season following the operational use of the development hereby permitted.

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

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

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

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

1.0 Application Reference: LA07/2021/0589/F

2.0 Date Received: 16th March 2021

3.0 Proposal: Proposed restoration of Listed Chapel Building (Grade B2) to provide a Community Hub; part demolition and conversion of the existing St Clare's Convent building to deliver 13 no. apartments comprising a mix of 7 no. 1-bed apartments & 6 no. 2-bed apartments; demolition of existing buildings associated with the former Primary School and redevelopment of the site to provide a further 75 no. dwellings comprising a mix of 18 no. semi-detached dwellings, 17 no. townhouses, 16 no. own door apartments (mix of 1-bed and 2-bed), 6 no. bungalows, and 18 no. 2-bed apartments; including provision of road improvements at the junction of High Street and Abbey Way; car parking; cycle stands; landscaping; open space; and all other associated works.

4.0 Location: Lands at the former St Clare's Primary School and Convent High Street, Newry

5.0 Site Characteristics & Area Characteristics:

The site comprises 2.58 hectares of land (6.4 acres) of the former St Clare's Primary School which is located on the corner of High Street and Abbey Way, including the former Convent of Poor Clare's which fronts onto High Streets with associated lands extending E (the site area excludes the existing graveyard/ burial grounds that were associated with the Convent).

The topography varies across the site with the primary elevations sitting slightly above the adjacent road levels with lands to the N and E of the site sitting at a lower level. The N boundary of the site falls to the rear of the existing Three Ways Community Centre (High Street). The site also has a variety of mature trees located throughout the site some of which are afforded protection under a Tree Preservation Order.

Adjacent lands to the E beyond the site boundary rise with planted banking whilst land to the S comprises of former Abbey Primary playing fields (land subject to development of proposed new CCTC building LA07/2016/1074/RM). Whilst adjoining properties to the S/ SW of the site front

onto Abbey Way comprising of a mix of residential/ commercial purposed in a three-storey terraced arrangement.

The site is located within the settlement limits of Newry City part of land is zoned for education (NY73), Area of Archaeological Potential, Conservation Area, Local Landscape Policy Area (NY128) and is immediately located within the confines of a listed building and curtilage.

6.0 Site History:

6.1 St Clare's site:

LA07/2021/0592/DCA – Demolition of existing buildings associated with the former St Clare's Primary School and convent of Poor Clare's to facilitate redevelopment of site for 89 no. dwellings (social/affordable), Community Hub and all other associated works. Lands at former St Clare's Primary School and Convent, High Street, Newry. (Current)

LA07/2021/0550/LBC – Restoration/refurbishment works to listed chapel building (grade B2) to facilitate conversion to a community hub facility with all associated works. Chapel building at the former convent of Poor Clare's, High Street, Newry (Current)

LA07/2021/0268/LBC – Emergency repairs to unoccupied buildings as current LBC Approval (LA07/2019/1229/LBC). St Clare's Covent, 134 High Street, Newry. Approved 08.06.21.

LA07/2020/1725/PAN – Restoration of B2 Grade Listed Chapel Building to provide a Community Hub; conversion of existing St Clare's Convent Building to deliver circa 14 no. social housing apartments, demolition of existing buildings associated with former Primary School; and the redevelopment of the site to provide a residential development scheme (Social/Affordable Housing) comprising circa 90 no. dwellings; including provision of road improvements at the junction of High Street and Abbey Way, landscaping, open space and all other associated works. Lands at former St Clare's Primary School and Convent, High Street, Newry. PAN Concluded 05.03.21.

LA07/2020/0594/DC - Discharge of condition 2 of LA07/2019/1229/LBC. Chapel at St Clare's Convent, High Street, Newry. Approved 17.09.20.

LA07/2020/0458/PAD – Restoration of B" grade listed chapel building to provide a community hub; conversion of existing St Clare's Convent building to deliver approximately 14 social housing apartments; demolition of existing buildings associated with the former primary school and the redevelopment of the site to provide a residential development scheme (Social/Affordable Housing) comprising a mix of units up to approximately 90 dwellings; including provision of road improvements at the junction of High Street and Abbey Way, landscaping, open space and all other associated works. Lands at St Clare's Primary School and Convent, High Street, Newry. PAD Concluded

LA07/2020/0317/PAD – Emergency Repairs to Poor Clare's Convent pending full restoration. Chapel at St Clare's Covent High Street, Newry. PAD Concluded.

LA07/2019/1229/LBC - Relocation of the Poor Clare Convent Altar, Steps and Balustrading to St Patrick's Church, Eglishe, Co Tyrone. Chapel at St Clare's Covent High Street, Newry. Consent Granted 14.10.19.

P/2014/0368/O - Redevelopment of site to provide new Community Treatment and Care Centre, to include GP surgeries, treatment rooms, physiotherapy, dentistry, ophthalmic, etc., office accommodation, gymnasium, pharmacy, cafe, bank, cultural resource centre and associated ancillary facilities. Site landscaping and provision of amenity areas. Multi-level car park for circa 350 cars. Improved vehicular access to High Street with 'exit only' to Abbey Way, and associated highway improvements. St Clare's Primary School and Convent, High Street, Newry. Approved 14.05.15.

P/2014/0366/DCA - Demolition of former school and convent buildings to facilitate new community treatment and care centre. St Clare's Primary School and Convent High Street, Newry, BT34 1HD

P/2010/0043/F - Proposed siting of replacement temporary timber framed modular building and associated site works. St Clare's Convent Primary School, High Street, Newry. Approved 04.03.10.

P/2005/0419/DCA - Demolition of existing primary school and construction of new primary school, nursery school and associated works. St. Clare's Convent Primary School, High Street, Newry. 22.06.07

P/2005/0418 - Demolition of existing primary school and construction of new primary school, nursery school and associated works (amended scheme to include road works on High Street and provision of temporary accesses onto High Street and Abbey Way). St. Clare's Convent Primary School, High Street, Newry. Approved 22.06.07.

P/2000/1780/CA - Demolition of existing primary school to its junction with St. Clare's Convent and demolition of garage, outhouses and removal off site of temporary classrooms. Consent Granted 20.05.03.

P/2000/1162/F - Demolition of existing primary school and construction of new primary school & nursery school. St. Clare's Convent Primary School, High Street, Newry. Approved 07.05.03.

P/1990/0137 – Erection of external lift shaft. St Clare's Convent, High St, Newry. Approved.

P/1988/1243/O - Site for new primary school (to replace St Clare's Convent Primary School), Adj to St Clare's Convent Primary School, Newry. Approved 29.11.88.

6.2 Adjacent and S of site:

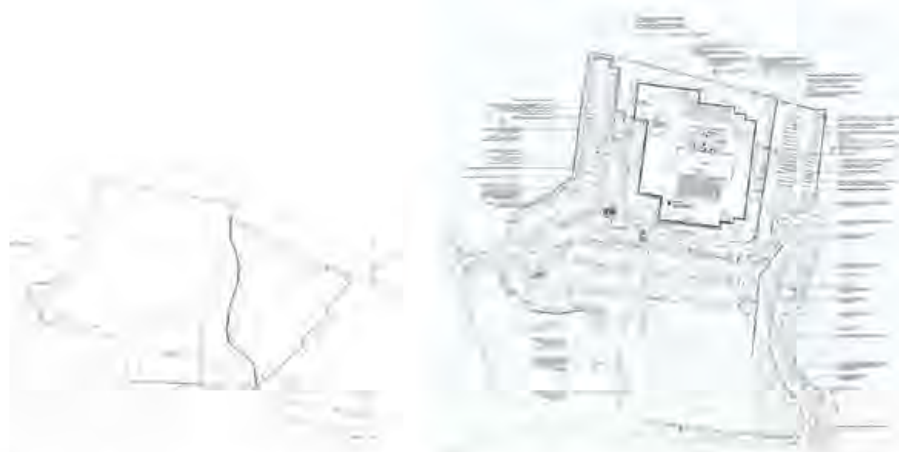
LA07/2020/1438/DC - Discharge of condition 13 of approval LA07/2016/1074/RM. Lands at Abbey Way/ Courtney Hill (including part of former grammar school lands part of primary school lands to the rear of Abbey yard, Ballymacraig, Newry. Approved 03.11.20.

LA07/2020/1118/DC - Discharge of condition 5 as outlined in application LA07/2016/1074. Lands at Abbey Way/ Courtney Hill (including part of former grammar school lands part of primary school lands to the rear of Abbey yard, Ballymacraig, Newry. Current

LA07/2020/1114/DC - Discharge of condition 4 as outlined in application LA07/2016/1074. Lands at Abbey Way/ Courtney Hill (including part of former grammar school lands part of primary school lands and lands to the rear of Abbey yard), Ballymacraig, Newry. Refusal 09.10.20

LA07/2020/1110/DC - Discharge of condition 3 as outlined in application /2016/1074. Lands at Abbey Way/ Courtney Hill (including part of former grammar school lands part of primary school lands and lands to the rear of Abbey yard), Ballymacraig, Newry. Approval 13.06.22

LA07/2016/1074/RM - Development of Community Treatment and Care Centre, associated parking including an area of decked parking, accesses from Abbey Way and Courtney Hill and other associated operational development. Lands at Abbey Way/Courtney Hill (including part of former grammar school lands part of primary school lands and lands to the rear of Abbey Yard) Ballymacraig Newry. Granted 16.12.19.



LA07/2016/0549/PAD – Community Treatment Care Centre, associated parking including decked parking, access arrangements, demolition of buildings and other associated operational development in accordance with P/2014/0335/O. Lands at Abbey Way and Courtney Hill. PAD concluded.

P/2014/0335/O - Development of Community Treatment and Care Centre, associated parking including an area of decked parking, accesses from Abbey Way and Courtney Hill, the demolition of existing buildings (used as school meals kitchen and kindergarten) to the rear of 10 Abbey Yard and other associated operational development. Lands at Abbey Way/Courtney Hill

(including part of former grammar school lands part of primary school lands and lands to rear of Abbey Yard) Ballymacraig Newry. Apporved 14.05.15

P/2014/0337/DCA - Demolition of buildings currently used as a school meals kitchen and kindergarten for the development of Community Treatment and Care Centre. School meals kitchen and kindergarten lands to rear of 10 Abbey Yard, Abbey Way, Newry. Consent granted 14.05.15.

6.3 Former Abbey Primary School site at Courtney Hill:

P/2012/0831/RM - Demolition of existing Monastery and construction of new two storey 15 classroom Primary School, Nursery School and associated site works. Granted



P/2010/0032/O - Demolition of existing monastery and construction of two storey 15 classroom primary school, nursery and associated site works.

7.0 Consultations:

- NIW (14.12.22) - Approved subject to condtion

Available capacity at WWTW, available public water supply and foul sewer. There is no public surface water sewer (conditons to be applied)

- Rivers Agency (17.10.22 and 14.05.21)

FLD1 - Development in Fluvial and coastal Flood Plains - The development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal floodplain.

FLD2 - There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973.

FLD3 - DfI Rivers PAMU, while not being responsible for the preparation of this Drainage Assessment accepts its logic and has no reason to disagree with its conclusions.

FLD4/ FLD 5 – Not applicable

- DFI (.....) –
- HED (.....)

HED (Historic Buildings) (26.08.22) has reconsidered the impacts on the listed building on the basis of amended information uploaded to the NIPP in May & Aug 2022 and advises that subject to conditions, the proposal satisfies the policy requirements of SPPS para 6.12 6.13 & 6.15 and PPS6 policies BH7, BH8, BH10 & BH11. Refer to Explanatory Note.

HED Monuments (29.04.21) - Content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works.

- HSENI (08.08.22) - We fully support the need for this scheme to help address unmet need in the City.

- NIE (16.03.22) – No objection

- SES (22.06.21) - 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.

- Foyle and Loughs Agency (10.05.21) -

The Loughs Agency has considered the information provided and would like to outline the potential impacts from this development. Such impacts could include:

- Increases in silt and sediment loads resulting from construction works
- Point source pollution incidents during construction
- Overloading of existing WWTW infrastructure

Planning Service should ensure the local waste water treatment infrastructure has the capacity to deal with the additional sewage burden which will result from this development.

Should significant contaminated land be identified during the construction phase works should cease until the contamination is remediated to the satisfaction of the competent authority or shown not to pose a risk to the surface water environment.

- NIEA Water Man (04.05.21) - The proposal has the potential to adversely affect the surface water environment.

- NED (04.05.21) - NED has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions.

- NIEA (14.05.21) Regulation Unit Land and Groundwater Team have no objections to the development provided conditions and informatives are placed on any Planning Decision Notice as recommended.

- EH (15.03.22) – No objection

8.0 Objections & Representations

- 99 Neighbour notifications issued August 2022
- Application Advertised the April 2021 and following amended plans on the 21st of March 2022
- 2 objections have been received.

8.1 Issues Raised by objectors:

- Anti-social behaviour

The redevelopment of the site will allow informal surveillance by occupants and users of the site to oversee areas of public access etc that it should assist with a reduction of anti-social behaviour which may be currently experienced at present given that the site is vacant. Any issues relating to anti-social behaviour is a policing related matter outside of the remit of the Planning Authority

- Traffic congestion

DFI in their consultation response dated have raised no issues of concern in relation to traffic congestion.

- **1st Presbyterian Church (Non-subscribing) – Not formally informed of proposals**

As the address is not within boundaries of requiring neighbour notification as prescribed within the Planning Act 2011 there is no statutory requirement to neighbour notify in this instance.

- Does the development take account of burial land, access, privacy of the area and future maintenance of surrounding walls.

The burial land and access do not form part of this planning application, the existing walls will be retained – maintenance issues are a civil matter between parties. The existing convent buildings will be renovated to form apartment units which will maintain the existing living quarters of the original building. No other part of the development oversees this area, issue relating to impact to amenity is not applicable to this area.

9.0 Planning Policies & Material Considerations:

- The NI Regional Development Strategy 2035 (RDS)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)

- Banbridge/ Newry and Mourne Area Plan 2015
- A Planning Strategy for Rural Northern Ireland (PSRNI)
- PPS 2 - Natural Heritage
- PPS 3 - Access, Movement & Parking
- PPS 6 - Planning, Archaeology and the Built Heritage
- PPS 7 - Quality Residential Environments
- PPS 7 Addendum - Safeguarding the Character of Established Residential Areas
- PPS 8 - Open Space, Sport and Outdoor Recreation
- PPS 12 - Housing in Settlements
- PPS 15 (Revised) - Planning and Flood Risk
- DCAN 8 - Housing in Existing Urban Areas
- DCAN 10 (Revised) – Environmental Impact Assessment
- DCAN 15 - Vehicular Access Standards
- 'Creating Places' and 'Living Places' Design Guides
- DOE Parking Standards
- Newry Conservation Area Guide (1983 and 1992) and Newry Conservation Area Extension (2001)
- Newry Conservation Area Map
- Third party representations / objections

10.0 Development Management Regulations:

The development has been considered under The Planning (Development Management) Regulations (Northern Ireland) 2015 as a residential/ housing development falling within Part 6 of the regulations as Housing for the purposes of legislation and therefore requires the submission of a Proposal Application Notice which was submitted under LA07/2020/1725/PAN.

The regulation also requires a pre-application community event to be undertaken prior to submission of the formal submission of the major application. Due to the Coronavirus pandemic temporary modification to the legislation was in place and the agent carried out public consultation by way of digital community consultation and web-based link with advertisements of details presented to several newspapers including The Belfast Telegraph, Irish News, Newry Reporter and Newry Democrat.

A dedicated web link (www.stclaresnewry.com) was set up for several weeks which included an outline feedback and comment sections, a leaflet drop (approx. 200 properties) which included details for making comment and elected representatives were also contacted.

Supporting evidence of this process was submitted as part of this application to demonstrate that this had been carried out in accordance with legislative requirements at the time.

