

October 16th, 2020

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 21st October 2020 at 10:00 am** in **Boardroom Monaghan Row Newry** and **via Microsoft Teams**.

Committee Membership:

- Councillor R Burgess (Chair)
- Councillor J Tinnelly (Deputy Chair)
- Councillor P Brown
- Councillor S Doran
- Councillor G Hanna
- Councillor V Harte
- Councillor M Larkin
- Councillor D Murphy
- Councillor D McAteer
- Councillor G O'Hare
- Councillor G Stokes
- Councillor J Trainor

Agenda

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

Minutes for Confirmation

- 4.0 Minutes of Planning Committee Meeting held on Wednesday 23 September 2020. (Attached).

 *Planning Committee Minutes 23.09.2020.pdf*

Page 1

For Discussion/Decision

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

 *Addendum list - 21-10-2020.pdf*

Page 12

Development Management - Planning Applications for determination

- 6.0 LA07/2020/0372/F - change of use of first floor storage to 4 self contained residential units first floor to rear of 71-73 Main Street Castlewellan. (Case Officer report attached).

REFUSAL

- Addendum list (Councillor Doran has requested this application be removed from the addendum list)

 *14 09 LA07-2020-0372-F Main Street Castlewellan (002).pdf*

Page 13

- 7.0 P/2013/0189/F - Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works. (Case Officer report attached).

REFUSAL

- Councillor Doran has requested this application be removed from the agenda.

8.0 LA07/2020/0667/LBC - undertake remedial works to the existing Annalong North Pier, including removal and rebuilding of sections of existing masonry wall, anchoring of rock outcrops, filling voids with concrete. Undertake masonry remedial works to the North East Quay - Annalong Harbour. (Case Officer report attached).

APPROVAL

- Addendum list


9.0 LA07/2019/0585/0 - detached house and garage - 9 Derryleckagh Road, Newry. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from Nigel Cathers, applicant, in support of the application. **(Submission attached).**
- A request for speaking rights has been received from Cllr. Taylor in support of the application. **(Submission attached).**

 2019 0585 - Derryleckagh Road.pdf

Page 34

 Item 11 - LA07-2019-0585-0.pdf

Page 40


 Item 11 - LA07 2019 0585 O Submission per David Taylor.pdf

Page 42


10.0 LA07/2019/1228/F - erection of dwelling and garage (change of house type to P/2009/0633) - 60m SE of 29 Leitrim Road, Kilkeel. (Case Officer report attached).

REFUSAL

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

 LA07-2019-1228.pdf

Page 44

 Item 12 - LA07-2019-1228-F.pdf

Page 48

11.0 LA07/2020/0429/F - proposed infill dwelling - 40m NW of 100 Kilbroney Road, Rostrevor. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from Aaron Tinnelly, applicant, and Colin D'Alton, agent, in support of the application. **(Submission attached)**.

📎 *LA07-2020-0492- Kilbroney Road.pdf*

Page 50

📎 *Item 13 - LA07-2020-0429-F.pdf*

Page 56

12.0 LA07/2020/0674/F - dwelling and detached garage (change of house type to that approved under P/2003/1768/O and P/2006/1874/RM) - 100M NE 47 Mayo Road, Mayobridge. (Case Officer report attached).

REFUSAL

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

📎 *LA07-2020-0674-F- Mayo Road.pdf*

Page 58

📎 *Item 14 - LA07.2020.0674.F.pdf*

Page 64

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

13.0 LA07/2019/1221/F - proposed Guest House Tourist Accommodation & associated site works. Assessed under PPS16, TSM3 - Land 10m North West of 180 Tullybrannigan Road Newcastle Co Down. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from Barry Fletcher, agent; Colin Adams, applicant and Tim Cousins, Lisbane Consultancy, in support of the application. **(Submission attached)**.

📎 *LA07_2019_1221_F_Tullybrannigan Road.pdf*

Page 76

📎 *LA07-2019-1221-F-TullyB_Recon.pdf*

Page 81

📎 *Item 6 - LA07-2019-1221-F.pdf*

Page 85







Development Management - Planning Applications for determination

14.0 LA07/2018/0001/0 - demolition of former school building, erection of food store and mountain rescue centre, provision of car parking and associated site works - Site of former St

Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road Newcastle. (Case Officer report attached).

APPROVAL

- A request for speaking rights has been received from Andy Stephens, Matrix Planning, in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from Conleth Rooney BL on behalf of Don Holdings Ltd, in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from Dermot Monaghan, agent; and Tim Cousins, traffic engineer of Lisbane Consulting in support of the application. **(Submission attached).**

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|---|-----------------|
|  <i>LA07-2018-0001-F Lidl Newcastle.pdf</i> | <i>Page 87</i> |
|  <i>LA07_2018_0001_Addendum_1.pdf</i> | <i>Page 106</i> |
|  <i>LA07_2018_0001_Addendum_2.pdf</i> | <i>Page 108</i> |
|  <i>Item 7 - LA07-2018-0001-0 objection A Stephens.pdf</i> | <i>Page 112</i> |
|  <i>Item 7 - LA07-2018-0001-0 objection Don Holdings.pdf</i> | <i>Page 114</i> |
|  <i>Item 7 - LA07-2018-0001-F support.pdf</i> | <i>Page 119</i> |

For Noting

15.0 Historic Actions Tracking Sheet. (Attached).

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|  <i>Planning HISTORIC TRACKING SHEET - Mastercopy updated 08-10--2020.pdf</i> | <i>Page 121</i> |
|--|-----------------|

16.0 Planning Committee Performance Report - September 2020. (Attached)

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|  <i>SEPTEMBER 2020 Planning Committee Performance Report.pdf</i> | <i>Page 128</i> |
|---|-----------------|

17.0 September Planning Appeals and Decisions. (Attached).

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|  <i>Appeals and Decisions issued September 2020.pdf</i> | <i>Page 133</i> |
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Exempt Information Items

18.0 Local Development Plan (LDP): Progress update, next steps and revised timetable. (Report attached).

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (NI) 2014, information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public, may, by resolution, be excluded during this item of business.

 ***PC Report re LDP Progress Update, Next Steps and Revised Timetable.pdf***

Not included

19.0 Report re: proposed changes to Planning Committee Operating Protocol. (To follow).

This item is deemed to be restricted by virtue of Paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (NI) 2014, information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public, may, by resolution, be excluded during this item of business.

NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 23 September 2020 at 10.00am in Council Offices Monaghan Row Newry and via Skype

Chairperson: Councillor R Burgess

In attendance: (Committee Members)

Councillor P Brown
Councillor S Doran
Councillor G Hanna
Councillor V Harte
Councillor M Larkin
Councillor D McAteer
Councillor D Murphy
Councillor G O'Hare
Councillor G Stokes
Councillor J Tinnelly

(Officials)

| | |
|--------------------------|--|
| Mr C Mallon | Director Enterprise Regeneration & Tourism |
| Mr A McKay | Chief Planning Officer |
| Mr A Davidson | Senior Planning Officer (via Skype) |
| Ms A McAlarney | Senior Planning Officer (via Skype) |
| Ms J McParland | Senior Planning Officer (via Skype) |
| Mr M Keane | Senior Planning Officer (via Skype) |
| Ms N Largey | Legal Advisor |
| Mr F O Connor | Legal Advisor (via Skype) |
| Ms S Taggart (via Skype) | Democratic Services Manager |
| Ms C McAteer | Democratic Services Officer |
| Ms P McKeever | Democratic Services Officer |

P/075/2020: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillor J Trainor.