11.0 Environmental Impact Screening

The proposals fall within the threshold of Category 10 (b) – Infrastructure Projects of Schedule 2 of the Planning (Environmental Impact Assessment)

Regulations (Northern Ireland) 2017. The Local Planning Authority has determined through EIA screening that there will be no likely significant environmental effects and an Environment Statement is not required.

12.0 Habitats Regulation Assessment and Impact to European Sites

This planning application was considered in light of the assessment requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry, Mourne and Down District Council.

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

Habitats Regulations Assessment Stage 1 Screening has assessed that there are no viable environmental pathways from the proposal at construction and operational phases to any European Site or feature.

13.0 Proposal

The proposal consists of restoration of the Listed Chapel Building (Grade B2) to provide a Community Hub (correspondence from Clonrose Development confirms in correspondence dated 11.10.22 that the community hub will be used by Choice Housing for resident's use – this will be subject to condition).

The existing convent buildings facing onto High St (N part of the development) will involve part demolition and conversion to provide 13 apartments.

The remaining school buildings will be demolished to make way for 75 dwellings which comprise of:

- House Type A – 5 Blocks of two storey semi-detached dwellings with formal front and rear garden with incutlilage parking to side (10 units). Sites 36 - 41 are located within the Conservation Area whilst 46 – 49 are outside.
- House Type B – 4 blocks of two storey, semi-detached dwellings with formal front and rear garden with incutlilage parking to side (8 units) Sites 42 - 45 are within the Conservation Area and 50-53 is outside.
- House Type C – Two Storey, Terrace, rear gardens and communal parking area to front (4 units). Sites 31-35 are inside the Conservation Area.
- House Type D – Two Storey Semi-detached rear gardens and communal parking area to front (4 units) (4 Apartments/ Maisonettes). Sites 54-57 are outside the Conservation Area
- House Type E – Two Storey, Terrace rear gardens and communal parking area to front (6 apartments). Sites 64-69. Outside the Conservation Area
- House Type F – Two Storey, Terrace small rear gardens and communal parking area to front (6 apartments/maisonettes). Outside the Conservation Area
- House Type G – Bungalow, Semi Detached (2 Units). Outside the Conservation Area
- House Type H – Bungalow (3 units). Sites 73-75. Outside the Conservation Area

- House Type I - Three Storey Town Houses, Terrace (Comprising I 2, (7 units), I1 (5 units). Inside the Conservation Area with enclosed rear yard and small informal area to front
- House Type J – Three Storey, Terrace, (12 Apartments). Inside the Conservation Area.

All of the above the front elevations comprise of rendered walls and plaster bands, chimneys, rio graphite natural slate, hardwood doors and aluminium double glazed, aluminium gutters and down pipes. The rear elevation and side walls and roof same as front with pvc rear/side doors, windows and gutters/downpipes. *(Noted rear elevation/side will not be visible within the Conservation Area or read with Listed Building)*

The development also incorporates areas of communal of open space, retention of mature and protected trees and communal areas of parking and an allotment area to the N of the existing graveyard with path accesses for residents of the site. The proposed development will be accessed from High St with the existing access utilised for the development.

14.0 Consideration and Assessment:

14.1 RDS and SPSS:

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 SPSS sets out core planning principles to achieve sustainable development. Of particular relevance to this application are the aims of supporting good design and positive place making while preserving and improving the built and natural environment. Further consideration of these issue will be set out below.

14.2 Banbridge/ Newry and Mourne Area Plan 2015 (BNMAP 2015)



- NY73 - Lands zoned for education
- NY128 - LLPA
- Area of Archaeological Potential
- Newry Conservation Area

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 BNMAP 2015 operates as the current plan for this site and identified the site as being within the settlement limit of Newry (NY01). The entire site is located within an Area of Archaeological Potential (AAP), the southern portion of the site is zoned for education (NY73), the northern portion contained within the zoned Local Landscape Policy Area (NY128) and the Conservation Area extends to the former buildings area to the W portion of the site. The relative plan requirements are considered below:

- NY73 Education, Abbey Way 1.37 hectares of land at Abbey Way are zoned for educational use as identified on Map No. 3/02A.

Full planning permission for a primary school was granted permission at the site under planning reference P/2005/0418. However following merger of the former St Clare's Primary School and the Abbey Primary school plans to developed the site were abandoned with a subsequent planning application sought under P/2012/0831/RM (Demolition of existing Monastery and construction of new two storey 15 classroom Primary School, Nursery School and associated site works) saw the relocation and the erection of a new build school on the former monastery site which was given planning due to the former educational uses associated with the site.

The former St Clare's site was vacated and remained undeveloped with the former land zoning for education under NY 73 becoming less relevant to the site. The site also had planning for a new CCTC under P/2014/0368/O with the principle of redevelopment established at the site.

NY128 (Local Landscape Policy Area Courtney Hill) – The LLPS is designated in accordance with Policy CVN 3 in Volume 1 of the Plan and as indicated on map 3/02a – Newry. Those features that contribute to the environmental quality, integrity or character of these areas include:

- Abbey Grammar School (listed), its curtilage, setting and views.
- Archaeological sites and monuments including the ruins of an Abbey and an old burial ground.
- Area of local amenity importance including areas of significant woodland vegetation.

LLPAs are also designated to help protect the environmental assets including archaeological sites and monuments listed buildings and surrounds, attractive vistas, woodland and trees.

The NE portion of the site is affected by such designation with the zoning extending E and S/ SE of the site towards the Abbey school and ruins which is predominantly covered by the designation and to a lesser degree on the subject site. Notwithstanding this the LLPA was likely imposed within this area to

protect existing trees and potential archaeological artefacts/ remains. Proposed development within this area has taken account of existing and important trees which will be retained and incorporated into the scheme. Nevertheless, trees will be conditioned to be retained as part of any decision notice along with archaeological conditions applied to ensure protection of the site.

The existing woodland to the E and SE of the site does not form part of the application and will remain in situ. As this part of the development is on flatter ground in comparison to the Abbey to the SE and existing Covenant buildings to the W there is no impact on the setting and views. HED in comments have raised no issues of concern in relation to this.

Impact to the LLPA will be further assessed under PPS2 considerations. In summary the proposal is in line with plan requirements and is further considered against additional prevailing policy tests below.

14.3 SPPS and PPS2 (NH1 – European and Ramsar Sites – International, NH2 – Species Protected by Law and NH5 – Habitats, Species or Features of Natural Heritage Importance

NED in comments dated 4th May 2021 having considered the Preliminary Ecological Appraisal (Submitted March 2021) as well as impacts of the proposal on designated sites and other natural heritage interests as considered below.

- Designated Sites – There are no hydrological pathways (See consideration at 12.0 above) to a European Site.
- Birds - The scrub, trees and vandalised building on site have potential to support breeding birds the Preliminary Ecological appraisal recommends no vegetation or demolition should occur during bird breeding season. This can be made conditional in the event that planning permission is granted.
- Priority Habitats – Habitat in the form semi natural broadleaved woodland, scrub, semi-improved grassland, standing water, shrubbery etc are not deemed Northern Ireland Priority Habitat. Nevertheless, Drawing No. shows the woodland to be retained. A further condition will be applied for the implementation of a Landscape Management and Maintenance Plan.
- Bats – Overall bat activity surveys on site were low and no bats were observed emerging from buildings on site, it unlikely buildings at the site support roosts given vandalism and damage as well as water damage making these areas unsuitable for roosting bats.
- Badgers – Badger activity surveys have found no badger setts on site or within 25m of the site boundary.
- Smooth Newts – Standing water assessed for newt habitation but due to absence of emergent vegetation the pond was recorded as having negligible suitability for newts.

- Invasive Species – Giant Knot weed present on the N side of the site and invasive species management plan will be conditioned.

Subject to the implementation of planning conditions and on the basis of information provided NED are content with the proposals against PPS2 requirements.

- 14.4 SPPS, PPS3, DCAN 15 and DOE Parking Standards:** DfI Roads in comments dated have no objections to the amended scheme and Private Streets Determination Drawings to be agreed, with respective conditions attached.

14.5 SPPS, PPS 6 and Conservation Area Guidance

SPPS para 6.12, 6.13 and 6.15 and Policy BH 7 (Change of Use of a Listed Building), Policy BH 8 (Extension or Alteration of a Listed Building), Policy BH 10 (Demolition of a Listed Building) and Policy BH 11 (Development affecting the Setting of a Listed Building):

- Historic Buildings HED in comments dated 26th August 2022 and have considered the impacts upon the listed building and on the basis of information provided and subject to planning conditions proposals satisfy the requirements of planning policy.

SPPS and Policy BH 4 (Archaeological Mitigation)

- Historic Monuments HED (Historic Monuments) in comments dated 29th April 2021 have considered the impact of the proposal and are content that it satisfies PPS6 requirements subject to condition for the implementation of a developer funded programme or archaeological works.

• SPPS, Policy BH 12 (New Development in a Conservation Area) and Policy BH 14 (Demolition in a Conservation Area)

Policy BH12 of PPS6 considers new development in a Conservation Area directs that development proposals for new buildings alterations, extension and changes of use in, or which impact on the setting of, a conservation area will normally only be permitted where all of the listed criteria (a to g, see below) are met, highlighting the requirement to preserve or enhance the character and appearance of the area.

The Conservation Area Guide also directs that attention to detail is a vital consideration, and successful development will depend on the use of materials, design, finishes and detailing.

In considering the criteria required to be met under BH 12, the following comments are noted:

- *BH12 (a) - The development preserves or enhances the character and appearance of the area.*

The site has had the benefit of planning permission for a replacement school and a new CCTC however neither of these have come to fruition as alternative sites/ development opportunities have been sourced elsewhere. The entire application site has lain derelict since the convent and primary school was vacated several years ago and since this time the site has become overgrown, abandoned and has been subjected to vandalism and damage to properties within the site.

The proposed scheme offers a regeneration opportunity to preserve and enhance existing original listed buildings through the retention and conversion of former convent buildings to apartments providing accommodation for a social housing scheme which will have a wider benefit to the local community. External works will be undertaken to the SW elevation of the convent to lower the roof height and to expose the original church building enhancing views and improving the setting, with the former convent church retained and renovated to be utilised as a community hub for residents within the scheme.

Remaining unprotected buildings within the site which may be deemed as newer additions to the original host buildings are not of architectural merit to warrant retention. The removal of which and replacement with buildings incorporating conservation materials will bring visual betterment to the street scape particularly along the lower part of High Street and Abbey Way and will read with the adjacent proposals at this strategic corner site. In this regard the proposal is considered to enhance the character and appearance of the area.

- *BH12 (b) – The development is in sympathy with the characteristic-built form of the area;*
- *BH12 (c) – the scale, form, materials and detailing of the development respects the characteristics of adjoining buildings in the area.*

The site comprises a corner site extending from the listed Chapel and Convent buildings at High Street along Abbey Way towards listed buildings at 18-22 Castle Street with development located within Newry's Conservation Area. Buildings to either side are predominantly three storey form with pitched roofs, traditional chimneys, metal rainwater goods, hardwood sliding sash windows and doors. The convent buildings are render finished whilst buildings at Castle Street comprising of stone finished façade.

The proposed development intends to lower the existing wall at the road frontage of Abbey Way to provide boundary definition and retain as an existing feature. The use of materials also reflects that of adjacent buildings with use of render wall and plaster band finishes, Rio graphite natural slate, hardwood doors, aluminium windows and rainwaters goods proposed along the front and side elevations. The proposed dwellings will mirror the scale and form to either side and using the natural contours stepping down gradually with the existing listed buildings set on higher lands will not disrupt the visual setting. Overall proposals are largely sympathetic to the established characteristic-built form surrounding the site.



Conceptual Drawing - For Information Only (Further amendments to elevations updated 15th February 2023)

- *BH12 (d) the development does not result in environmental problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area.*

Environmental Health are content with the proposal, subject to mitigating conditions.

- *BH12 (e) – Important views within, into and out of the area are protected.*

The existing buildings in their own right make no material contribution to the Conservation Area and as such proposals sought will provide a betterment to the visual appearance of the streetscape when considered against existing and proposed built form displayed within the vicinity. The proposals before the Council will not impact on important views within, into and out of the area but rather enhance this aspect.

- *BH12 (f) – Trees and other landscape features contributing to the character or appearance of the area are protected.*

A tree preservation order extends to trees within the conservation area with several other trees within the grounds of St Clare's afforded protection. These trees will be retained and incorporated into the scheme with particular attention given to mature trees which will be surrounded by open space creating a feature within the scheme maintaining the visual aspect and affording protection of such important landscape assets. The development will also include additional planting to enhance the overall appearance and assist with the softening the visual aspect of the development.

- *BH12 (g) – The development conforms with the guidance set out in Conservation Area documents*

The proposal takes account and respects the building line and form of the existing Listed Buildings with the development largely conforming with the Newry Conservation Area guide in terms of scale, massing and detailing. The front and side profiles of buildings fully conform to conservation related guidance, although it must be noted that the rear/side elevation elements of the scheme do include the use of upvc windows/ doors and gutters/downpipes are not considered to be traditional/ reflective of the Conservation Area.

However, given the position of the buildings the rear/side elements of the proposal is largely screened from the streetscape. In this particular case is considered acceptable as it would not detract from the special character of the Conservation Area and HED in comments have no concerns in relation to its impact upon the relationship, views or setting of the listed buildings.

Overall, the Planning Department has carefully assessed the proposed demolition of the unlisted buildings and their contribution to the character of the Conservation Area. While substantial in the local landscape it is considered, given their design and appearance, that they do not make any material or significant material contribution to the character and appearance of the Conservation Area. The Planning Department is also satisfied that the proposed redevelopment scheme, as approved, will preserve and enhance the character of the area for the reasons outlined in this report.

SPPS and PPS6 (BH14 - Demolition in a Conservation Area)

The matter of demolition of unlisted buildings within the Conservation Area is considered against PPS6 Policy BH14 requirements. The existing buildings offer no material contribution to the character and appearance of the Conservation Area at present, nor does the existing arrangement offer little aesthetic value to the streetscape at High Street/ Abbey Way/ Castle St.



Site Layout of Buildings to be Demolished.

The redevelopment proposals of the site which involve demolition of buildings with erection of new. This will involve the erection of several dwellings of mix variety to the rear of a terraced arrangement along the street frontage which will reinforce the existing building line between High Street and Castle Street. The frontage buildings mirroring the existing built form and scale of development to either side with the front and side elevations using traditional conservation materials of hardwood doors, with render finished and plaster band with natural slate finished roof, wide chimneys and aluminium window frames and doors. The overall scheme has been sensitively designed in order to reflect the scale, design, finishes and is respectful of the Conservation Area and guidance, having regard to the listed structures found to either side.

The proposal offers opportunity to enhance the existing streetscape to provide a strong frontage along High St/ Abbey Way/ Castle St with alterations to the existing Convent buildings will improve public views of the existing church, retention of existing landscape features within the Conservation Area bringing much needed regeneration to a now vacant and derelict site.

The matter of demolition of the existing buildings is also considered separately under respective application LA07/2021/0592/DCA.

Having regard to the requirements of Policy BH14, including the same broad criteria outlined for the demolition of listed buildings (para 6.5 and Policy BH 10,) as directed by Para 7.17 of the justification and amplification text to BH14, the proposed demolition is considered acceptable, and the proposed development represents an opportunity for enhancement of the Conservation Area.

In summary, the scheme is considered, on balance, acceptable to the requirements of the SPPS, PPS6 (Policies BH10, BH12, BH14) and Newry Conservation Area Guide, subject to the works being carried out in accordance with the submitted plans and further environmental considerations being met.

14.6 SPPS, PPS7 (QD1 and QD2), PPS7 (Addendum), PPS8, PPS12, PSRNI (DES2), DCAN8, DCAN11 and 'Creating Places:'

The SPPS is now a material consideration in the assessment of this application however as there is no significant change to the policy requirement for housing in settlement following the publication of the SPPS which is arguably less prescriptive, the retained policy of PPS7, PPS7 (Addendum) and PPS12 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS:

Surrounding Context/ Topography/ Layout

The proposed scheme relates to approximately 88 residential units with a mix of apartment and dwellings ranging from single storey to three storeys in height.

The site is located within the development limits of Newry. The surrounding context is urban residential to the N and NE comprising of terraced housing at High Street and 3/ 4 storey apartments directly opposite and N (North Street Flats), whilst there is a mix of former residential, commercial and cultural buildings to the S/ SW of the site as well as future proposals for a new health facility adjacent and SE of the site. Buildings immediately adjacent to the site are three story and terraced in form, with dwellings at High St continuing the roadside terraced arrangement but are two storey.

The proposed layout of terraced form along the frontage of the site mirrors the scale and form of adjacent properties, reflective of existing built form. The inner part of the development offers a variety of terraced housing, semi-detached and detached properties of two and single story to offer a good mix and range of house types, whilst not immediately seen from the public road they well

nevertheless not appear out of place within the wider urban context. With external finishes adhering to Conservation guidance and respecting that of existing built form found within this locality.

The parking layout incorporates incurtilage parking at a rate of two spaces per unit, with town houses and apartments relying upon communal parking.

The level of private amenity allocated to dwellings is within recommended guidance and areas of open space including allotments have been incorporated into the site. The average amenity space for the development as a whole is acceptable to policy and design guidance requirements for the nature and scale of this development.

On the whole, the overall layout and design is in keeping with the predominant residential built form displayed within the area and urban context.

Landscaping/ Hard Surfaced Area/ Pedestrian Links/ Private Open Space

Public open space is provided in a central area of the scheme to not only provide an attractive landscape feature to the entrance of the site but will also ensure the retention of the existing mature lime tree that was a central feature of the former school. The additional landscaping along with this will help to soften the visual aspect and enhance the visual appearance of the former church and convent buildings as well as serving as an area of communal space for users of the site which can be informally supervised by surrounding properties.

Additional open space has been allocated within the scheme along with allotment space with the vast majority of residential dwellings having assigned private amenity space. Overall, there is adequate provision of open space throughout the development.

When considering the above, there is adequate provision of open space throughout the development to size of dwellings with a good mix and range of garden sizes within recommended requirements.

The layout incorporates new landscaping along the road entrance extending to the E of the site which will create a tree lined internal layout road. Proposed buildings at the entrance of the development present a dual aspect to High St and the proposed layout will present an attractive vista on approach and help to soften the visual appearance of the development.

Pedestrian movement and connectivity are incorporated into the overall layout by way of pedestrian links. Safe pedestrian movements are also facilitated within the site with linkages to the existing pedestrian footways and continuation of new footways on both sides throughout the development.

Finally, it's noted there is a Tree Preservation Order (TPO) on part of this site. Protection of these trees will be followed up by a planning condition to ensure retention and no works undertaken without consent from the Planning Authority.

Landscaping conditions will be attached as necessary to ensure that the areas of public space and vegetation / trees throughout the site are protected and maintained in perpetuity.

Archaeological and Built Heritage

Consideration of Archaeological and Built heritage issues have been extensively considered above at part 10.5.

Land Contamination

DAERA Regulation Unit in comments dated 14.05.21 have considered the Generic Quantitative Risk Assessment (GQRA) provided in support of the application. No unacceptable risks to environmental receptors have been identified. DAERA has no objection to the development in relation to land contamination, subject to necessary conditions being met and informative being adhered to.

Local Neighbourhood Facilities

The development includes the redevelopment of the former convent church to be used as a community hub which will be utilised by residents of the development. Given its location relative to the wide range of community facilities within the locality including town centre there is sufficient access.

Movement Patterns/ Disabled Access

There are a range of house types within the development to accommodate those whose mobility is impaired. Access and parking areas are on a level surface with minimal gradient difference between this and the proposed finished floor level, bin storage areas are also accessible. As noted above, the proposal also incorporates links to the existing pedestrian footway and public transport facilities are linked by the footpath network to encourage sustainable methods of movement.

Parking/ Roads

DFI Roads highlighted concerns with regard to parking provision needed to be in accord with the parking official standards as set out in their consultation response dated 22nd September 2022.

This was addressed by the agent by email and correspondence received on the 12th October 2022 setting out the justification for reduced parking standards which included that overall provision was that of 118 space per 88 dwellings including the community hub which excludes incurtilage parking associated with the houses, census figures indicated the electoral area had low vehicular ownership, the subject site located on the fringe of the city centre was well placed in terms of access to public transport facilities and amenities but also as a social housing scheme supported by 'Choice' housing had a lower percentage of car ownership and requirement for parking (letter and parking survey provided by Choice housing submitted 12.10.22) and on

average found a 0.35 per dwelling uptake of parking throughout their schemes.

The Planning Authority have considered this information and found the justification was logical and reasoned, thus accepting a lesser standard be applied given the particular circumstances of this case.

DFI in conjunction with planning have verbally indicated that the layout is acceptable in principle subject to the submission of finalised Private Streets Determination drawings.

Impact to Amenity

The layout plan shows adequate separation distances between dwellings to avoid impact to amenity (by way of privacy, dominance, loss of light, overshadowing.) There are no significant changes between levels of neighbouring properties that cause concern in this regard. Separation distances and depth of rear gardens are well within the recommended range of Creating Places.

Prevention of Crime and Promotion of Personal Safety

The layout and orientation of all dwellings (overlooking the layout road / footways and areas of public open space) will encourage a natural and informal surveillance of the overall site, with the aim of enhancing public safety.

Adequate boundary detailing has been provided around this site to help prevent any issues of security to the development. Rear gardens throughout the scheme back onto additional rear gardens or secured with appropriate boundary treatment.

House Types

A range of house types have been provided throughout the scheme. This is in line with SPPS, PPS7 and PPS12 policy requirements.

Social Housing

Whilst the site is not identified within the area plan as requiring social housing provision. The agent in an email dated 12th October 2022 attached correspondence from Choice Housing confirming that subject to procurement and planning permission being granted that they will take ownership of the development once completed as well as manage and maintain the development in perpetuity.

Water/ Sewerage

NIW in comments dated 14.12.22 have recommended approval subject to condition.

Density

Density levels are comparable with existing development within the vicinity of the site.

14.7 PPS15 (Revised) – Planning and Flood Risk

DFI in their consultation response dated 17.10.22 and 14.05.21. Have considered proposals under policies FLD 1 – FLD5, policies FL1, 2, 4 and 5 are not relevant to the site. Under FLD 3 having considered the submitted drainage assessment have no reason to disagree with its conclusion. Overall proposals meet the requirements of policy and Rivers Agency have no issues of concern.

15.0 Summary Consideration and Assessment

- Proposal is in line with regional policy aims of sustainable urban development in existing urban areas and is acceptable to SPPS and Plan (Banbridge/ Newry and Mourne Area Plan 2015).
- Following revisions to the scheme and additional information, the proposal is considered acceptable to Prevailing Policy, Design and Conservation Area guidance requirements, including PPS2, PPS3, PPS6, PPS7, PPS7 Addendum, PPS8, PPS12, PPS15, DCAN8, DCAN15, Creating Places
- Third-party representations received have been fully considered (see above).
- Approval is recommended, subject to the attached planning conditions being met.

16.0 Recommendation: Approval

17.0 DRAFT CONDITIONS:

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

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

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

- 203 REV D – House Types A (21.02.23)
- 204 REV D – House Types B (21.02.23)
- 205 REV E – House Types C (21.02.23)
- 206 REV D – House Types D (21.02.23)
- 207 REV E – House Types E (21.02.23)
- 208 REV E – House Type F (21.02.23)
- 209 REV E – House Type E (21.02.23)
- 210 REV E – House Type H (21.02.23)
- 211 REV F – Block I 1 (21.02.23)
- 212 REV G – Block I2 (21.02.23)
- 213 REV G – Block J (21.02.23)

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

3. DFI – Private Streets Determination and DFI conditions
4. Prior to the commencement of any of the development hereby approved, a final drainage assessment containing a detailed drainage network design and compliant with Annex D of PPS15 shall be submitted to and agreed in writing by the Local Planning Authority. Development shall take place in accordance with the approved details. Alternatively, prior to the commencement of the development hereby approved, written confirmation from NIW shall be obtained confirming agreement to adopt a drainage network that will attenuate the 1 in 100 year storm event.

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

5. Prior to the commencement of the development hereby approved, a Schedule 6 Consent to Discharge shall be submitted to and agreed in writing by the Newry, Mourne and Down District Council's Planning Authority in consultation with DfI Rivers Agency.

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

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

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

7. Prior to occupation of the development hereby approved a formal water/ sewer connection shall be made with Northern Ireland Water, the details of which shall be submitted to and agreed in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.

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

8. Prior to the commencement of the development hereby approved a Dust Management Plan shall be completed in accordance with Section 3.1.2 of the Air Quality Impact Assessment St Clare's Newry – Rp2021014 (St Clare's Newry – AQ) dated 4th March 2021 and shall contain mitigation measures against the impacts of dust. This shall be submitted to and agreed in writing by

the Local Planning Authority to the satisfaction of Newry, Mourne and Down District Council Environmental Health Department.

Reason: In the interest of public health.

9. No demolition or construction works shall take place outside the following hours:

Monday – Friday: 0700 – 1800

Saturday: 0800 – 1300

Sundays and Bank Holiday: No noise producing works.

Reason: In the interests of amenity.

10. Prior to the commencement of works of the development hereby approved. Details of the accredited conservation professional that shall oversee and certify the approved works to the listed building shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of Historic Environment Division.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

11. Prior to the commencement of the development hereby approved a Fire Safety Strategy and Method Statement for the duration of the works shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of Historic Environment Division.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

12. Repair works to the listed chapel and associated curtilage structures shall be completed prior to the occupation of any of dwellings or apartments of the development hereby approved.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

13. All demolition work within 1 metre of the listed building shall only be carried out by hand or by tools other than power driven tools.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

14. Prior to the commencement of any structural alterations, a method statement shall demonstrate how the proposed structural works (including foundations

and any piling) will be undertaken and shall fully detail how the listed building will be protected during construction (including foundations and any piling) and demolition work. The method statement shall be submitted to the Local Planning Authority and agreed in writing to the satisfaction of the Historic Environment Division.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

15. Prior to the commencement of development hereby approved, a statement shall be submitted to the Local Planning Authority detailing precautions taken to secure and protect the following features of interest during building work:-

- a. existing stained glass and lattice leaded lights in windows and doors.
- b. timber choir stalls;
- c. Gallery;
- d. Chapel ceiling; and
- e. Religious plaques and statues.

These measures shall be agreed in writing by the Local Planning Authority to the satisfaction of the Historic Environment Agency and shall be implemented as agreed.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

16. Prior to the commencement of works hereby approved the details of the extent of removal and remedial works shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of Historic Environment Division.

Reason: In the interests of ensuring that no damage is caused to the part of the building which is to be retained.

17. All new external, internal works, finishes and works of making good to the retained fabric of the Listed Buildings shall match the existing original work in use of method, detailed execution and finished appearance unless otherwise agreed in writing. Any change proposed shall be detailed in a finishes schedule and samples submitted to the Local Planning Authority to be agreed in writing to the satisfaction of the Historic Environment Division.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

18. No new plumbing, pipes, soil stacks, flues, vents, ductwork, lighting, security cameras, mechanical and electrical services of any description shall be fixed on the external façade of the building other than those shown on the drawings hereby approved.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

19. A prototype of each different individual window type (sliding sash, side hung casement, metal and timber) for the listed chapel, remaining terrace and two-storey return shall be provided on site prior to installation and shall not be fitted with visible trickle vents. This shall be agreed in writing by the Local Planning Authority to the satisfaction of the Historic Environment Division.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

20. Insulated glazing units to new windows in existing buildings shall be no greater than 12mm overall thickness, with warm edge spacer bar in a colour to match window frames and the unit shall only be fixed in place with putty. This shall be implemented as approved.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

21. The final coat of paint to all external joinery shall only be applied by brush on site.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

22. Prior to commencement of the development hereby approved details of external finishes, materials and samples proposed on the buildings to include:

- a. Natural slate for new roof;
- b. Rainwater goods;
- c. Fascia trim and flashings to flat roof;
- d. Render;
- e. New doors;

f. Canopies; and

g. Window cills.

Shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of HED.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

23. Prior to commencement of the development hereby approved samples of materials for steps, ramps, paving and retaining walls shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of the Historic Environment Division.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

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

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

25. After completing all remediation and waste management works under Conditions 24 and 25 and prior to occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority. This report shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. The verification report shall present all the remediation, waste management and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

26. An updated Generic Quantitative Risk Assessment or report shall be submitted to the Local Planning Authority and agreed in writing to the satisfaction of Newry and Mourne District Council, Environmental Health Department provided details on the ingestion of contaminants through fruit and vegetables grown on the proposed allotments.

Reason: In the interests of public health

27. The felling of Trees 24, 33, 37 and 39, as shown on Drawing 6855-L-202 Existing Tree Survey Assessment, date stamped 16th March 2021, shall be carried out using soft-fell techniques, under the supervision of a competent ecologist, within the time periods 15th August to 15th October or 15th March to 15th May only. The ecologist shall detail the works carried out and implementation of mitigation measures within 6 weeks of the completing of felling and arboricultural works on these trees and the report shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of NIEA. This shall be implemented as approved.

Reason: To protect bats

28. There shall be no external lighting on the site until a Lighting Plan has been submitted to and agreed in writing by the Local Planning Authority to the satisfaction of NIEA. The approved plan shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority. The Plan shall include the following:

- a) Specifications of lighting to be used across the site, including model of luminaires, location and height
- b) All measures to mitigate for the impacts of artificial lighting on bats and other wildlife, e.g. timing of lighting, use of low level lighting, screens, hoods, cowls etc.
- c) A horizontal illuminance contour plan (isolux drawing) showing predicted light spillage across the site
- d) Predicted illuminance on retained trees/hedgerows to be less than 1 lux.

Reason: To minimise the impact of the proposal on bats and other wildlife.

29. No development activity shall take place until a Landscaping and Planting Plan has been submitted to and agreed in writing by the Local Planning Authority to the satisfaction of NIEA. The approved plan shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority. The Plan shall include the following:

- a) The retention of mature trees and woodland on the site, as shown on Drawing 6855-L201 Landscape Proposals, date stamped 16 March 2021
- b) Details of the protection of retained trees and hedgerows by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations
- c) Planting Schedule to include appropriate numbers of native species of trees/shrub
- d) Details of the aftercare of all planting on the site

Reason: to compensate for the removal of trees/shrubs/hedgerows/to minimise the impact of the proposal on the biodiversity of the site.

30. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Local Planning Authority to the satisfaction of the Historic Environment Division, Department for Communities. The POW shall provide for:

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

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

31. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 30.

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

32. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall

be undertaken in accordance with the programme of archaeological work approved under condition 30. These measures shall be implemented and a final archaeological report shall be submitted to Local Planning Authority within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Local Planning Authority to the satisfaction of the Historic Environment Division.

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

33. The Community Hub hereby approved as indicated on Drawing No. shall only be used for purposes under Class D1: Community and Cultural Uses by residents of the development hereby approved and for no other purpose.

Reason: To control the land use.

34. Trees shaded in on drawing no are protected by a Tree Preservation Order and shall be retained. No retained tree shall be cut down, uprooted or destroyed, have its roots damaged nor shall arboricultural work or tree surgery take place on any protected tree without the written approval of the Local Planning Authority.

Reason: To secure long-term protection of trees.

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

Reason: In the interest of visual and residential amenity.

36. 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 Local Planning Authority gives its written consent to any variation.