The Chairperson on behalf of the Committee, offered condolences to Councillor Trainor and his family on the recent sad passing of his father.

P/076/2020: DECLARATIONS OF INTEREST

Councillor Burgess declared an interest in Item 5 LA07/2020/0924/0 on the Addendum List – Planning applications with no representations received or requests for speaking rights.

**P/077/2020: DECLARATIONS IN ACCORDANCE WITH PLANNING
COMMITTEE PROTOCOL PARA. 25
– MEMBER TO BE PRESENT FOR ENTIRE ITEM**

Declarations in relation to Paragraph 25 of Planning Committee Operating Protocol – Members to be present for entire item:-

Councillor Brown declared an interest in Item 8 – LA07/2019/0953/F advising he would be speaking in objection to this application.

- **Item 7 – LA07/2019/0261/F – 2 dwellings with detached garages (amended plans) Sites 22 and 22a Spring Meadows, Burren Road Warrenpoint BT34 3SU - Councillors Brown, Harte, Stokes and Tinnelly did not take part in the discussion/decision on this application.**
- **Item 8 – LA07/2019/0953/F - Lands at 123 Magherahamlet Road Ballynahinch - proposed 2no Broiler Poultry Sheds to replace 2no Existing Poultry Sheds(to contain 74,000 broilers, taking the total farm capacity to 148,000 broilers) with 4no feed bins, 2no gas tanks, 1no underground wash tank and retention of weighbridge, biomass boiler shed and associated pellet bins, water tank, site office, access and associated site works - Councillors Brown, Harte, O'Hare, Stokes and Tinnelly did not take part in the discussion/decision on this application**
- **Item 9 – LA07/2019/1136/F - 6 detached dwellings, garages and ancillary works - land to the south of 35 Old Belfast Road and to the south and west of 3 Orchard Lane Downpatrick - Councillors Brown, Harte, O'Hare, Stokes and Tinnelly did not take part in the discussion/decision on this application.**
- **Item 10 – LA07/2019/1362/O - gap/infill site for dwelling and domestic garage - adjacent and immediately South of No. 64 The Heights Loughinisland - Councillors Brown and McAteer did take part in the discussion/decision on this application.**
- **Item 11 – LA07/2019/1807/0 - site for farm dwelling - 55m north of 4 Leitrim Road, Hilltown - Councillors Brown, Harte, Stokes and Tinnelly did not take part in the discussion/decision on this application.**

MINUTES FOR CONFIRMATION

**P/078/2020: MINUTES OF PLANNING COMMITTEE MEETING HELD ON
WEDNESDAY 26 AUGUST 2020**

Read: Minutes of Planning Committee Meeting held on Wednesday 26 August 2020. **(Copy circulated)**

AGREED: On the proposal of Councillor Larkin seconded by Councillor Doran it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 26 August 2020 as a true and accurate record.

FOR DISCUSSION/DECISION

Councillor Burgess withdrew from the meeting at this point and Councillor Tinnelly assumed the Chair.

P/079/2020: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 23 September 2020. **(Copy circulated).**

AGREED: **On the proposal of Councillor McAteer seconded by Councillor Larkin it was agreed to approve the Officer recommendation in respect of the following application listed on the addendum list for Wednesday 23 September 2020:**

- LA07/2020/0924/O - approx. 70m East of 22 Drumnaconnell Road Saintfield - dwelling and garage on a Farm. **APPROVAL**

Councillor Burgess re-joined the meeting and assumed the Chair.

**DEVELOPMENT MANAGEMENT -
PLANNING APPLICATIONS FOR DETERMINATION**

P/080/2020: PLANNING APPLICATIONS FOR DETERMINATION

P/2010/0904/F - 45 metres north of 18 Ballinasack Road Mullaghbawn - erection of farm dwelling to include retention of existing foundations. **REFUSAL**

Mr McKay advised Members planning application P/2010/0904/F had been formally withdrawn from the planning system.

The following applications were determined by the Committee:-

(1) LA07/2019/1807/O

(Councillors Brown, Harte, Stokes and Tinnelly withdrew from discussions/decision).

Location:

55m north of 4 Leitrim Road, Hilltown

Proposal:

site for farm dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mark Keane, Senior Planning Officer gave a power point presentation via Skype 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:
(via Skype)**

In support:

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

Issues raised:

There were no issues raised.

AGREED: On the proposal of Councillor Larkin seconded by Councillor Murphy it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/1807/O contrary to Officer recommendation on the basis that the proposed application would not result in ribbon development, it was visually linked with the existing farm buildings, it was accessed via a private laneway and it was not unsympathetic to the AONB.

It was also agreed Officers be delegated authority to impose relevant conditions.

(2) LA07/2019/0261/F

(Councillors Brown, Harte, Stokes and Tinnelly withdrew from discussions/decision).

Location:

Sites 22 and 22a Spring Meadows, Burren Road Warrenpoint BT34 3SU.

Proposal:

2 dwellings with detached garages (amended plans)

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Jacqui McParland, Senior Planning Officer gave a power point presentation via Skype 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:

(via Skype)

In objection

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

In support

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

Issues raised:

- **Concern raised regarding the privacy of Nos. 24 and 26 Spring Meadows being compromised as a result of the proposed development.**
- **The agent had indicated to Planning Officials a reluctance to revert back to the original plan of one dwelling on the site.**
- **The amenity of No. 24 was already compromised with the existence of a turning head.**
- **Ms McParland advised it was an established practice to have driveways located beside private amenities.**

- **Mr Cole advised he would have to consult the applicants regarding any design element amendments.**
- **Mr McKinney advised his objection was to the style of house and said an alternative house style already included in the development would be a better option for the proposed location.**

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2019/0261/F, as per the information and recommendation contained in the Case Officer Report presented to Committee. Councillor Larkin seconded the proposal.

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

| | |
|--------------|---|
| FOR: | 5 |
| AGAINST: | 2 |
| ABSTENTIONS: | 1 |

The proposal was declared carried.

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed to issue an approval in respect of Planning Application LA07/2019/0261/F, as per the information and recommendation contained in the Case Officer Report presented to Committee.**

It was also agreed Officers be delegated authority to impose any relevant conditions.

(3) LA07/2019/0953/F

(Councillors Brown, Harte, O'Hare, Stokes and Tinnelly withdrew from discussions/decision).

Location:

Lands at 123 Magherahamlet Road Ballynahinch

Proposal:

Proposed 2no Broiler Poultry Sheds to replace 2no Existing Poultry Sheds (to contain 74,000 broilers, taking the total farm capacity to 148,000 broilers) with 4no feed bins, 2no gas tanks, 1no underground wash tank and retention of weighbridge, biomass boiler shed and associated pellet bins, water tank, site office, access and associated site works

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Annette McAlarney, Senior Planning Officer gave a power point presentation via Skype 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: (via Skype)

In objection

Jim Wells presented in objection to the application (in support of Mrs McCann objector) detailing and expanding upon a written statement that had been circulated to Committee Members.