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

37. The open space and amenity areas as indicated on the drawing No date stamp received (Soft Landscape Proposals) shall be managed and maintained in accordance with the detailed Landscape Management and Maintenance Plan date stamped and shall be implemented prior to

the first occupation of any dwelling hereby approved. This shall be implemented as approved.

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

38. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Local Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

39. Prior to occupation of any of the dwellings hereby approved the noise mitigation measures shall be implemented in accordance with the Noise Impact Assessment from Lester Acoustics date stamped 25th February 2022, this shall include:

- the 3m masonry wall shall be retained along the southern boundary (as per 4.1.10 and Figure H of the above-named report and Drawing No ...).
- where there is no masonry wall along the southern boundary, a 1.8m high acoustic barrier fence with surface weight of 10Kg/m² or greater should be installed. It should be a solid fence with no holes or gaps for sound to pass through or under (as per 4.1.10, 4.1.11 and Figure H of the above-named report and Drawing No).
- Acoustic double-glazing with Whole Dwelling Ventilation along the southern and northern boundary (as per section 4.1.13 and outlined in blue on Figure H and as outlined in yellow on Figure H of the above-named report). To ensure the acoustic consultant's recommendation of 28db Tra (or Rw + Ctr) or greater along the southern boundary and 25db Tra (or Rw + Ctr) or greater along the northern boundary.
- An acoustic barrier with top at 15.8m AOD and with surface weight of 10Kg/m² or greater shall be installed along the northern boundary (as per 4.3.4 and Figure H of the above named report).

A verification report and details of the acoustic barriers shall be submitted in writing to and agreed in writing by the Local Planning Authority to the satisfaction of Newry, Mourne and Down District Councils, Environmental Health Department. The acoustic barrier shall be retained thereafter.

Reason: In the interest of residential amenity.

40. Prior to the commencement of any part of the development hereby approved, all residential units within the development hereby permitted shall be provided as social rented accommodation and shall only be managed and maintained by a housing association which is registered and regulated by the Department of Social Development (DSD) as a social housing provider. The details of which shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To meet an identified social rented housing need in this area.

41. Prior to the commencement of any part of the development hereby approved, no demolition works are permitted until a contract has been signed for the approved redevelopment of the site and requiring, where appropriate the recording of buildings prior to demolition. The details of which shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of the Historic Environment Division. The redevelopment of the site shall be implemented as agreed.

Reason: To ensure the orderly development of the site.

Case Officer

Authorised Officer

Committee Meeting: Wednesday 8th March 2023, Item No's 9, 10 & 11.

References: LA07/2021/0589/F, LA07/2021/0592/DCA, LA07/2021/0550/LBC

Address: Lands at former St Clare's Primary School and Convent, High Street, Newry.

Proposal: Proposed restoration of listed chapel building (grade b2) to provide a community hub; part demolition and conversion of the existing St Clare's Convent Building to deliver 13 no. apartments comprising a mix of 7 no. 1-bed apartments & 6 no. 2-bed apartments; demolition of existing buildings associated with the former primary school and redevelopment of the site to provide a further 75 no. dwellings comprising a mix of 18 no. semi-detached dwellings, 17 no. townhouses, 16 no. own door apartments (mix of 1-bed and 2-bed), 6 no. bungalows, and 18 no. 2-bed apartments; including provision of road improvements at the junction of high street and abbey way; car parking; cycle stands; landscaping; open space; and all other associated works.

Dear Members,

I write to you on behalf of Clonrose Developments Ltd to set out the applicant's statement of support, welcoming the officer's recommendation to approve the high-quality social housing-led scheme referenced above for Newry.

The applicant has positively engaged with the Council and other statutory bodies throughout the planning process, since submission of the Pre-Application Discussion submission back in February 2020, and the subsequent planning applications referenced above which were submitted to Council on 11th March 2021.

The applicant and design team have undertaken a great deal of work in order to deliver such a high-quality scheme, which not only provides a social housing-led scheme for the people of Newry, but it also brings back into use the St Clare's Convent building with a community centred approach and secures the future of this Listed Building for many years to come. The applicant has gone to great lengths to protect and preserve a number of the mature trees and features within the site which many generations in Newry will recall, such as the Lime Tree which sat within the former grounds of the primary school and the use of reclaimed stonework and materials to create features across the site. This high-quality landscape specification demonstrates the care and dedication that has been placed on this site by the applicant, including the avenue planting forming the entranceway into the site and the community allotments which will reside to the rear of the graveyard.

As you will be aware, all statutory consultees including HED, DFI Roads, NI Water, are signed off with no objection subject to planning conditions.

The Housing Executive are fully supportive of the proposed housing mix, and the need for this scheme to help address the unmet need within the city, and the applicant will deliver this exemplar scheme in conjunction with Choice Housing Association.

The proposal will facilitate the regeneration of this under-utilised brownfield, edge of city centre site, which is located within a prominent juncture of Abbey Way leading onto High Street. The scheme represents a significant investment into the city of Newry of circa £18.5 million by Clonrose Developments. During the construction phase it is expected that in excess of 150 no. construction jobs and apprenticeships will be supported, with the economic impact set to positively benefit suppliers and subcontractors in the area.

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. The scheme has Housing Executive funding approval, a development Agreement between Clonrose and Choice has been entered into, the construction has been tendered and a construction contract ready to be awarded. If approved by members this evening the applicant is committed to commencing works on site within the month of April, thereby ensuring the delivery of this much needed social housing-led scheme for Newry.

Tom Stokes *MRTPI MIOD*

Director

TSA Planning



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

- 1.0 Application Reference:** LA07/2021/0550/LBC
- 2.0 Date Received:** 16.03.21
- 3.0 Proposal:** Restoration/refurbishment works to listed chapel building (grade B2) to facilitate conversion to a community hub facility with all associated works
- 4.0 Location:** Chapel building at the former convent of Poor Clare's High Street Newry
- 5.0 Site Characteristics & Area Characteristics:**

The site comprises the N portion of a much larger 2.58 hectares of land (6.4 acres) of the former St Clare's Primary School which is located on the corner of High Street and Abbey Way, including the former Convent of Poor Clare's which fronts onto High Streets with associated lands extending E (the site area excludes the existing graveyard/ burial grounds that were associated with the Convent).

The topography varies across the site with the primary elevations sitting slightly above the adjacent road levels with lands to the N and E of the site sitting at a lower level. The N boundary of the site falls to the rear of the existing Three Ways Community Centre (High Street). The site also has a variety of mature trees located throughout the site some of which are afforded protection under a Tree Preservation Order.

Adjacent lands to the E beyond the site boundary rise with planted banking whilst land to the S comprises of former Abbey Primary playing fields (land subject to development of proposed new CCTC building LA07/2016/1074/RM). Whilst adjoining properties to the S/ SW of the site front onto Abbey Way comprising of a mix of residential/ commercial purposed in a three-storey terraced arrangement.

The site is located within the settlement limits of Newry City part of land is zoned for education (NY73), Area of Archaeological Potential, Conservation

Area, Local Landscape Policy Area (NY128) and is immediately located within the confines of a listed building and curtilage.

6.0 Relevant Site History:

See planning history outlined in associated file LA07/2021/0589/F.

7.0 Planning Policies & Material Considerations:

- Banbridge/ Newry and Mourne Area 2015 (BNMAP)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- PPS6 – Planning, Archaeology and the Built Heritage

8.0 Consultations:

- HED (25.08.22) - Content subject to conditions

9.0 Objections & Representations:

As required under Article 8 (1) (b) of the Planning (General Development Procedure) Order (Northern Ireland) 2015, the application details were advertised in the local press in April 2021. There is no statutory requirement to issue neighbour notification letters for Conservation Area Consent.

10.0 Consideration and Assessment:

The proposal seeks undertake restoration/ refurbishment to the listed chapel building to facilitate a conversion to a community hub

Proposals are being considered in tandem with application LA07/2021/0589/F and LA07/2021/0592/DCA.

The site is located within Newry Conservation Area as defined in the Banbridge, Newry and Mourne Area Plan 2015. There are no objections to the proposal with regard to the Area Plan/ SPPS. Prevailing weight is attached to PPS6 in this assessment.

As there is no significant change to the policy requirements for development of this nature following the publication of the SPPS, it is somewhat less prescriptive. That the retained policies of PPS6 will be given substantial weight in determining the application in accordance with paragraph 1.12 of the SPPS.

11.0 SPPS (para 6.12 6.13 & 6.15) and PPS6 (BH7,8, 10 and 11) – Planning, Archaeology and the Built Heritage

HED in comments dated 25.08.22 have considered the impact of the listed building and advise that subject to conditions the proposal satisfies policy requirements of the SPPS and PPS6 as noted above.

12.0 Consideration and Assessment Summary:

Having had regard to the development plan and all other material considerations (including SPPS and PPS6) the proposed scheme meets the requirements of planning policy and is therefore recommended for approval subject to the necessary planning conditions outlined below.

13.0 Recommendation: Approval

14.0 Draft 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:

-

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

3. Prior to the commencement of works of the development hereby approved. Details of the accredited conservation professional that shall oversee and certify the approved works to the listed building shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of Historic Environment Division.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

4. Prior to the commencement of the development hereby approved a Fire Safety Strategy and Method Statement for the duration of the works shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of Historic Environment Division.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

5. Repair works to the listed chapel and associated curtilage structures shall be completed prior to the occupation of any of dwellings or apartments of the development hereby approved.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

6. All demolition work within 1 metre of the listed building shall only be carried out by hand or by tools other than power driven tools.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

7. Prior to the commencement of any structural alterations, a method statement shall demonstrate how the proposed structural works (including foundations and any piling) will be undertaken and shall fully detail how the listed building will be protected during construction (including foundations and any piling) and demolition work. The method statement shall be submitted to the Local Planning Authority and agreed in writing to the satisfaction of the Historic Environment Division.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

8. Prior to the commencement of development hereby approved, a statement shall be submitted to the Local Planning Authority detailing precautions taken to secure and protect the following features of interest during building work:-

- a. existing stained glass and lattice leaded lights in windows and doors.
- b. timber choir stalls;
- c. Gallery;
- d. Chapel ceiling; and
- e. Religious plaques and statues.

These measures shall be agreed in writing by the Local Planning Authority to the satisfaction of the Historic Environment Agency and shall be implemented as agreed.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 80 of The Planning Act (NI) 2011.

9. Prior to the commencement of works hereby approved the details of the extent of removal and remedial works shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of Historic Environment Division.

Reason: In the interests of ensuring that no damage is caused to the part of the building which is to be retained.

10. All new external, internal works, finishes and works of making good to the retained fabric of the Listed Buildings shall match the existing original work in use of method, detailed execution and finished appearance unless otherwise agreed in writing. Any change proposed shall be detailed in a finishes

schedule and samples submitted to the Local Planning Authority to be agreed in writing to the satisfaction of the Historic Environment Division.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

11. No new plumbing, pipes, soil stacks, flues, vents, ductwork, lighting, security cameras, mechanical and electrical services of any description shall be fixed on the external façade of the building other than those shown on the drawings hereby approved.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

12. A prototype of each different individual window type (sliding sash, side hung casement, metal and timber) for the listed chapel, remaining terrace and two-storey return shall be provided on site prior to installation and shall not be fitted with visible trickle vents. This shall be agreed in writing by the Local Planning Authority to the satisfaction of the Historic Environment Division.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

13. Insulated glazing units to new windows in existing buildings shall be no greater than 12mm overall thickness, with warm edge spacer bar in a colour to match window frames and the unit shall only be fixed in place with putty. This shall be implemented as approved.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

14. The final coat of paint to all external joinery shall only be applied by brush on site.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

15. Prior to commencement of the development hereby approved details of external finishes, materials and samples proposed on the buildings to include:

- a. Natural slate for new roof;
- b. Rainwater goods;
- c. Fascia trim and flashings to flat roof;
- d. Render;
- e. New doors;
- f. Canopies; and
- g. Window cills.

Shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of HED.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

16. Prior to commencement of the development hereby approved samples of materials for steps, ramps, paving and retaining walls shall be submitted to and agreed in writing by the Local Planning Authority to the satisfaction of the Historic Environment Division.

Reason: To ensure that the materials used are of appropriate quality in the interests of maintaining the character and appearance of the listed buildings and their setting.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

Newry, Mourne
and Down
District Council

1.0 Application Reference: LA07/2021/0592/DCA

2.0 Date Received: 16.03.21

3.0 Proposal: Demolition of existing buildings associated with the former St Clare's Primary School and convent of Poor Clare's to facilitate redevelopment of site for 88 no. dwellings (social/affordable), Community Hub and all other associated works.

4.0 Location: Lands at former St Clare's Primary School and convent High Street Newry

5.0 SITE CHARACTERISTICS & AREA CHARACTERISTICS:

The site comprises 2.58 hectares of land (6.4 acres) of the former St Clare's Primary School which is located on the corner of High Street and Abbey Way, including the former Convent of Poor Clare's which fronts onto High Streets with associated lands extending E (the site area excludes the existing graveyard/ burial grounds that were associated with the Convent).

The topography varies across the site with the primary elevations sitting slightly above the adjacent road levels with lands to the N and E of the site sitting at a lower level. The N boundary of the site falls to the rear of the existing Three Ways Community Centre (High Street). The site also has a variety of mature trees located throughout the site some of which are afforded protection under a Tree Preservation Order.

Adjacent lands to the E beyond the site boundary rise with planted banking whilst land to the S comprises of former Abbey Primary playing fields (land subject to development of proposed new CCTC building

LA07/2016/1074/RM). Whilst adjoining properties to the S/ SW of the site front onto Abbey Way comprising of a mix of residential/ commercial purposed in a three-storey terraced arrangement.

The site is located within the settlement limits of Newry City part of land is zoned for education (NY73), Area of Archaeological Potential, Conservation Area, Local Landscape Policy Area (NY128) and is immediately located within the confines of a listed building and curtilage.

6.0. SITE HISTORY:

See planning history outlined in associated file LA07/2021/0589/F.

7.0. PLANNING POLICY CONSIDERATIONS

The planning policy context for this application is provided by:

- The Planning Act (Northern Ireland) 2011
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge, Newry & Mourne Area Plan 2015
- PPS 6: Planning, Archaeology and the Built Heritage
- Newry Conservation Booklet

8.0 STATUTORY CONSULTATIONS.

HED Historic Buildings (15.09.22) - Advises that subject to conditions, the proposal satisfies the policy requirements of SPPS para 6.12 & 6.15 and PPS6 policies BH10 & BH11.

9.0 OBJECTIONS & REPRESENTATIONS

As required under Article 8 (1) (b) of the Planning (General Development Procedure) Order (Northern Ireland) 2015, the application details were advertised in the local press in April 2021. There is no statutory requirement to issue neighbour notification letters for Conservation Area Consent.

10.0. PLANNING ASSESSMENT & CONSIDERATION

The proposal seeks to demolish buildings within the site which may be deemed as newer additions to the original host buildings i.e. convent and church, the buildings to be removed are not of architectural merit to warrant retention.

Proposals are being considered in tandem with application LA07/2021/0589/F and LA07/2021/0550/LBC.

The site is located within Newry Conservation Area as defined in the Banbridge, Newry and Mourne Area Plan 2015. There are no objections to the proposal with regard to the Area Plan/ SPPS. Prevailing weight is attached to PPS6 in this assessment.



Site Layout of Buildings to be Demolished.

11.0 PPS6 policy BH14 - Demolition in a Conservation Area

The Department will normally only permit the demolition of an unlisted building in a conservation area where the building makes no material contribution to the character or appearance of the area. Where conservation area consent for demolition is granted, this will normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building before its demolition.

As directed by Para 7.17 of the justification and amplification text to BH14, in assessing proposals the decision maker will have regard to the same broad criteria outlined for the demolition of listed buildings, considered below: (PPS6 para 6.5 and PPS6 policy BH 11 and BH10)

- a) *the importance of the building, its intrinsic architectural and historic interest and rarity, in the context of Northern Ireland and in local terms.*

The existing buildings proposed for demolition have not been identified nor given listed status due to historical importance, architectural features or rarity. The buildings to be replaced are deemed as newer additions to the original convent and church buildings and in their own right make no material contribution to the character and appearance of the Conservation Area or have valued importance in terms of architectural, historical or rarity within the overall locality.

In fact, the removal of such buildings will indeed enhance and openly expose the adjacent listed buildings which are of far more importance in terms of architectural and historical interest.

The loss of these now vacant and derelict buildings, which lack features and detailing of what is expected within a Conservation Area along with part demolition works to the SW elevation of the convent will not only help to improve views of the former chapel but will overall enhance the visual setting and bring betterment to the existing conservation area in terms of regeneration, improvement of the visual setting and bringing conservation detailing and finishes into this area where it had previously lacked.

- b) the particular physical features of the building (which may include its design, plan, materials or location) which justify its inclusion in the list: list descriptions may draw attention to features of particular interest or value, but they are not exhaustive and other features of importance (e.g. interiors) may come to light after the building's inclusion in the list.*

The existing buildings in its current form do not conform with Newry Conservation Area design guidance in terms of form, detailing, external features and have no features of specific interest or value to the Conservation Area. The proposed works including the use of conservation materials and detailing will significantly improve the appearance of the Conservation Area without adverse impact.

- c) the building's setting and its contribution to the local scene, which may be very important, e.g., where it forms an element in a group, park, garden or other townscape or landscape, or where it shares particular architectural forms or details with other buildings nearby; and*

The existing buildings offers little aesthetic value to the street frontage along High Street and Abbey Way. The form and arrangement of the existing buildings to a degree hide the original listed structures and in their own right have no intrinsic architectural quality to warrant retention and their current vacated and derelict state has continued to erode the visual aspect. The removal of these buildings along with some minor demolition works proposed along the SW elevation of the convent will enhance views of the original church and protected trees within the site. The proposed development has been sensitively designed taking account neighbouring listed structures and use of Conservation materials deployed on key facades. Overall development proposals presented will make a beneficial visual contribution to the Conservation Area and will not detract from it.

- d) the extent to which the proposed works would bring substantial benefits for the community, in particular by contributing to the economic regeneration of the area or the enhancement of its environment (including other listed buildings).*

The site has had the benefit of planning permission for a replacement school and a new CCTC however neither of these have come to fruition as alternative sites/ development opportunities have been sourced elsewhere. The entire application site has lain derelict since the convent and primary school was vacated several years ago and since this time the site has

become overgrown, abandoned and has been subjected to vandalism and damage to properties within the site.

The proposed scheme offers a regeneration opportunity to preserve and enhance the existing original listed buildings through the retention and conversion of former convent buildings to apartments providing accommodation for a social housing scheme which will have a wider benefit to the local community. External works will be undertaken to the SW elevation of the convent to lower the roof height and to expose the original church building enhancing views and improving the setting, with the former convent church retained and renovated to be utilised as a community hub for residents within the scheme.

In terms of the Conservation Area the buildings currently within this portion are not of any significant architectural or historic merit to warrant retention. The demolition of such will bring substantial benefit in not only providing much needed social housing to meet current housing needs within Newry City but will instantly regenerate and improve the aesthetics of the current derelict sit. It will also bring development which is of an appropriate scale with design and finishes taking account and incorporating Conservation materials and detailing whilst respecting the adjacent listed structures.

Overall, the scheme adheres to the policy guidance and will create visual betterment, enhance the streetscape and the character of Newry Conservation Area.

In summary, for reasons outlined above, the proposed works is acceptable to SPPS and PPS6 (BH14) requirements.

12.0 PPS 6 Policy - BH10 Demolition of a Listed Building

Following consideration of BH14 the policy directs that the same broad criteria must also be given if it were a demolition of a listed building with BH 11 and BH10 given equal consideration.

For the reasons set out above in BH14 the Planning Department consider the redevelopment scheme proposed is acceptable. The existing building make no valid contribution to the Conservation Area, the redevelopment proposals submitted is acceptable and the benefits it will have in rejuvenating this landscape to the betterment of the Conservation Area outweighs any argument in which to retain these buildings. Conditions have been applied to the full application to ensure that prior agreement for redevelopment of the site has been obtained and appropriate arrangements made for the recording the buildings, prior to any demolition works.

Proposals meet the requirements of BH 10 of PPS6 for the reasons stated above.

13.0 PPS6 policy BH11 – Development Affecting the Setting of a Listed Building

HED has considered the impact of the proposal on the listed building within the vicinity in line with PPS6 Policy BH11 requirements and is content the works proposed will have negligible impact upon the character of the setting of the listed building. Arguably, the works proposed would provide an enhancement to the overall setting of the Listed Building and wider Conservation Area.

The corresponding proposal is considered in full under application reference LA07/2021/0589/F and LA07/2021/0550/LBC. Following grant of planning permission of LA07/2021/0589/F and subject to conditions being met on that decision, an agreeable design solution has been achieved for the site which will enhance the character of the streetscape and Conservation Area.

In summary the proposed works are considered acceptable to SPSS and PPS6 (BH11) requirements.

14.0. RECOMMENDATION:

Consent granted (conditional to approval of LA07/2021/0589/F).

15.0 DRAFT PLANNING 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 105 of the Planning Act (Northern Ireland) 2011.



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.





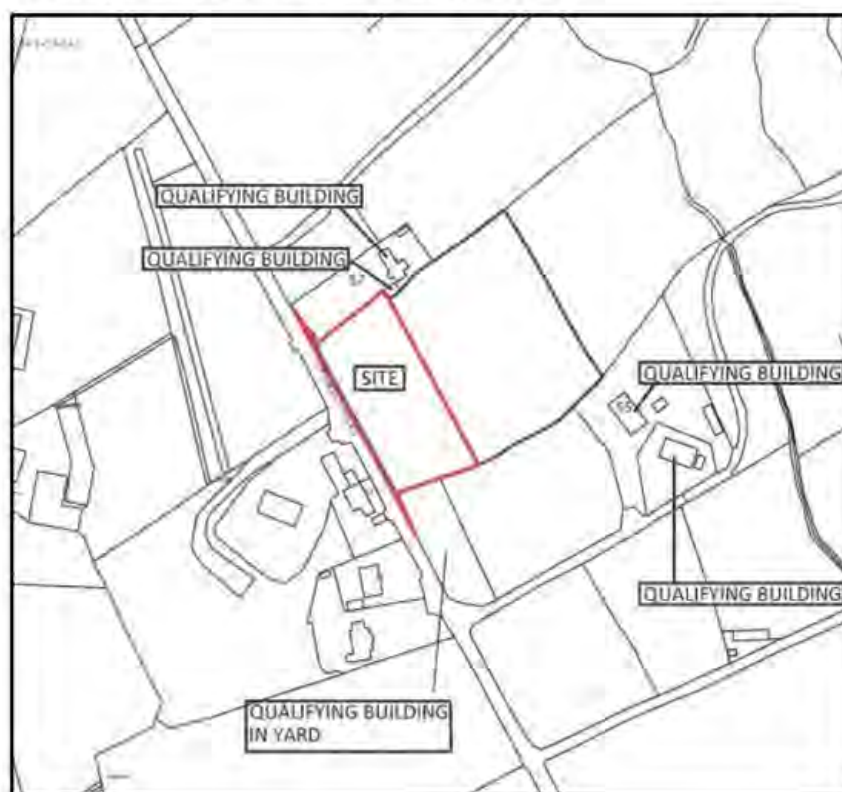
It is not considered that the garden shed shown above constitutes a building which can be considered to contribute to an otherwise substantial and continuously built-up frontage. It is a temporary structure and not of permanent construction. The commercial yard is not considered to have any buildings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



LA07/2022/0299 – Drumalt Road, Dorsey for MR E Mc Creesh

Photo 1

The Council have determined that the site doesn't lie within a substantial and continuously built-up frontage as the shed in the commercial yard does not constitute a qualifying building.

Photo 2

In recent PAC Approvals, 2021/A0124 & 2021/A0123, in Scarva, they accepted that a small wooden stable to one side of a site could be relied upon. The Commissioner stated that *"I don't accept that the building is temporary as it has clearly been in place for some time. In any case Policy CTY8, as worded, explicitly refers to buildings and does not differentiate between the nature, form and materials of the buildings or the length of time the building has been in place"*.

Photo 3

Also in another PAC application 2021/A0144, in Comber, the PAC Commissioner states *'The Council considered that the garden house at No. 12 should be discounted due to its size and ancillary nature. Notwithstanding its modest size and irrespective of its function relative to the host dwelling, it remains a building in its own right and cannot be discounted from my assessment of the gaps between buildings along the frontage.'*

Surely this is the confirmation the Council requires, that CTY 8 does not differentiate between buildings, and that the shed in the commercial yard is qualifying.

The second refusal to be considered is that the Officer states that the proposal doesn't respect the existing pattern of development in terms of plot size.

Photo 4

The buildings (ie garage and house to the north of the site at 57) to building (shed in commercial yard) gap is 92 metres. The proposed site has a frontage of around 79 metres. There are three qualifying buildings within two plots.

The two adjacent plots measure 63 metres (commercial yard) and 25 metres wide (no. 57), approximately. The average of these two is 44 metres wide.

Guidance from 'Building on Tradition' booklet indicates that if a gap is more than twice the average plot size then it will unlikely be suitable for infilling. Twice the average plot width is a frontage of 88 metres, we have 79 metres which is under the double.

The resultant plots would measure: 25 metres; 2 no. plots at approx. 40 metres and 1 no. plot at 63 metres thus 2 dwellings in this gap would appear to be in keeping with the development pattern thus complying with CTY 8

We are of the opinion that this meets the criteria of CTY 8 for infilling of a small gap site sufficient only to accommodate a maximum of 2 houses.

Family Land

It's 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 been brought up in since birth.

This is the only method open to the Applicant for his family to live close.

Hopefully the Planning Committee will support local communities and approve this application.





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

Application Reference: LA07/2022/0692/F

Date Received: 15/04/2022

Proposal: Proposed replacement dwelling and garage

Location: 24 Carrivekeeney Road, Newry, Co. Down

Site Characteristics & Area Characteristics:

This application site comprises a roadside vacant dwelling and adjoining agricultural lands. The roadside boundary is well defined by mature trees and hedgerows, the levels of the agricultural land adjoining the dwelling rise steeply from the roadside towards the rear of the site. The site is located outside any defined settlement limits and within an Area of Outstanding Natural Beauty.

Planning Policies & Material Considerations:

This application will be assessed under the following planning policies:

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

Site History:

- LA07/2019/0242/O- Replacement dwelling with garage at 24 Carrivekeeney Road, Newry. Outline planning permission granted 25th October 2019. This approval was subject to a siting and curtilage condition (shown below) and a ridge height restriction of 5.5m above finished floor level.



Consultations:

- NI Water- Recommend approval with standard conditions.
- DFI Roads- No objections in principle, conditions provided.

Objections & Representations

Two letters of neighbour notification were hand delivered to the dwelling adjoining the site to the east and the dwelling to the north east on 29/06/2022. The application was advertised within two local newspapers with statutory expiry on 25/05/2022. No objections or submissions have been received.

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.

PPS21- 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. It states that planning permission will be granted for a replacement dwelling in accordance with Policy CTY3. The principle of a replacement dwelling has been established under LA07/2019/0242/O however the applicant did not wish to comply with conditions imposed

at outline stage and a full planning application was then submitted.

Original plans submitted sought to increase the curtilage to extend to the rear field boundary whilst reducing the width of the site, thus failing to comply with the siting and curtilage restriction deemed necessary under LA07/2019/0242/O with a ridge height of 6.5m proposed (1m above ridge height restriction).

The Planning Department requested that the site location and layout plan were amended ensuring the siting and curtilage were as condition 5 and 6 of LA07/2019/0242/O and that the red line is around the proposed curtilage only. The applicant was advised that the Planning Department generally welcome the design of the front elevation but would request that the rear return is subservient to the main elevation as the footprint is considered excessive and there are concerns given rising lands to the rear. It was also requested that chimneys were removed from gables and a cross section was provided from Carrivekeeney Road through to the rear of the site.

The applicant has reduced the extent of the curtilage to the rear and advised at the time of the transfer of land, the owner sought to retain access to the rear of his land so maintained a section to the north west which is one of the reasons for the amended curtilage. However, it was noted the entirety of the adjoining field are located within the blue line on Location Plan BNM 03 Rev A. and that the Planning Department consider the shading condition imposed the most appropriate location and curtilage for a dwelling on the site. The Planning Department also advised that the site layout plans shows re-grading and embankments outside the red line of the application site and that these proposals cannot be considered as part of this application.

The application will be considered against amended plans received: BNM 01 Rev A, BNM 02 Rev 3, BNM 03 Rev A, BNM 10 and BNM 11.

In order to comply with Policy CTY3, applications must meet the following criteria:

- *Dwelling to be replaced must exhibit the essential characteristics of a dwelling (as a minimum all external structural walls substantially intact)*
The building is accepted as a dwelling to be replaced.
- *Proposed dwelling must be sited within the established curtilage of the existing building (Curtilage is defined as the immediate, usually defined and enclosed area surrounding an existing or former dwelling house).*
The existing dwelling is sited at the roadside with no defined curtilage. The proposed dwelling is to be set back from the dwelling to be replaced which is considered acceptable in principle given the location of the dwelling to be replaced.
- *The overall size of the new dwelling must integrate into the surrounding landscape and have no significantly greater visual impact than the existing buildings.*
- *The design of the replacement dwelling should be of a high quality appropriate to its rural setting.*

The existing dwelling is a small single storey dwelling. The dwelling proposed extends to 6.5m in height with the front elevation of fairly traditional design with a frontage of 17.6m. The side elevation appears extensive extending to 21m from the porch to the rear building line with multiple ridge and eaves heights resulting in a complex roof and house shape. The proposed dwelling will involve significant cutting into the rear lands in order to accommodate a dwelling of this size and design and it is considered the proposal would have a significantly greater visual impact than the existing building and that the design is not appropriate for the rural setting.

- *All necessary services must be available or can be provided without significant adverse impact on the environment or character of the locality.*
Necessary services can be provided without causing significant adverse impacts.
- *Access to the public road must not prejudice road safety or significantly inconvenience the flow of traffic.*
DFI Roads are content with the proposed access arrangement.

The proposal is considered to be contrary to Policy CTY3.

Policy CTY13

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. The Planning Department previously imposed a siting and curtilage restriction to the lower part of the site which was considered necessary given the levels on the site. Drawing BNM 10 highlights the significant level of cutting required in order to accommodate the proposed dwelling on the site, the level of cut extends to c.4m in parts.



The excessive level of cutting required has resulted in the need for section of gabion cage retaining structures ranging from 0.9m- 2m in height. The site layout plan also indicates a steep embankment across the entire agricultural field and labels existing field re-graded to suit adjacent ground levels. Half of these proposed regrading and embankment works fall outside the red line of the application site and although the Planning Department alerted the applicant of this, plans were not amended. As previously stated, the site benefits from mature screening with existing views into the site limited. The proposed works to allow for new access and regrading works will significantly open views into the site, particularly from the east, and the new dwelling will appear as prominent in the landscape. Section 5.64 notes that a new building that relies on significant earth works, such as mounding or cut and fill for integration will be unacceptable. It has been outlined above that the design of the dwelling is considered inappropriate for the site and its locality. The proposal is considered to be contrary to criterion a, d, e and f of Policy CTY13,

Policy CTY14

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As previously outlined, it is considered the proposed dwelling would be unduly prominent in the landscape. It is contended that the ancillary works provided, regrading of land involving cut and the introduction of retaining structures, would damage the rural character on approach from the east. The proposal is considered to be contrary to criterion a and e of Policy CTY14.