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

In support

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

Issues raised:

- **Ms McAlarney advised Members an application in 2016 for four poultry sheds, had been declared invalid as it represented a major development and would have required an Environmental Impact Assessment to be conducted; she said no determination had been made by the Planning Department at the time.**
- **Ms McAlarney confirmed a new application would be required if the proposed siting of the poultry sheds was altered.**

AGREED: On the proposal of Councillor McAteer seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/0953/F as per the information and recommendation contained in the Case Officer Report presented to Committee.

It was also agreed Officers be delegated authority to impose any relevant conditions.

(4) LA07/2019/1136/F

(Councillors Brown, Harte, O'Hare, Stokes and Tinnelly withdrew from discussions/decision).

Location:

Land to the south of 35 Old Belfast Road and to the south and west of 3 Orchard Lane Downpatrick

Proposal:

6 detached dwellings, garages and ancillary works

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Annette McAlarney, Senior Planning Officer gave a power point presentation via Skype 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: (via Skype)

In objection:

Lisa Byers and Catherine Edwards presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

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

In support:

Lisa Shannon and Adam Larkin, from Garvis Planning presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- **Ms McAlarney confirmed the proposed site was located both within the development area and the LLPA, however, she said the fact it was within the LLPA did not make it automatically exempt from development and advised there was a new school adjacent to the proposed site, also within the LLPA that had been approved.**
- **The trees located within the LLPA were the subject of a Tree Preservation Order.**
- **Planning did not consider the proposed application would adversely affect the integrity of the area.**
- **Consultations conducted had been a combination of both desk top plan and site visits which was usual practice.**

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Doran it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/1136/F as per the information and recommendation contained in the Case Officer report presented to Committee.**

It was also agreed Officers be delegated authority to impose any relevant conditions.

(5) LA07/2019/1362/O

(Councillors Brown and McAteer withdrew from discussions/decision, Councillors Harte, O'Hare, Stokes and Tinnelly re-joined the meeting)

Location:

Adjacent and immediately South of No. 64 The Heights Loughinisland

Proposal:

Gap/infill site for dwelling and domestic garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Annette McAlarney, Senior Planning Officer gave a power point presentation via Skype 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:
(via Skype)**

In support:

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

Issues raised:

- **To create an infill opportunity it would be necessary to demolish existing buildings and the proposal would not respect the character of the site.**
- **There was a substantial drop between the neighbouring property and the existing sheds on the proposed site.**
- **There was a 45m frontage onto the road and proposals would include demolishing existing buildings.**

AGREED:

On the proposal of Councillor Larkin seconded by Councillor Harte it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/1362/O contrary to Officer recommendation on the basis that whilst it was an unusual shaped site with differing levels, it represented a small gap and complied with CTY8.

It was also agreed Officers be delegated authority to impose any relevant conditions.

(6) LA07/2019/1092/F

(Councillors Brown and McAteer re-joined the meeting)

Location:

Lands opposite No. 1 Ashgrove Avenue Newry BT34 1PR

Proposal:

Residential development comprising 18 No. 3-bed semi-detached houses and 2 No. 3-bed detached houses (20 No. dwellings in total)

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Jacqui McParland, Senior Planning Officer gave a power point presentation via Skype 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:
(via Skype)**

In support:

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

Issues raised:

- This application was being recommended for approval with the Planning Department going against Rivers Agency comments. The applicant already had live consents in place, particularly Article 17, and this had been confirmed with Rivers Agency and it was felt there was no need for them to go through the process again.

AGREED: On the proposal of Councillor Larkin seconded by Councillor McAteer it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/1092/F as per the information and recommendation contained in the Case Officer report presented to Committee.

It was also agreed that Officers be delegated authority to impose any relevant conditions.

(7) LA07/2020/0176/F

Location:

Lands approximately 45m north of 5 Molly Road Lower Foughillotra, Jonesborough, BT35 8JR

Proposal:

Proposed erection of a rural infill detached dwelling and detached garage together with associated landscaping

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Andrew Davidson, Senior Planning Officer gave a power point presentation via Skype 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.

Mr Davidson asked Members to note an error in the Officer's report regarding a Planning Appeal reference number and said the correct number was 2017/AA04.

In support:

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

Issues raised:

- **Mr McKevitt confirmed the foundations and four rows of blocks were in situ at the dwelling to the north of the proposed site and said he considered this constituted a building.**
- **Mr Davidson said in order to meet policy, there was a requirement to have three buildings with frontage to the road and currently there were only two buildings, and even if the garage was completed, it could not be considered as it was being constructed to the rear of the site.**

Councillor Larkin proposed to defer Planning Application LA07/2020/0176/F to allow time for the garage to be completed so that it could be considered as a third building. Councillor Murphy seconded the proposal.

Mr McKay reminded Members that the Case Officer, in his presentation had advised them the completion of the garage could not be considered as it would be situated to the rear of the site and therefore did not have road frontage.

Councillor Larkin said previous applications had been deferred for building works to be completed and he said he would not speculate on the eventual outcome.

AGREED: **On the proposal of Councillor Larkin seconded by Councillor Murphy it was unanimously agreed to defer Planning Application LA07/2020/0176/F for a period of three months to allow time for the garage at No. 5 Molly Road to be completed before a determination by the Planning Committee could be made.**

FOR NOTING

P/081/2020: **HISTORIC ACTION SHEET**

Read: Planning historic action sheet. **(Copy circulated)**

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

P/082/2020: **AUGUST 2020 PLANNING COMMITTEE PERFORMANCE REPORT**

Read: August 2020 Planning Committee Performance Report. **(Copy circulated)**

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

P/083/2020: **CURRENT APPEALS AND DECISIONS**

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

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

ITEMS RESTRICTED IN ACCORDANCE WITH PART 1 OF SCHEDULE 6 OF THE LOCAL GOVERNMENT ACT (NI) 2014

AGREED: **On the proposal of Councillor Larkin, seconded by Councillor Hanna, it was agreed to exclude the public and press from the meeting during discussion on the next matters which related to exempt information by virtue of para. 3 of Part 1 of Schedule 6 of the Local Government (Northern Ireland) 2014 – Information relating to the financial or business affairs of a particular person**

(including the Council holding that information) and the public may, by resolution, be excluded during this item of business.

P/084/2020: PLANNING COMMITTEE PROTOCOLS

Read: Report by Fearghal O'Connor dated 23 September 2020 regarding Planning Committee Protocols. ***(Circulated)***.

AGREED: On the proposal of Councillor Brown seconded by Councillor Larkin it was agreed Committee come out of closed session.

AGREED: When out of closed session Nora Largey, Legal Advisor said it had been agreed that some further changes were required to the skype operating protocol which would be brought back for agreement to the next Committee Meeting. The Committee also agreed to changes to the Operating Protocol except for a small amendment on the proposed new Section 54 to be clear that the reference to Members was a reference to Members who do not sit on the Planning Committee.

The Meeting concluded at 12.50pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 21 October 2020.

Signed: _____ **Chairperson**

Signed: _____ **Chief Executive**

Item 5 – Addendum List

Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 21 October 2020

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

- LA07/2020/0667/LBC - undertake remedial works to the existing Annalong North Pier, including removal and rebuilding of sections of existing masonry wall, anchoring of rock outcrops, filling voids with concrete. Undertake masonry remedial works to the North East Quay - Annalong Harbour. **APPROVAL**
- LA07/2020/0372/F - change of use of first floor storage to 4 self-contained residential units first floor to rear of 71-73 Main Street Castlewellan. **REFUSAL**

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

Application Reference: LA07/2020/0372/F

Date Valid: 6th March 2020

Proposal: Change of use of first floor storage to 4 self-contained residential units

Location: First Floor to rear of 71-73 Main Street Castlewellan

Site Characteristics & Area Characteristics:



The site is comprised of a storage building to the rear of 71-73 Main Street Castlewellan. The building can be accessed by vehicles via Clarmont Avenue or a service access off Main Street. Visitors to the building enter it via a steep pedestrian ramp at Clarmont Avenue.



The site is located within the settlement limits of Castlewellaan and is located in an area of mixed residential, retail and service use. The existing building is also located within the Area of Outstanding Natural Beauty, an Area of Archaeological Potential, and the Conservation Area of Castlewellaan.

Site History:

R/1987/0711 - 71/73 MAIN STREET CASTLEWELLAAN - Conversion of first floor to 3 No flats - PERMISSION GRANTED

R/2002/0277/F - 71 Main Street, Castlewellaan, Castlewellaan, Northern Ireland, BT31 9DQ - Store. - PERMISSION GRANTED - 18.10.2002

R/2002/0858/CA - 71 Main Street, Castlewellaan, Northern Ireland, BT31 9DQ - Demolish existing arrangement of single storey and two storey shop stores - PERMISSION GRANTED 18.10.2002

Planning Policies & Material Considerations:

In assessment of this proposal regard shall be given to the following in addition to the history and any other material consideration.

- Strategic Planning Policy Statement (SPPS), Ards
- Down Area Plan 2015,
- PPS2 Policy NH 6 Areas of Outstanding Natural Beauty,
- PPS 3 Policy AMP 7 Car Parking and Service Arrangement,
- PPS 6 Policy BH12 New Development in the Conservation Area,
- PPS 7 Policy QD1 Quality in New Residential Developments
- PPS 12 Policy HS1 Living Over the Shop,
- Creating Places (Guidance Document),
- Castlewellaan Conservation Area document

Consultations:

In assessment of the proposal consultations were carried out with DfI Roads and Environmental Health.

DfI Roads consider that there is a requirement for off-street parking for this proposal

Environmental Health have no objections to the proposal on the basis of the drawings submitted.

Objections & Representations

The application was advertised in the local press on 18.03.2020. The following neighbours of the site were notified of the proposal 10.03.2020

Nos 65, 66, 66a, 67, 71, 72, 73, 76, 76a, 75-77 Main Street
Nos 29 and 31 Clarmont Aveune.

No objections or representations have been received from neighbours or third parties of the site.

Consideration and Assessment:

The proposal seeks Change of use of first floor storage to 4 self-contained residential units.

As can be seen in the image above the building is non-descript and typical of a rear storage building. It is accessed internally from 71-73 Main Street and externally from Clarmont Avenue to the rear and along the side street to the west.

The building has a low elevation at Clarmont Avenue and is finished with rough rendered walls. There are no window openings on the building, it is accessed however by a roller door on the rear elevation at Clarmont Avenue.

The building will be divided internally into 4 residential units. Access to the building will be from Clarmont Avenue via a new door place where the roller door currently exists, from where the apartments will be then accessed via a shared corridor.

Each apartment will have small kitchen / dining / living room area and either 1 or two bedrooms.

The proposal will require the introduction of velux windows to the living areas along with window / door openings to the proposed bedrooms. The bedroom windows will overlook the side street between the site and Shillidays Hardware Store adjacent.

Principle of development

The application site is located within the Settlement Limit and Conservation Area of Castlewellan as designated in the Ards and Down Area Plan (ADAP) 2015. The ADAP policy for development within settlement limits is contained in Policy SETT 1.

Policy SETT 1 of ADAP states that favourable consideration will be given to development proposals within settlement limits including zones sites provided that the proposal is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials. This policy therefore provides broad support for the principle of the proposal.

PPS7

Policy QD1 of Planning Policy Statement & PPS 7 provides the policy context for development proposals within designated settlement limits. It states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and

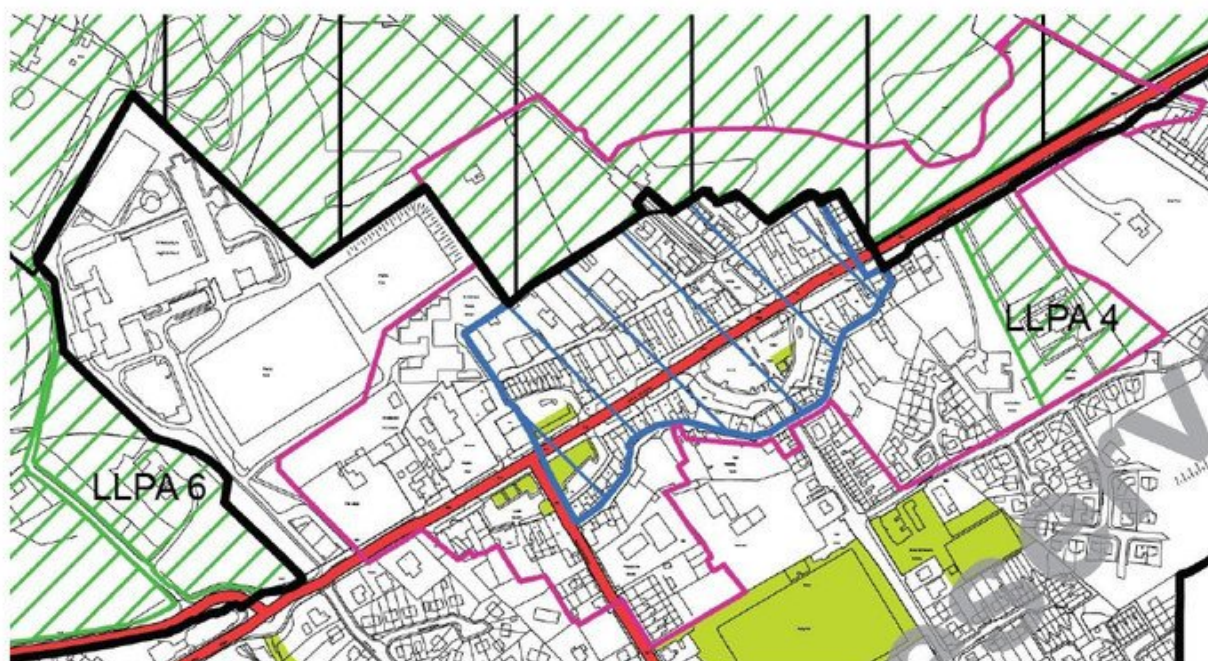
sustainable residential development. All proposals for residential development will be expected to conform to criteria (A) – (I):

- (A) Context. This requires the development to respect the surrounding context and be appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas.

The development, while residential in a mixed-use area, does not respect the surrounding context given its proposed overdevelopment of a site which cannot accommodate the required parking, satisfactory provision of private amenity and satisfactory provision of light.

- (B) Features of archaeological / built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitably manner into the overall design and layout of the development

There are no listed buildings within the immediate vicinity of the site. However several are noted to the west of the site at Lower Square. It is not considered this proposal for change of use would have an impact on these properties. The site is noted to be located within an Area of Archaeological Potential and the Conservation Area of Castlewellan as designated in the Ards and Down Area Plan 2015 and shown in the map below outlined blue and pink respectively



- (C) Adequate provision is made for public and private open space and landscaped area as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact if the development and assist its integration with the surrounding area.