PPS2- Natural Heritage

As outlined above, the application site is located within an Area of Outstanding Natural Beauty. Policy NH 6 relates to 'Areas of Outstanding Natural Beauty' and states that planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and where three stated circumstances are met. For the reasons outlined above, the siting and design of the proposal and ancillary works would be detrimental to the rural character of this particular locality and it would therefore be unsympathetic to the AONB.

Planning Policy Statement 3- Access, Movement and Parking

DFI Roads are content with the proposed access arrangement subject to conditions, it is considered to comply with the requirements of PPS3.

Recommendation: Refusal

Reasons of Refusal:

1. The proposal is contrary to Para 6.73 of Strategic Planning Policy Statement for Northern Ireland and Policies CTY 1 and 3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - the overall size of the new dwelling does not allow it to integrate into the surrounding landscape and it would have a visual impact significantly greater than the existing building

- the design of the replacement dwelling is not of high quality appropriate to its rural setting.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and criterion a, d, e and f of Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted:
 - appear as a prominent feature in the landscape
 - ancillary works would not integrate into their surroundings
 - the design of the building would be inappropriate for the site
 - fail to blend with the landform which provides a backdrop.
 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 building would, if permitted:
 - appear as unduly prominent in the landscape
 - the impact of ancillary works would damage rural character.
 4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and PPS 2 Policy NH 6 in that the siting, design and ancillary works associated with the proposal are not sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.
 5. This refusal notice relates to the following plans: BNM 01 Rev A, BNM 02 Rev 3, BNM 03 Rev A, BNM 10 and BNM 11.

Case Officer Signature: E. Eastwood

Date: 05/01/2023

Appointed Officer Signature: G. Murtagh

Date: 05/01/2023

Re: Planning Reference: LA07/2022/0692/F

Proposal: Replacement dwelling and garage at 24 Carrivekeeney Road, Newry, Co. Down.

The proposal is contrary to Para 6.73 of Strategic Planning Policy Statement for Northern Ireland and Policies CTY 1 and 3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- 1.- the overall size of the new dwelling does not allow it to integrate into the surrounding landscape and it would have a visual impact significantly greater than the existing building
- the design of the replacement dwelling is not of high quality appropriate to its rural setting.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and criterion a, d, e and f of Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted:
 - appear as a prominent feature in the landscape
 - ancillary works would not integrate into their surroundings
 - the design of the building would be inappropriate for the site
 - fail to blend with the landform which provides a backdrop.
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 building would, if permitted:
 - appear as unduly prominent in the landscape
 - the impact of ancillary works would damage rural character.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and PPS 2 Policy NH 6 in that the siting, design and ancillary works associated with the proposal are not sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Refusal 1. This application was refused under CTY3. However the building integrates well within the site, as there is existing vegetation on both sides of the development that will be retained and enhanced. Photograph from VIEW A shows the existing boundary travelling from Newry. The side view section below shows how much of the proposed dwelling will be seen.

The proposed new building, although larger in footprint, will be set back from the road, with planting to the front creating screening. When comparing the presence of existing and proposed, we believe the proposed has the opportunity to integrate, whereas the existing will never integrate, as it is right on the road edge. The department in their own words have accepted the setting of the proposed house back from the road. In accepting this, they have accepted the need for some ground works to accommodate the setting back. Regardless of the size of the proposed dwelling, access to the side and rear of the dwelling will also require some site works similar to that already proposed.

The fact that the proposed dwelling will be cutting into the existing site actually assists with integration and keeps ridge heights low with the majority of the building below the existing recently planted hedge, again, please refer to side view section below. This hedge will only grow denser and higher and will provide even more screening over the coming years.

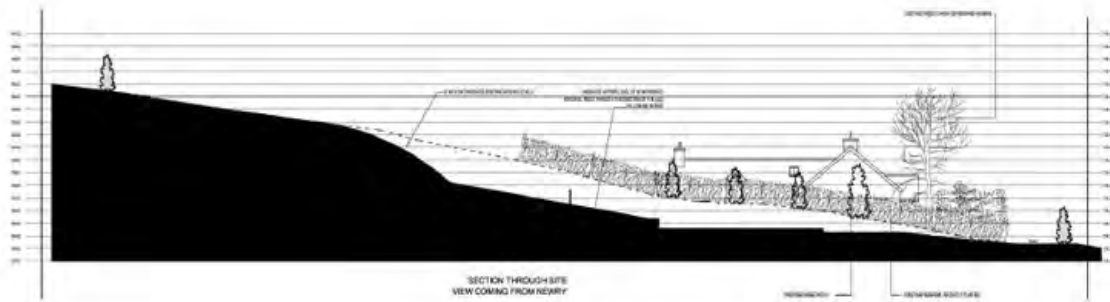
The client also proposes to augment the existing hedge row with his own evergreen boundary planting.



VIEW A



CLOSE UP OF VIEW A BOUNDARY . VIEW B



SIDEVIEW SECTION, COMING FROM NEWRY.

Travelling in the opposite direction from Camlough, photograph VIEW C shows that the view towards the dwelling will be virtually fully screened. The block plan view of the house below shows that there will only be a 13.35m stretch of road where you will be able to see the side of the house. After this section of road all you will be able to see is the front elevation.



Block Plan View of the house

Approval reference number LA07/2019/1849/F



VIEW C.

The site is virtually screened when travelling in this direction.

The overall size of the dwelling in replacement categories seems to creep into decisions now and again and can only be described as subjective. The only way we can determine whether or not this proposal goes against policy CTY3 is to visit precedents of applications for replacement dwellings considered by the Department, for example the department have approved a replacement dwelling that was a mere 45.0m sq. house with a 328 sq m house. The approved dwelling has a floor area nearly 8 times larger than the house to be replaced. Reference number of this application is LA07/2019/0996/F.

Another example and probably the one which we should focus on, is an application approx. 1.0 mile from our site. This was a replacement at the foot of Camlough Mountain with next to no screening. Reference LA07/2019/1849



Photograph D. Precedent: Existing house to be retained as part of replacement application.

This approved house has sections that are 2 storey at the front, which is approx. twice the ridge height of the replacement dwelling. The attached Plans & Elevations shows the height difference of the proposed and the existing. The existing dwelling in this instance was approved for retention as a store.

Based on the Planning departments report, they are happy that there are limited views of this proposal, which added weight in their decision to approve. This site has very little screening to the front or sides. The ground does rise to the rear and could act as a back drop if the vertical size of the house was smaller, however the proposed dwelling ridge will breach the mountain backdrop.

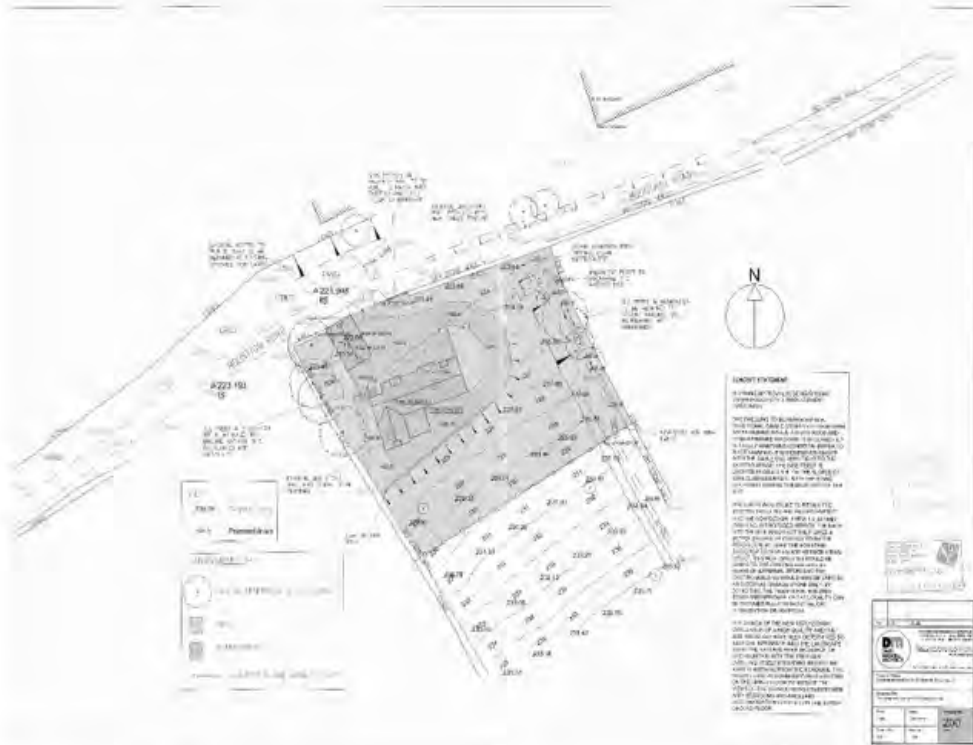
In this case site works are required to allow for the driveway to go to the rear of the house. This will involve the extensive removal of earth together with grading of ground works to the side and rear.

Our proposal is more integrated in that existing boundaries are dense to the front and sides.

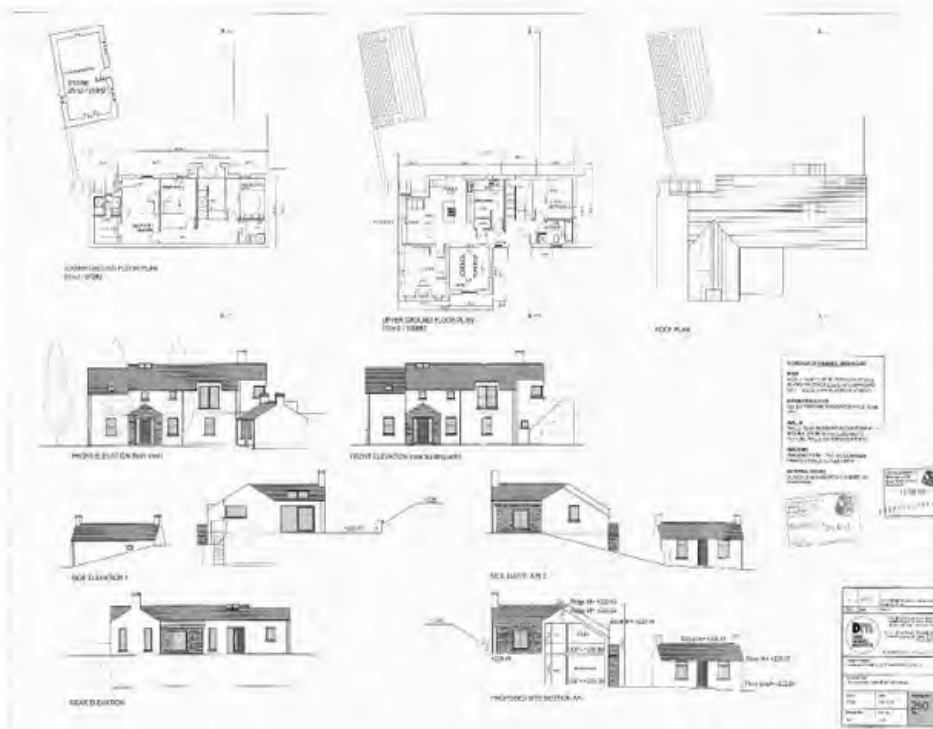
The dwelling has been designed to a simple vernacular style which is appropriate to the rural setting, and designed to be absorbed into the land form. Views of the site are limited, given the minor nature of the road the site is located on. The site also makes use of the rising bank and avails of the dense vegetation to the rear, which provides a form of backdrop to the site that will aid in the integration of the proposed development. However, with regards to CTY 13, and based on CTY 13 paragraph 5.58, The determination of whether a new building integrates into the landscape is not a test of invisibility; rather it requires an assessment of the extent to which the development of the proposed site, including necessary site works will blend in unobtrusively with its immediate and wider surroundings, which is the case in this situation. The applicant chose to build into the land form, as opposed to above it, therefore the landform will certainly still provide a backdrop to the development. The ground rises significantly due to its mountainous location and as such the land form itself will conceal the side elevations of the proposed dwelling. Although ground works will be required to join adjacent land levels, the proposed landscaping will be of a sympathetic aesthetic, incorporating low level retaining walls with tiered and climbing planting to soften the boundaries.

The department have approved the dwelling in principle. Regardless of where the building is positioned on the site, the same amount of access and visibility works will be required. With regards Cty14, the proposed dwelling will not appear unduly prominent due to the fact that the building will be partially submerged from any potential side view.

Refusal 4. PPS2 Policy NH6 . As the proposal lies within an AONB policy NH6 of PPS2 is applicable, the proposal will not have a detrimental impact on the AONB due to the limited views of the proposal and the concealment of much of the development due to the rising topography



Block plan. LA07/2019/1849



Plans & Elevations . LA07/2019/1849

I have attached an amended cross section through the site showing how we can further reduce the amount of cut that was proposed to the site. This is something that can be done and which we could have done if the Planning department had come back to us to advise that what was amended and sent back, was still not acceptable.

This section shows a considerable amount of reduced cut and may assist the department with their concerns on extensive site works.





Comhairle Ceantair
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**Newry, Mourne
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District Council

Application Reference: LA07/2021/1143/O

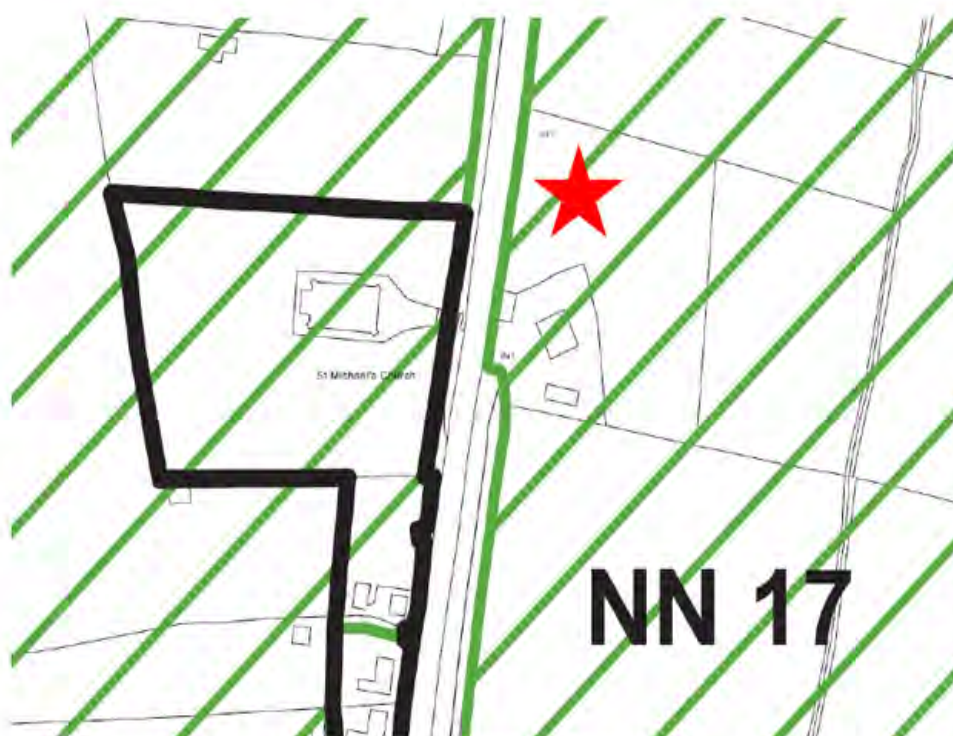
Date Received: 17/06/2021

Proposal: Site for dwelling and detached garage

Location: 40m north east of no. 6 Dundalk Road, Newtownhamilton

Site Characteristics & Area Characteristics:

The application site forms part of a larger agricultural field located to the north of No 6 Dundalk Road, Newtownhamilton. The application site sits at a lower level than the public road with access proposed through the existing access arrangement for No 6. The Grade B listed St Michael's RC Church is located to the west of the application site, within the settlement limit. The application site is located outside any defined settlement limits within Local Landscape Policy Area NN17, the settlement limit of Newtownhamilton is located to the west.