The submitted plans show that each apartment will be provided with a 'juliet' balcony which is noted to measure 1.05sqm. This is the only private amenity space provided within the development and is considered to be below the minimum standards as set out in the guidance document 'Creating Places' which states in paragraph 5.20 that 1-2-bedroom apartment developments should have a minimum private communal space of 10-30sqm.

It is considered therefore that inadequate and inappropriate provision has been made for open space within this development and should be recommended for refusal on this basis.

- (D) Adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development.

There is no requirement for the developer to make such provisions in this particular case

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

The site is located within the settlement limit of Castlewellan and is therefore within walking distance of all the facilities within the settlement and convenient to public transport etc.

- (F) Adequate and appropriate provision for parking ;

Creating Places indicates that parking spaces are required for this development. The drawings indicate that no provision has been made for residents to park their vehicles.

It is noted that the site area is restricted to the building proposed for conversion only and that it has no surrounding curtilage to make provision for parking.

The applicant has indicated in his supporting statement that parking provision will be accommodated by the use of on street parking, along Main Street, Upper and Lower Square which are within 100m of the site. While it is acknowledged that there is a large number of on-street parking spaces within the vicinity it is known to the Planning Authority that car parking in Castlewellan is regularly used to full capacity.

In addition, the site is located on a back street which runs parallel with Main Street, there is no opportunity for surveillance of parking spaces by residents of this development nor would it be convenient to park at any of these locations and walk to the apartments. It is considered that the lack of in curtilage spaces may also encourage residents to park along Clarmont Avenue, which would almost certainly cause an obstruction for those service vehicles bin lorries, delivery vehicles

which attend the dwellings and business premises currently accessing onto Clarmont Avenue, given its narrow nature, as can be seen in the image below.

The proposal does not therefore comply with this criterion.



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

The proposed design of the building will remain as existing albeit for the introduction of new window and door openings.

However, the internal arrangement proposes 4 apartments 3 2 x bed and 1 1 x bed.

In consideration of the size of each apartment, the addendum to PPS 7: Safeguarding the Character of Established Residential Areas states in Annex A that a 1-bedroom apartment which can hold 2 persons should have a minimum floorspace of 50-55sqm, while a 2-bedroom apartment, which can hold 3 persons, should have a minimum floorspace of 60-65sqm. Every apartment proposed in this development is below the minimum space standard. The proposal does not therefore represent a quality residential development and 4 apartments within this building is considered to be inappropriate.

In addition to the above, concern is also raised regarding the outlook from the apartments including the natural light into each apartment. The plans indicate that the living / kitchen areas will be served by two velux windows, with exception of that apartment closest to Clarmont Avenue which has been provided with an additional kitchen window. There is therefore concern regarding the level of natural light these rooms could achieve.

Each bedroom will have one window or Juliet balcony. While these rooms will have light there is concern that they will be looking straight into a blank gable wall of the adjacent business Shillidays Hardware Store. This outlook is not pleasing and has the potential to create a dark / hemmed in feeling for residents given its close proximity of 4m to the adjacent building as can be seen in the images below



As indicated above the apartment nearest Clarmont Avenue has been provided with two additional windows, one from the shower room and one from the kitchen. Both windows will open onto the bin and access area and it is considered that this arrangement could cause the residents nuisance in terms of smell and noise from the bins and noise and lack of privacy from those entering and exiting the apartments given its proximity to the entrance.

In conclusion, it is considered that the internal arrangement of this scheme is contrived, resulting in a proposal which would not be considered a quality residential development.

These issues only further highlight the over-development of the site as referred to in Criteria A.

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

The change of use of the apartments is not likely to have any impact on neighbouring properties due to overlooking or loss of privacy and as the building is to remain as built would not affect the light into any neighbouring property. However, given the lack of in-curtilage car parking there is a concern that there may be potential for the obstruction of the surrounding side streets with vehicles associated with this development.

The applicant has advised that they intend to install bollards along Clarmont Avenue and the side street to discourage people from parking in this area, this only serves to highlight the potential problem arising from lack of in-curtilage car parking.

A large bin compound area is proposed along Clarmont Avenue, while Environmental Health have no objections to the proposal, its arrangement is not ideal from a planning perspective.

On the basis of the above assessment, it is considered that the proposal does not fully comply with the requirements of Policy QD1 of PPS 7 mainly for reasons relating to amenity space and parking (Criteria A, C F and G and H?)

PPS 12: Housing in Settlements

This policy promotes housing in settlement and indeed the re-use of existing buildings. However, all policies within PPS 12 state that proposals should be designed to create high quality residential developments, which as discussed above the proposal does not.

PPS 12 also makes provision for LIVING OVER THE SHOP (HS1). This policy states that proposals should provide

- A suitable living environment
- Adequate refuse storage space
- A flexible approach to car parking
- Alterations to existing buildings should be in keeping with the host building and character of the surrounding area in terms of design, scale and use of materials
- Justification

While there is no issue with the design of the building, its proposed internal layout does not create a suitable living environment for residents, no justification can be provided for a poorly designed, overdeveloped scheme.

PPS3

Roads Interest

Policy AMP 7 – Car Parking and Servicing Arrangements which states that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Departments published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic.

In consideration of the proposal (from a road safety perspective), DfI Roads have been consulted and have advised that adequate off-street car parking for this proposal is required. In assessment of this Creating Places indicates that 6 parking spaces are required for this development. No provision has been made for the parking of vehicles within this scheme.

There is concern that the on-street car parking has the potential to cause issues regarding security / surveillance / convenience for residents of the apartments, in addition to the obstruction of vehicles which currently use Clarmont Avenue and the adjacent side street between the site and Shillidays.

It is considered therefore that the proposal is contrary to Policy AMP 7 of PPS 3.

Other Matters

Conservation Area

The site is located within the Conservation Area of Castlewellan. Policy BH 12 New Development in a Conservation Area is applicable, which states, that proposals for new buildings, alterations, extensions and changes of use in, or which impact on the setting of a conservation will only be permitted where all the following criteria are met;

1. the development preserves or enhances the character and appearance of the area;
2. the development is in sympathy with the characteristic built form of the area;
3. the scale, form, materials and detailing of the development respects the characteristics of adjoining buildings in the area;
4. 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;
5. important views within, into and out of the area are protected;
6. trees and other landscape features contributing to the character or appearance of the area are protected; and
7. the development conforms with the guidance set out in conservation area documents.

In assessment of these policy requirements, it is considered, while the internal arrangement of the proposal is unacceptable, the external changes to the building would not have a detrimental impact

on the character or appearance of the Conservation Area. It is considered therefore that the proposal complies satisfactorily with this policy.

Conclusion

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 unacceptable in planning terms and refusal is recommended.