Application site noted with star

Planning Policies & Material Considerations:

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

- Strategic Planning Policy Statement (SPPS)
- Banbridge/ Newry and Mourne Area Plan (2015)
- Planning Policy Statement 3- Access, Movement and Parking
- Planning Policy Statement 6- Planning, Archaeology and the Built Heritage
- Planning Policy Statement 11- Planning and Waste Management
- Planning Policy Statement 15- Planning and Flood Risk
- Planning Policy Statement 21- Sustainable Development in the Countryside

Site History:

There is no relevant planning history on the application site.

Consultations:

- **NI Water-** No objections. Combined sewer traversing proposed site, NIW Odour Assessment completed with no objections raised.
- **DFI Roads-** No objections in principle, condition provided.
- **DAERA-** Confirmed farm business ID has been in existence for more than six years, that the Business id identified on P1C submitted claimed payments through the Basic Payment Scheme of Agri Environment Scheme in each of the last six years and that the application site is land for which payments are currently being claimed by the farm business.
- **Environmental Health-** No objections.
- **Historic Environment Division-**
 - HED (Historic Buildings) has considered the impacts of the proposal (LA07/2021/1143/O) on the listed building (HB16/18/001- ST. MICHAEL'S R C CHURCH, TULLYVALLEN, NEWTOWNHAMILTON CO.ARMAGH GRADE B) and on the basis of the information provided, advises that it is content in principle with the proposal and would note that the surrounding dwellings in the setting of the church are either single storey or storey and a half. Relevant policies include Paragraph 6.12 of Strategic Policy Planning Statement for Northern Ireland and Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.
 - HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.
- **DFI Rivers-** No objections

- **Defence Infrastructure Organisation-** No objections

Objections & Representations:

Four neighbours were notified of the application and it was advertised within one local newspaper with statutory expiry on 21/07/2021. No objections or submissions have been received.

Assessment:

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

Strategic Planning Policy Statement for Northern Ireland

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

PPS21- Sustainable Development in the Countryside

Policy CTY1 of PPS 21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. This application seeks outline planning permission for a new dwelling house and garage on a farm and as such Policy CTY 10 is applicable.

Policy CTY 10 states:

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

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

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

Assessing this planning application against the criteria of CTY 10:

- a) DAERA have confirmed that the farm business ID has been in existence for more than six years, that the Business ID identified on P1C submitted claimed payments through the Basic Payment Scheme of Agri Environment Scheme in each of the last six years and that the application site is land for which payments are currently being claimed by the farm business.
- b) A planning history search has not identified any development opportunities which may have been sold off the farm holding.
- c) A timeline on information requested throughout the processing of the application is outlined below:
 - On 27th May 2022 the Planning Department contacted the Agent requesting further information for DFI Roads and NI Water whilst also requesting land registry and folio map details to confirm that No 6 and the buildings the application proposes to cluster with are within the ownership of Joseph or Damien Quinn (owners of the farm business), this was requested to be provided by 17th June 2022.
 - 16th June- The Agent advised that it may take several months to receive the consent from NI Water and no reference was made to the outstanding land registry details.
 - On 7th September 2022 and 4th October 2022, the Planning Department sought updates on the outstanding information. The Agent's response on 4th October referred only to the NI Water details and it was again requested that the land registry details were submitted as soon as possible.
 - On 20th October the Agent advised he was speaking to the family regarding the land ownership and asked the Council to confirm that it accepts that the buildings on the 3rd page of the farm maps are owned by Joseph and Damien Quinn.
 - 20th October- Council advised that it has not been provided with any land registry details for the other buildings and therefore is not possible or appropriate to comment on ownership. It was outlined that the land registry details have been outstanding since 27th May 2022 and it was requested it was submitted no later than 27th October 2022.
 - On 26th October 2022 the Agent provided a detailed email which is summarised below. Land registry details were not provided.

- Farm business is registered to Joseph Quinn and his son Damien Quinn. The applicant's mother, Moira Murray, and Joseph Quinn are brother and sister. The land at the application site was owned by Joseph and Moira's father and was left to Moira after her father's death. Until her father's death, the land was owned and farmed by the Quinn family.
- Moira and her late husband built No6 on the land however the land never ceased to be farmed by the Quinn family. Moira Murray is not named on the farm business but takes a keen interest in the family farm and assists when required. The new dwelling is to allow Moira's daughter to be involved with the farm.
- The 2 buildings adjacent to No 6 are used by the Quinn and Murray families to house and test cattle. No 6 and the adjacent farm buildings must be considered as a group of buildings and are sited on land which is farmed by the Quinn family, the buildings are on land surrounded on 2 sides which is farmed by the Quinn's. Access is via the curtilage of No 6. There is no question that the 2 farm buildings are associated with the Quinn's farm.
- Policy does not require the owner of the farm business to own the buildings, it simply requires the new dwelling to be located to cluster or visually link with a group of buildings on the farm.
- Para 5.41 of PPS21 advises it will not be acceptable to position a new dwelling with building on a neighbouring farm holding, given the unique relationship between the farm buildings and applicant's mothers home, there is no possibility of the buildings being associated with another farm business.
- In the case of a development opportunity that has been disposed off, land ownership it appears it not important. There is no valid reason why the planning department would refuse this application simply because neither Joseph or Damien Quinn own the 2 farm buildings.

To summarise:

- Applicants identified on P1 Form are Mr B Davidson and Mrs Catrina Davidson of 17 Dundalk Street, Newtownhamilton.
- The farm business identified on the P1C Form is registered to Joseph and Damien Quinn of 14 Old Road, Cullyhanna.

- The application proposes to cluster with No 6 Dundalk Road and its outbuildings. Whilst land registry details have not been provided, the Agent has confirmed these buildings are within the ownership of Moira Murray of 6 Dundalk Road (Applicant Catrina Davidson's mother, sister of Joseph Quinn, one of farm owners)
- The applicants are not part of the farm business, nor the owners of the subject buildings. Moira Murray (owner of the subject buildings) is not registered as part of the farm business and no correspondence from Ms Murray has been submitted. Farm owners (Joseph and Damien Quinn) are not owners of the subject buildings.

No 6 Dundalk Road and its outbuildings may be adjoined by agricultural lands associated with the farm business id identified on the P1C Form, but this does not automatically confirm the buildings are considered part of the holding for the purposes of Policy CTY10.

Criterion c of Policy CTY10 requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm. Para 5.41 further supports this stating it will not be acceptable to position a new dwelling with buildings which are on a neighbouring farm holding. The Planning Department do not consider No 6 Dundalk Road and its associated buildings to be buildings on the farm, given they are not within the ownership of the farm business ID submitted and the owner of the buildings is not registered as part of the farm business.

Policy CTY10 goes onto state that exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available as another group of buildings on the farm or out farm, and where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group.

Other than asking the Council to confirm it accepts the buildings located at the main farm holding on Oldtown Road are owned by the farm owners, the Agent has not outlined why there are no suitable sites available at another group of buildings on the farm nor advanced an argument as to any demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group.

The proposal is considered to be contrary to criterion c of Policy CTY10.

Policies CTY 13 and CTY 14

Policy CTY 13 requires new building to be visually integrated into the surrounding landscape and of appropriate design. Policy CTY14 requires a new building does not cause a detrimental change to, or further erode the rural character of an area. This is an outline application, details of design would be assessed at reserved matters stage.

The application site is below road level and HED have advised that the surrounding dwellings in the setting of the church are either single storey or storey and a half. It is considered that a dwelling of low ridge height would not appear as prominent on the landscape or rely on new planting for integration. It is not considered the proposal would result in a suburban style build-up of development.

However, as the proposals fails to visually link and is not sited to cluster with an established group of buildings on a farm. It is contrary to criterion g of Policy CTY13.

Local Landscape Policy Area

The application site is located within NN17- Southern Newtownhamilton. The Development Plan outlines features or combination of features that contribute to the environmental quality, integrity or character of the LLPA as:

- Locally significant Presbyterian Church including graveyard and associated vegetation;
- Views and setting of Presbyterian Church;
- Listed bridge and stream corridor;
- St. Michael's RC Church (listed) on raised landform;
- Views and settings of the listed church;
- Distinctive landforms surrounding churches;
- Manse, a locally distinctive building (1871) and original Vallenbrook House (now replaced);
- Vegetation associated with the two properties form a distinctive feature;
- Hedgerows and associated nature conservation value.

It is considered that with suitable conditions, a dwelling on the site could comply with Policy CVN3.

PPS3- Access, Movement and Parking

DFI Roads have been consulted on this application and are content without conditions. No evidence has been provided nor consultations with DFI Roads in terms of using the existing laneway to No 26.

PPS11- Planning and Waste Management

The application site is traversed by a combined sewer, Policy WM5 relates to development in the vicinity of Waste Management Facilities. NI Water have confirmed that they would not object to the proposed development under Policy WM5 and Environmental Health are content the proposal will not give rise to unacceptable impacts. The proposal is considered to comply with Policy WM5.

Recommendation: Refusal

Reasons for Refusal:

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

2. The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to criterion g of Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.
4. This refusal notice relates to the following plan: BDavidson1 Rev B, BDavidson2.

Case Officer Signature: E. Eastwood

Date: 10/01/2023

Authorised Officer Signature: Gareth Murtagh

Date: 12/01/2023

Application LA07/2021/1143/O. Site for a dwelling and detached garage at Dundalk Road, Newtownhamilton for Mr and Mrs Brendan Davidson.

Brendan and Catriona Davidson (Nee Murray) are applying for a new dwelling on Catriona's mother's family farm. The farm business is registered with DAERA in the names of Joseph Quinn and his son, Damien.

Joseph Quinn and Catriona Davidson's mother, Moira Murray, are brother and sister. The land at Dundalk Road, upon which permission is sought, was owned by Joseph and Moira's father, Frank Quinn. The land at Dundalk Road was left to Moira after Frank Quinn's death. Therefore, until Moira Murray's father's death the land was owned by the Quinn family. Moira and her late husband built their home, no 6 Dundalk Road, on the family farm. The adjacent land has never ceased to be farmed by the Quinn family.

The land farmed at Dundalk Road, extends to 3.4ha, which is almost 25% the total area of the land farmed by Joseph Quinn. 2 modest farm buildings and a cattle loading/handling pen are located adjacent to no 6. The buildings were built soon after no 6 and they are used by Joseph Quinn to house cattle in case of sickness and to TB test cattle when they are on the lands adjacent to no 6.

Photo 1 below shows the rear elevation of one of the 2 farm buildings with a doorway which allows animals to access the building directly from the adjacent field. This building contains a cattle crush which is used to test cattle and to administer medicines/vaccines. Photo 2 shows the loading pen with gates to allow cattle to be moved into the pen from the adjacent field before they are loaded onto a livestock trailer and moved off the land. The loading pen is accessed by driving around the back of no 6.



Photo 1



Photo 2

The proposed dwelling has been sited to cluster and link visually with 2 farm buildings and the dwelling at no 6.

Criterion c of Policy CTY10 requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm.

The Planning Department do not consider No 6 Dundalk Road and its associated buildings to be buildings **on the farm**. Therefore they feel they can't approve a new dwelling which would be located beside buildings which are not **on the farm**. They clearly feel they are supported in this stance because the DAERA Farm Business Maps as submitted allegedly show that the 2 buildings "**are not within the ownership of the farm business ID submitted**". (Quoted from Officer's report) The planning officers are clearly and mistakenly assuming that DAERA Farm Business maps relate to land ownership.

A DAERA Farm Business map highlights the fields/land upon which Single Farm Payment is claimed by a farmer. The maps do not purport to show that highlighted land is **owned** by a farmer. This fact is confirmed by the text "**DAERA maps do not convey legal ownership**" which is printed in the bottom right corner of **every** DAERA map. This text was either overlooked or mis-understood by the officers who have considered this application to date.

CTY 10 does not impose a test that requires the owner of the farm business to "**own**" the buildings that a new dwelling is proposed beside. It simply requires the new dwelling to be located to cluster or visually link with a group of buildings on the farm.

The refusal reasons as published stem from the fact that the planning department refuse to accept that 2 existing farm buildings are on Joseph Quinn's farm.

If 2 farm buildings are located right beside lands which DAERA confirm are farmed by Joseph Quinn, they are used by and only by Joseph Quinn, then, it is unreasonable in my view to take the view that the farm buildings are not located on Joseph Quinn's farm.

Planning officers have mistakenly assumed that DAERA Farm Business maps convey legal ownership when text on the maps confirms this to be incorrect. The planning department's recommendation to refuse is therefore based on mis-interpretation of DAERA Farm Maps.

I intend to show the farm maps on the large screens in the Boardroom during the committee hearing. This will allow the committee to see for themselves the extent of the land farmed and to realise the relationship between the 2 farm buildings and the lands farmed at Dundalk Road.

Planning officers have been considering this un-complicated application for a new dwelling on an active and established farm for over 18 months. Officers have mis-interpreted Policy CTY 10 and the following text to allow them to arrive in a situation where they are recommending refusal. In doing so they have mis-directed themselves and the Council in relation to whether or not 2 small farm buildings are located on Joseph and Damien Quinn's farm.

It is abundantly clear that the officers are un-willing to accept that farm buildings which are not highlighted on DAERA Maps can and do play an important role on the farm.

The refusal reasons have been constructed/authored in a manner which means that if it is accepted that the 2 farm buildings adjacent to no 6 Dundalk Road are located **on the farm** associated with Joseph and Damien Quinn, the remainder of the refusal reasons can be easily set aside.

For the reasons above, I would respectfully ask that the recommendation to refuse this application is overturned and that OPP is granted without delay.

I will be making a detailed presentation during the committee hearing and I will be more than happy to take any questions the committee may have.

Brendan Quinn.

BSc Hon's ICIOB



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

Application Reference: LA07/2022/0704/F

Date Received: 08/04/2022

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

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

Site Characteristics & Area Characteristics:

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



Existing Agricultural Access to Application Site

Planning Policies & Material Considerations:

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

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

Site History:

There is no planning history on the application site.

Consultations:

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

Objections & Representations:

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

Assessment:

Strategic Planning Policy Statement for Northern Ireland

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

Policy CTY 10 states:

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

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

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

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

Assessing this planning application against the criteria of CTY 10:

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

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

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

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

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

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

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

Policies CTY13 and CTY14

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

PPS3- Access, Movement and Parking

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

Recommendation: Refusal

Reasons for Refusal:

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

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

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



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

1.0 Application Reference: LA07/2020/1082/F

2.0 Date Received: 06.08.20

3.0 Proposal: 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

4.0 Location: 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)

5.0 Site Characteristics & Area Characteristics

The application site is located within the open countryside comprising of two isolated parcels of land within Victoria Lock and land NE of the border stretching (75m & 130m) situated immediately adjacent to Carlingford Lough.

(Although the extent of the red line also shows land at Fathom Forest this is no longer part of the application details in which to be considered)



Application Site – See Areas for development identified in green

6.0 Relevant Site History:

LA07/2019/1454/PAN - Construction of a shared walking and cycling greenway from the national border between Northern Ireland and the Republic of Ireland to the existing car-park and amenity site at Victoria Lock. Accepted

7.0 Planning Policies & Material Considerations:

○ Regional Development Strategy 2035 (RDS) ○ The Strategic Planning Policy Statement for Northern Ireland (SPPS) ○ The Banbridge/ Newry and Mourne Area Plan 2015 (BNMAP) ○ PPS 2 - Natural Heritage ○ PPS 3 - Access, Movement and Parking ○ PPS 6 - Planning, Archaeology and the Built Heritage ○ PPS 8 – open Space, sport and Outdoor Recreation ○ PPS 15 (Revised) - Planning and Flood Risk ○ PPS 21 - Sustainable Development in the Countryside ○ DCAN 10 (Revised) - Environmental Impact Assessment ○ DCAN 15 - Vehicular Access Standard

8.0 Consultations:

Consultees were previously informed on the extent of the red line, the proposed scheme is a reduction of this and is confined to the two small areas as identified on the site location map no further consultation was required with consultees apart from those directly affecting the schedule monument, removal of crossing points, parking area and boundary of Victoria Lock otherwise all remaining consultation responses received to date remain relevant in the assessment of the application.