Drawings

The Drawings considered as part of this assessment are as follows

A4-01 and A1-04 Rev B

RECOMMENDATION: REFUSAL

REASON:

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criteria A of Policy QD1 of Planning Policy Statement 7: Quality Residential Development in that, if permitted, the site would be overdeveloped as satisfactory provision has not been made for private amenity space, adequate light, in-curtilage car parking.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criteria C of Policy QD1 of Planning Policy Statement 7: Quality Residential Development in that inappropriate private amenity space has been provided within the development.
3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS), Criteria F of Policy QD1 of Planning Policy Statement 7: Quality Residential Development and Policy AMP 7 of PPS 3 Access Movement and Parking in that, inadequate and inappropriate parking provision has been made for residents of the development.
4. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criteria G of Policy QD1 of Planning Policy Statement 7: Quality Residential Development in that the internal arrangement of the apartments would result in rooms having a poor outlook and insufficient provision of daylight.
5. The proposal is contrary to Policy LC1 of the Addendum to PPS7: Safeguarding the Character of Established Residential Areas in that the apartments do meet the space standards set out in Annex A of this policy.

Signed: Claire Cooney Date: 08.09.2020

Signed A.McAlarney Date: 14 Sept 2020

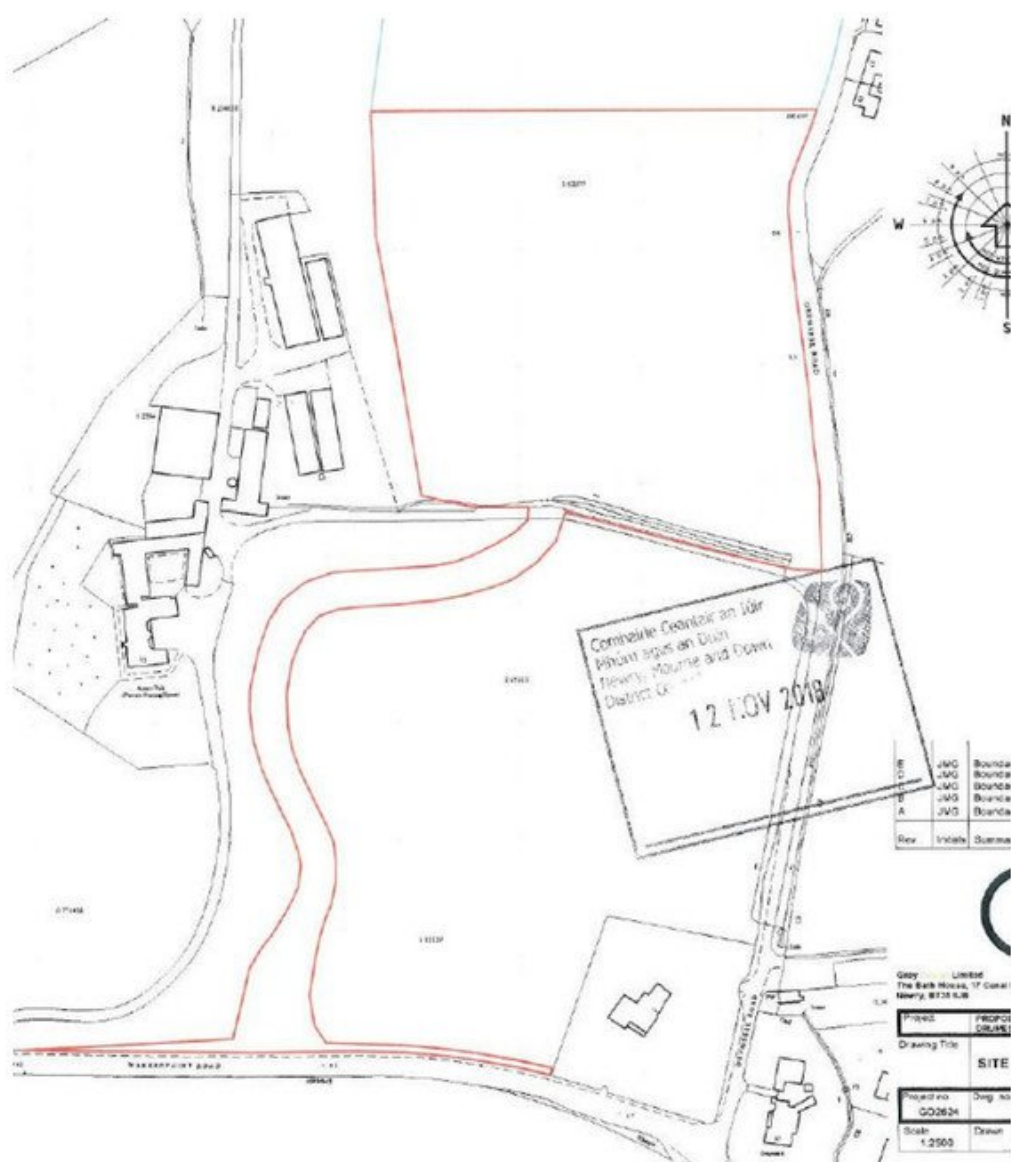


Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

Newry, Mourne
and Down
District Council

Proposal: Proposed Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works. (Amended plans and information received)

Location: 100m West of no 15 Drumsesk Road Rostrevor BT34 3EG



Site Characteristics & Area Characteristics:

The site is located opposite (100 metres west of) 15 Drumsesk Road, Rostrevor. It comprises a portion of a large agricultural field which measures approx. 3.5 ha. The field is orientated from north to south. Its eastern boundary abuts Drumsesk Road and it measures approx. 290 metres along the Drumsesk Road frontage and 180 metres in depth.

The topography of the site falls from north west to south east, and the difference in ground levels from the north western to the south eastern corners is significant.

The site appears open and exposed when viewed from the southern approach on Drumsesk Road. This is partly due to gaps in the roadside vegetation, and also partly due to the sheer size of the field and the lack of any vegetation within its boundaries.

The southern and western field boundaries are defined by post and wire fencing whilst the northern and eastern boundaries are defined by mature hedging and large shrubs / small trees. There is a D-rail fence along part of the north western boundary, along the curtilage to No 12 Drumsesk Road.

There is no built heritage, archaeological or other natural features within the site, and there was no evidence of protected species at the time of site inspection. There are a number of listed buildings in the general vicinity of the site, the closest being No. 75 Warrenpoint Road, Rostrevor, which is located approx. 120 metres south west of the south western corner of the site.

The site is currently accessed from an existing entrance at the south eastern corner. This entrance serves as an access to a group of farm buildings at the south western corner of the site, as well as 12 Drumsesk Road. Some of the farm buildings have been converted to a mechanic's garage.

Site History:

There is no relevant on-site planning history. There is no relevant planning history associated with this proposal; however, the GAA club has previously received planning permission for a separate facility of this nature, at a separate site outside the statutory development limit around Rostrevor. That site was located on Kilbroney Road, Rostrevor, and it was situated immediately adjacent to the development limit (P/2008/1164/F, immediately east of Kilbroney Valley- a private housing development – on Kilbroney Road, Rostrevor). Approval was granted in December 2009. The Planning Department have been advised that the Club have sold this land and development opportunity on.

Planning Policies & Material Considerations:

The Banbridge, Newry and Mourne Area Plan 2015

PPS 8 Open Space

PPS 3 Access Movement and Parking

PPS 2 Natural Heritage

PPS 15 Flooding

PPS 21 Sustainable Development in the Countryside

PPS 6 Built Heritage and Archaeology.

The SPPS

Consultations:

NIEA: No objections

HED: Objection on grounds of impact to several Listed Buildings

TNI: No Objections subject to Planning Making a Planning Decision on whether it represents an exception to the revised AMP 3 policy contained within PPS 21.

Environmental Health: No objections

Rivers: No Objections based on details submitted in 2015. No updated FRA or DA have been submitted to allow for consultation with Rivers on current scheme.

SES: Proposal has potential to have adverse environmental effects on European Designated Sites. Satisfactory HRA cannot be undertaken.

Objections & Representations

There has been considerable public representation on this application. Firstly there have been 1059 letters of support and 2 petitions of support. These range from neighbours to residents of the wider lower mourne area of Rostervor and Warrenpoint. Cllr D McAteer and former MLA Karen McKeivitt (now a Councillor) have also written in support. There have also been substantial objections (53 to date together with a petition of 16 signatures) to the proposal from residents within the immediate area. These include the Drumsesk Residents Association, and properties within the immediate area of the proposal and MLA Jim Wells. The concerns raised are summarised as follows:

Impact on setting of nearby listed building(s);

Unacceptable visual impact;

Noise (from patrons, whistles, vehicular traffic, intercom system etc);

Lack of new landscaping;

Road safety concerns - lack of footway link to the A2, lack of street lighting on Drumsesk Road, lack of passing bays, inadequate sight lines where Drumsesk Road intersects with the A2, inadequate width of Drumsesk Road;

Surface water / drainage issues on Drumsesk Road;

Impact of proposed new access road on rural character and the setting of Arno's vale;

Query regarding disposal of water from the site;

Detrimental to the environmental quality of the area;

Light pollution / nuisance from floodlights;

Prominence (the club house);

Flooding concerns due to proximity to flood plain;

Impact on wildlife (red squirrels and bats);

These concerns are dealt with throughout the case officer report.

Consideration and Assessment:

Section 45 of The Planning (Northern Ireland) Act 2011, requires the council to have regard to the Local Development Plan as far as material to the application and to any other material considerations. Section 6 (4) of the Planning Act (Northern Ireland) 2011 requires that the determination of proposals must be in accordance with the development plan unless material considerations indicate otherwise.

This site is located within the Countryside and outside any zoned and designated site for land use. The site is located within the designated AONB as outlined with the area plan maps.

In September 2015, a new Strategic Planning Policy Statement was produced which applies to the whole of Northern Ireland. It must be taken into account in the preparation of Local Development Plans (LDP) and is material to all decisions on individual planning applications

and appeals. However a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. Para 1.12 of SPPS states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS i.e. where there is a change in policy direction, clarification or conflict with the existing policies then the SPPS should be afforded greater weight. However, where the SPPS is silent or less prescriptive on a particular planning policy matter then retained policies this should not be judged to lessen the weight to be afforded to the retained policy. In this case as I do not deem the proposal to fall into an intensive sporting facility, but rather an application for Outdoor open space, the policies contained within PPS 8 are more prescriptive and therefore shall be given weight.

This application has been substantially amended throughout the lifetime of its processing. It has been advertised and re-advertised on 7 different occasions and neighbour notified at least 7 times also. Given the substantial changes to the scheme, the report will assess the final set of amendments only.

The site lies in the open countryside, and PPS 21 applies to all countryside development. CTY1 outlines the types of acceptable development, which includes open space, sport or outdoor recreation in accordance with PPS 8.

PPS 8 Policy OS 3 assesses applications for outdoor recreational uses. Policy OS 3 outlines that planning permission for outdoor recreational proposals will be granted where it has been demonstrated that the proposal will meet all the criteria listed from points (i) to (viii). The SPPS is arguably less descriptive and therefore OS 3 will be given significant weight in this determination. On assessment of the proposal against the criterion of OS 3, It has not been demonstrated that this proposal will not have an adverse impact on features of importance to nature conservation, archaeology or the built heritage. Historic Environment Division: Historic Buildings Unit have been consulted with the proposal and have raised several key concerns in relation to the proposal and its impact on the setting on several adjacent Listed Buildings, particularly Arnos Vale by reason of the overall scale of the development and the consequent impact on the wider landscape of this largely undeveloped rural area between Rostrevor and Warrenpoint. For example, a critical view from the Cloughmore Stone takes in a number of listed buildings including Arno's Vale, Rosetta, Drumsesk House and the Ross Monument. The proposal will radically change the character of this view. The proposed access road which run across lands directly in front of Arnos Vale, attendant traffic, noise and likely advertising and signposting; The height and density of the flood lighting – not only when the lights are on, but the impact of the standards; Fencing and netting arrangements would all have an unacceptable adverse impact on the setting of listed buildings listed above and in particular on the setting of Arno's Vale. There is also a more concentrate view of the proposal from the Drumsesk Road, which in which the above detailed adverse impacts will be more obvious in a local critical viewpoint.

In relation to the natural heritage through the final submission the agent reverted to the use of a septic tank, located in the area which is subject to flooding on site. Given the constraints of the site, it cannot be demonstrated that the proposal would not have an adverse impact on the natural heritage features of nearby designations, in particular those of Carlingford Lough SPA, Marine proposed SPA and RAMSAR site, Carlingford Shore SAC and Carlingford Lough SPA (ROI). This is explained in detail below under consideration of Natural Heritage PPS 2 policies.

Whilst this proposal would, if permitted, result in the loss of agricultural land, there will be no unacceptable adverse impact on nearby agricultural activities, and the loss of agricultural land will not be significant in the context of the amount of available agricultural land in the locality.

The proposal will have a significant adverse impact on the visual amenity of the area. On the basis of the information currently available, it appears that the proposal will feature prominently in the area. There are considerable views into and through the site. Existing vegetation and hard landscaping will have to be removed to allow for the creation of sight lines, and the flood lighting columns and associated infrastructure of ball stop nets, the access road and the car parking will feature prominently in this landscape, which is particularly sensitive given its AONB location. The proposed club house while having an appearance of being single storey is actually 8.3m in height from finish floor level, which will have a significant detrimental impact on the rural area by way of lack of integration.

The proposed potential impact on the amenities of nearby residents have been assessed. The only existing boundary treatment separating the site from No 12 Drumsesk Road is a D-rail fence at present. It is proposed to plant this boundary out to the west of the site. However, the rear boundary to the north remains undefined to the rest of the agricultural field. The impact on the amenity of No 75 Warrenpoint Road and No 2 Drumsesk Road have been assessed through the submission of lightening assessments and with consultation with Environmental Health. Given the submission and changes to the floodlighting proposed, the reports clearly take the worst-case scenario of an E1 area and shows that there will not be an unacceptable detrimental impact. The volume of cars travelling into and out of the site has the potential to compromise the amenity of the existing properties listed above given the lack of existing landscaping proposed to mitigate them, that and the fact that it would take a substantial period of time to mature to give an appropriate level of protection required. It is noted that Environmental Health Department have no concerns relating to noise from the proposed development and its impacts on the neighbouring. While there will be noise generated from the proposal, it must be assessed against the existing background noise currently experienced by immediate residents, with the presences of the traffic noises along the A2, and the light engineering works located in shed adjacent to No 75 Warrenpoint Road. The noise resulting from the proposal before us will not be continuous but rather limited to mostly evening and weekends and this taken together with the existing background noise of the A2 and surrounding land uses will limit any potential noise having an adverse impact on neighbouring residential amenity. This is supported by Environmental Health's response that there will be no adverse impact on residential amenity by way of noise in their most recent response.

There is no evidence to suggest that public safety could be prejudiced by this proposal and the nature, scale, extent and frequency of use proposed do not render the development incompatible with the surrounding character.