DFI Roads – Verbally agreed no objection in principle.

HED (01.06.21)

Scheduled Monument Consent had been granted for the extension of the existing Newry Canal Greenway to include:.

- i. New asphalt greenway path connecting existing greenway with Fathom Line Road
- ii. Relocation of existing picnic benches
- iii. New trailhead sign, insertion of new street lighting column and provision of bike parking rack
- iv. Replacement of existing drainage gullies
- v. Installation of vehicle road safety (VRS) barriers
- vi. General works

Rivers (09.11.21)

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

DfI Flood Maps (NI) indicate that small isolated part of the paths, mainly just prior to linking with the boarder is within the Coastal Floodplain. It is accepted that the levels must join into the Southern greenway path levels and this specific location. FLD1 states no development is permitted within the flood plain except through meeting one of the exceptions listed under the exceptions heading of FLD 1. Planning Authority informed DfI Rivers PAMU by email dated 15/6/2021 that it deems this application to be an exception.

The Flood Risk and Surface Water Assessment Issue 3 by Doran's Consultants dated February 2021 identifies these locations and has introduced mitigation measures such as a raised path where it is appropriate. Note the freeboard above the T200 Floodplain is approximately 125mm and is the best that can be achieved in this circumstance. The predicted 200 year sea level at this location is 3.65 m OD Belfast. This figure does not take account climate change or wave action. The variation in tidal and meteorological conditions can have a significant effect on sea levels, and in that respect, DfI Rivers normally recommend that 600mm additional freeboard be added on to the required Q200 coastal level to set any buildings finished floor, path or road levels.

The applicant is developing an emergency flood and evacuation plan, including signage to warn of potential flooding.

DfI Rivers PAMU, while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions.

FLD 2 – Protection of Flood Defence and Drainage Infrastructure.

The site is subject to various undesignated small watercourses flowing off the Fathom Forest mountain traversing the path. PPS 15, policy FLD2 states planning authority will not permit development that would impede the operational effectiveness of flood defence and drainage infrastructure or hinder access to enable their maintenance. Also paragraph 6.32 states where a new development proposal is located beside watercourse it is essential that an adjacent working strip is retained to

facilitate future maintenance by the riparian owners. The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times.

The Flood Risk and Surface Water Assessment Issue 3 by Doran's Consultants dated February 2021 within Paragraph 2.5, 6.3.6.4 and 6.5 recognises the need and made allowance to provide sufficient space for continued maintenance of the existing Forest channels which have been formed alongside and adjacent to parts of the existing walkway and all minor undesignated watercourses within the red line boundary of the site. As such the proposals are deemed to satisfy this sub-policy FLD 2.

DfI Rivers PAMU, while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions. It should be brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the Flood Risk Assessment Issue 3 by Doran's Consultants dated February 2021 and implementation of the proposed flood risk measures rests with the developer and their professional advisors.

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

In this particular case, it is not appropriate that the proposal exceed any of the thresholds requiring a Drainage Assessment.

It is deemed that the proposal will cause no significant additional increase to surface water runoff from the site.

FLD 4 – Artificial Modification of Watercourses.

All existing and new culvert sizes should be agreed with DfI Rivers Local Area Office within Fathom Forest and DfI Roads Service where appropriate in the vicinity of the roadway.

FLD5 - Development in Proximity to Reservoirs.

Not applicable for this consultation.

Consideration of Rivers Agency comments:

FLD 1 - An emergency flood and evacuation plan, including signage to warn of potential flooding has been provided to the Local Planning Authority – the implementation of this is the developers responsibility.

FLD 2 - Amended proposals does not include development at Fathom Forest therefore development will not impede upon operational effectiveness of flood defence and drainage infrastructure within this area.

FLD 3 and 5 are not relevant in the assessment of this application. FL4 proposals do not show any proposed culverting.

SES (17.12.20):

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.

Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site. Mitigation should be included through conditions.

NIEA (NED) (29.06.21) - Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions.

NIEA (Marines and Fisheries) (02.06.21) - Acknowledge receipt of the information provided and recommend that the following policy documents are considered in the assessment of the proposal. Please also refer to our previous response which details standing advice and informatives.

NIEA (Water Management) (02.06.21) - Considered the impacts of the proposal on the surface water environment and, on the basis of the information provided, is content with the proposals.

9.0 Objections & Representations:

The application was advertised initially 17th August 2020 with readvertisement 8th February 2023 following an amended and reduced scheme from initial submission.

14 Neighbour notifications carried out and re-notification occurred 10th February 2023 following amendments to the scheme.

2 letters of objection received in April 2021 in relation to the original scheme. No further objections received to date in relation to current proposals. The original objections have been considered below as issues raised still have relevancy despite changes with the current scheme.

9.1 Consideration of Objections:

• Impact to habitat

Impact to habitat has been considered by DAERA NED in their consultation response dated 29.06.21 have raised no issues of concern.

- **Increase in traffic**

It is not envisaged that a greenway will attract additional traffic above and beyond what exists currently. There is adequate public parking at each of the points of the existing and proposed elements of the greenway.

- **Requirements for application to be advertised in two local papers**

Amendments to the initial application have been advertised within the Newry Reporter and Newry Democrat in February 2023.

- **Freedom of information request**

This has been dealt with separately with the compliance team of Newry, Mourne and Down District Council.

10.0 Consideration and Assessment:

10.1 Development Management Regulations:

The development has been considered under the Planning (Development Management) Regulations (Northern Ireland) 2015 as a recreational facility falling within Part 7 (Retailing, Community, Recreation and Culture) of the regulations. Despite the amendment to the scheme which has reduced the extent of the development area, the extent of the redline remains the same as submitted therefore Development Management Regulations remain relevant. A Pre-Application Notice was submitted under LA07/2019/1454/PAN this also remains applicable in the assessment of this application.

The regulation also requires a pre-application community event to be undertaken prior to submission of the formal submission of the major application. The agent carried out public consultation by way of a community consultation drop in event which was held at the Sean Hollywood Arts Centre, Newry with event circulated in the local papers in advance, published on the Louth County Council website, a dedicated twitter page @carlingfordlg and a NM&D Public Information Event Letter.

Supporting evidence of this process was submitted as part of this application to demonstrate that this had been carried out in accordance with legislative requirements at the time (See Pre-Application Community Consultation report dated August 2020).

11.0 Proposal:

The proposal consists of the construction of two isolated portions of a shared walking and cycling greenway (gavel finished 2.5-5m wide), one located immediately

adjacent and N of the border and the other within the Victoria Lock car park, both pockets will be eventually linked by a proposed new path/ greenway running parallel to the lough which will be subject to a separate planning application. Current proposals will also incorporate boundary fencing, vehicle safety barrier, directional signage, vegetation clearance and construction of bicycle parking spaces (Victoria Lock) and carpark crossing.

12.0 EIA Screening:

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

13.0 Planning Act:

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.

14.0 Newry and Mourne Area Plan 2015



Site is within the open countryside of the AONB.

The Banbridge/ Newry and Mounre Area Plan 2015 is the operational Local Plan for this site, which identified the site as being within the open countryside of the AONB. It has not been designated for a particular land use by the local area plan.

In planning policy terms proposals will be considered under prevailing planning policy specific to development within the open countryside with the following policies deemed applicable for development of this nature which includes consideration of the SPPS, PPS2, PPS3, PPS6, PPS15 and PPS21.

15.0 SPPS and PPS21

As there is no significant change to the policy requirements for development in the countryside following the publication of the SPPS and it is somewhat less prescriptive, the retained policy of PPS21 will be given substantial weight in determining the application in accordance with paragraph 1.12 of the SPPS.

15.1 CTY 1 – Development in the Countryside

PPS21 sets out the planning policies for development in the countryside with CTY1 identifying different types of development which are in principle acceptable in the countryside. Although a 'greenway path' is not within the prescribed list of uses under non-residential development is considered as an outdoor sport and recreational use must also be in accordance with PPS8, consideration of this will be assessed below.

15.2 SPPS and PPS2 – Natural Heritage

DAERA NED in their consultation response dated 29.06.21 has considered the impacts upon designated sites and other natural heritage interests and have raised no issue of concern. Development proposals are appropriately designed sensitive to the distinctive special character of the area which will adequately integrate, respecting the character and setting without adverse visual impact meeting the requirements of planning policy.

A Habitats Regulation Assessment (HRA) screening has been carried out in line with the Conservation (Natural Habitats, etc) (Amendment) Regulations (Northern Ireland) 2015 and NH1 of PPS2 and it is considered that the proposal will not have a likely significant effect on any other European or National designated sites.

Proposals meet the requirements of the SPPS and PPS2.

16.0 PPS3 – Access, Movement and Parking, Parking Standards and DCAN 15 – Vehicular Access Standards

Transport NI have indicated verbally that they have no objection in principle subject to conditions (planning conditions to follow).

17.0 SPPS and PPS6

Proposals fall within a scheduled area associated with Newry Canal which is a monument of regional importance. Works proposed in the provision of the existing path is unlikely to adversely affect the site or integrity of the setting with its overall use having a benefit to the local as well as the wider community.

Notwithstanding this, it is important to afford protection of archaeological remains and its settings, it is noted that schedule Monument Consent has already been previously obtained at the application site. Although the scheme is an amendment to the original application modifications are somewhat minor and nature. In the event that an updated Schedule Monument Consent is required this must be in place prior to

commencement of the development. In this instance it is reasonable to attach a planning condition that no site works or development shall take place until consent has been sought and agreed by HED and that appropriate measures are undertaken for the identification, mitigation or recording of any artefacts on site.

18.0 SPPS and PPS8 (OS3 – Outdoor recreation in the countryside)

Proposals have been submitted for two isolated parcels to provide a new greenway paths located adjacent and S of Victoria Lock and N of the Border with proposals for connecting path to be submitted separately in due course. In the meantime the provisions of PPS8 are applicable to the proposed area of development with several criteria of OS3 having to be adhered to, these are considered below;

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

NED in comments dated 29.06.21 have raised no issues of concern in relation to natural heritage interests and HED had previously granted schedule monument consent to works within the vicinity of the scheduled monument. Proposals are a minor modification to the original application, any amendment to the schedule monument consent requires consent from HED direct which is outside the remit of the local planning authority.

- (ii) *there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;*

Not applicable

- (iii) *there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;*

Proposals can be readily absorbed into the local landscape with no adverse visual impact

- (iv) *there is no unacceptable impact on the amenities of people living nearby;*

The amendment to the original planning application reduces the scale and need for crossing points, proposals are far removed from residential properties and therefore will not cause any adverse impact upon residential properties.

- (v) *public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed;*

Whilst the Local Planning Authority have set out an exemption for development within the flood plain to Rivers Agency. An emergency flood and

evacuation plan was submitted 27/08/21 the implementation of such is up to the developer to ensure that evacuation plans and procedures including safe access and egress are implemented in line with statutory responsibilities.

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

No buildings are proposed with this scheme however materials used in the construction of paths, bicycle stands and boundary fencing is acceptable within this rural context.

- (vii) *the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car; and*

The proposed greenway path is on a level surface and the amendment to the scheme offers an improvement from the original proposals which proposed to utilise a former forest track which had varying degrees of landform. These elements of the path will be connected to a proposed boardwalk path which is subject to a separate planning application, however once completed will provide continuous access through from Newry to Carlingford which will assist in providing sustainable means of movement.

- (viii) *the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal.*

The proposed pathway will be connected to existing and proposed network the length from Newry to Carlingford which is intersected by public carparking will allow for satisfactory access and parking arrangements.

Proposals meet the requirements of the PPS and PPS8 for the reasons set out above.

19.0 SPPS and PPS15

An assessment of Rivers Agency response dated 09.11.21 has been considered above. Apart from FLD 1 flood and evacuation plans are the statutory responsibility of the developer to be implemented. FLD2 – FLD5 are no longer applicable to these applications.

Proposals meet the requirements of the SPPS and PPS15.

20.0 SPPS – Safeguarding residential and Work environs 4.11 and 4.12

Whilst proposals are likely to generate additional activity. The proposed pathway including future proposals are far removed from residential properties than those originally proposed to cause any adverse impact to amenity.

21.0 Consideration and Assessment Summary:

Having had regard to the development plan and all other material considerations (including SPPS, PPS2, PPS3, PPS6, PPS15 and PPS21) the proposed scheme merits as a suitable development proposal which complies with planning policy for the reasons set out above.

The application is recommended for approval subject to the necessary planning conditions outlined below.

22.0 Recommendation: Approval

23.0 Draft Conditions:

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

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

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

-

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

3. HED conditions to be added
4. DFI Roads conditions to be added
5. Prior to commencement of development a detailed Construction Method Statement for all works in or near water including pollution prevention

measures to protect groundwater and other waterways for the construction and operational phases of the proposal shall be submitted and agreed in writing with the Local planning authority to the satisfaction of NIEA.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

6. No vegetation clearance/removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

7. Once a contractor has been appointed and at least 8 weeks prior to the commencement of all development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Local Planning Authority. The CEMP should contain all the appropriate environmental mitigation as advised by DAERA WMU in their response dated 08/10/2020. Development shall take place in accordance with the approved CEMP.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment and to ensure that the appointed contractor is aware of and implements the appropriate environmental mitigation during construction phase to protect connected features of European Sites.

8. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Newry, Mourne and Down District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

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

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

9. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 8.

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

10. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 8.

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

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

11. The development hereby approved shall not become operational until it is fully linked into a link pathway or other means of access between the two areas of development. The details of which shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented as approved.

Reason: In the interest of public safety and to ensure the orderly development of the site.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

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 |
| PLANNING COMMITTEE MEETING | | | | | |

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|--|--|--|-------------------|---|--|
| 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 | |
| LA07/2021/2010/O | Farm dwelling and garage - Approx 100m West of 42 Crawfordstown Road Downpatrick | Defer for further consideration by Planners and take back to Planning Committee | Annette McAlarney | Under consideration by Planning Office | |
| PLANNING COMMITTEE MEETING 27 JULY 2022 | | | | | |
| LA07/2021/0987/F | Section 54 application seeking planning permission to vary condition no. 17 of P/2013/0242/F - Lands at Watsons Road/Dorans Hill Newry including lands to the east of Watsons Road | Defer – Dfi to attend Planning Committee Meeting when application is next scheduled | Anthony McKay | On agenda for Special meeting on 08-09-2022 – meeting cancelled and to be reconvened | |
| LA07/2020/1864/F | Proposed barbers shop / hairdressers - Between no.39 | Defer for a site visit | Pat Rooney | Site visit 10-08-2022 – on agenda for meeting on 24-08- | |

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|--|---|--|------------------|---|------------------------------|
| | Church Street Rostrevor & no. 2 Water Street Rostrevor | | | 2022 – defer to allow for further discussions to take place with the agent, applicant and planners | |
| 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 | |
| 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 | |
| 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 | |
| PLANNING COMMITTEE MEETING 11 JANUARY 2023 | | | | | |

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|--|--|---|---------------------|--|------------------------------|
| 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 | | |
| 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 | |
| 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 and South West of 59 Boulevard Park Newcastle. | Defer until the February Meeting as objector unable to attend | | Return to Planning Committee | |
| LA07/2022/1069/F | Change of Use of the former bank (Class A2) to an amusement arcade/adult gaming centre facility and alterations to shop front - 80-82 Market Street Downpatrick. | Defer for clarification on number of amusement arcades, gambling facilities in the entire Downpatrick Town Centre | | Return to Planning Committee 08-03-2023 | Y |

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|------------|---------|----------|--------------|------------------------------------|------------------------------------|
| END | | | | | |