The club house will not be able to benefit from an appropriate degree of integration within the surrounding area, this together with the visual impact of the flood lighting standards and ball stop nets will have a detrimental impact on the character of the AONB. There will be a significant amount of earth movement required to accommodate this proposal. The overall significant impact of the amount of earth moving required to accommodate this proposal will

be likely to affect the character and appearance of the rural area and indeed that of the ANOB to its determinant.

No evidence has been suggested to indicate that a movement pattern that supports walking and cycling will be created to an acceptable standard, however the site does have existing and proposed pedestrian linkages with either nearby settlement of Warrenpoint and Rostrevor. These Pedestrian links are not to an acceptable standard in terms of the width required by existing standards, and access by means of transport other than the private car would not be convenient;

At this stage DfI Roads has indicated that the proposed access and internal access road is acceptable when considered against the requirements of AMP 1 and AMP 2. However, as it does not meet the criteria for suitable recreational development within the countryside and the proposal involves a new access road onto a protected route, then the proposal is contrary to criteria (d) of AMP 3 as amended at the end of PPS 21. The proposal is therefore contrary to OS 3.

Policy OS 5

On balance, despite the potential for noise disturbance, I do not consider the proposal to be a noise generating sports and outdoor recreational activity, having regard to the types of "noise generating" activities described in Policy OS 5. The uses described in Policy OS 5 are reflective of sports that rely on the use of motorised or other noise generating equipment, unlike football -which does not involve the use of any equipment like this.

Policy OS 7

There is potential for the development to have an unacceptable impact on the amenities of people living nearby, in particular in relation to the potential impact of the proposed flood lighting on the nearby residential amenity. The Planning Department have requested that this be fully address in a submitted lightening assessment detailing impact on the neighbouring properties. This has been received and consultation with Environmental Health has taken place. The submitted information has assessed the proposal in a worst-case scenario of E1. The submitted information demonstrates that the proposal meets the Guidance Notes for the Reduction of Obstrusive Light' for Pre and Post curfew for Environmental Zone E1 at the sensitive receptor locations, subject to a condition attached if permission is forthcoming restricting the hours of operation of the flood lights from 1800hrs to 2200hrs Monday to Sunday. The proposal therefore meets policy OS 7.

PPS 21. Policy CTY 13

I am concerned that, on the basis of the information submitted, the development would appear as a prominent feature in the locality. The site would be unable to provide a suitable degree of enclosure for a development of this nature and the proposal could therefore not integrate satisfactorily with the surrounding area.

The proposal would, if permitted, rely upon new landscaping to achieve a satisfactory degree of integration, and significant ancillary works of a large meandering access road, with a access from the A2 cut through a roadside bank, Significant earth works and grading of land to create a flat pitch area, and a Club House building approximately 8.3m from FFL, together with the associated ball stop fences, flood lightening and large carparking areas, would in this case would not integrate with the site's surroundings.

The proposal involves a significant proportion of engineering to manufacture a flat surface to accommodate the playing pitch and a level car parking area. This is fundamentally contrary to CTY 13 and to aiding the integration of the development within the rural area and indeed that of the AONB.

The design of the building is inappropriate to this site and in this locality, due to its design height, massing and siting, as it is located close to a listed building and also due to the AONB status and the site's open nature.

The proposal would fail to blend with the existing landform, and the existing vegetation is incapable of providing an acceptable backdrop. On balance, the proposal has failed to comply with criteria of Policy CTY 13.

Policies CTY 14 & CTY 8.

I consider that the proposal would appear unduly conspicuous in the landscape. The resultant development pattern would appear suburban, to the detriment of the character of the area by reasons of suburban development and a build-up of development, and the proposal does not respect the traditional pattern of settlement that is exhibited in this area. Ribbon development would be created along the laneway with the existing two sheds, together with No. 12 Drumsesk Road being read together with the proposed club room building and would harm and erode the rural environment unnecessarily. On balance, the proposal has failed to meet the requirements of Policy CTY 14 and that of CTY 8.

PPS 6 Planning, Archaeology and the Built Heritage

Policy BH 11 is relevant as this development has the potential to impact on the setting of nearby listed buildings. Historic Environment Division Historic Buildings Unit has indicated that Compliance with Policy BH 11 has not been demonstrated as they have several key concerns in relation to the proposal and its impact on the setting on several adjacent Listed Buildings, particularly Arnos Vale by reason of the overall scale of the development and the consequent impact on the wider landscape of this largely undeveloped rural area between Rostrevor and Warrenpoint. For example, a critical view from the Cloughmore Stone takes in a number of listed buildings including Arno's Vale, Rosetta, Drumsesk House and the Ross Monument. The proposal will radically change the character of this view; The proposed access road which run across lands directly in front of Arnos Vale, attendant traffic, noise and likely advertising and signposting; The height and density of the flood lighting – not only when the lights are on, but the impact of the standards; Fencing and netting arrangements would all have an unacceptable adverse impact on the setting of listed buildings listed above and in particular on the setting of Arno's Vale when viewed from the public roadside along the Warrenpoint Road, the Drumsesk Road and the private laneway which will have significant public use as a result of this proposal. The proposal is therefore contrary to BH 11 of PPS 6.

PPS 2 Planning and Nature Conservation

At the date of inspection, I did not detect any signs of wildlife or protected species in the site. Third parties have referred to them however, and NIEA Natural Heritage Division has stated that they do not believe that there will be any impact on wildlife or protected species. As discussed above the development will have an adverse impact on the integrity of the rural area and indeed that of the designated ANOB. This site will have a detrimental impact on the character of the AONB specifically due to the substantial cut and banking required to

construct this proposal and the development and associated operational infrastructure of the ball stop nets, flood lighting, car parking, and the proposed access road and club house. These will all be prominent within the local rural area and will be detrimental to the character of the AONB and therefore contrary to NH 6 of PPS 2.

The proposal also includes the provision of sewage treatment by septic tank. This tank is located in an area of the site which is prone to flooding. This raises considerable concern about the possibility of contamination of ground water from the tank and indeed that contamination making its way into nearby watercourses and the Lough situated nearby which has several European designations within it. Shared Environmental Services, who carry out the Council HRA, have not been able to complete a satisfactory HRA on this proposal. They advise that it cannot be concluded beyond scientific doubt that there won't be adverse impact as a result of this scheme being developed to the Carlingford Lough SPA, Marine proposed SPA and RAMSAR site, Carlingford Shore SAC and Carlingford Lough SPA (ROI). This proposal is therefore contrary to Policies NH 1 and NH 5 of PPS 2 in that the proposal may have an adverse impact on the integrity of European Conservation sites and species within Carlingford Lough.

Critically, given that Council cannot ensure that the integrity of these European sites can be protected by condition this proposal cannot be approved as its will not meet the requirements of Regulation 43 of The Conservation (Natural Habitats) Regulations (Northern Ireland) 1995 (as Amended 2015).

PPS 3 Access, Movement and Parking

Roads Service has replied to the consultation stated that while it has no objection to the design and layout of the access, that the principle of it must be assessed against AMP 3. The proposal utilises a new access onto the A2 and does not meet the policy requirements for "other development" i.e. outdoor recreational development. Therefore, the proposal is contrary to AMP 3.

As the proposal does not meet the criteria of OS 3 and CTY 1, and it proposes a new access road instead of using an existing access road with improvements, which would not meet the criteria for development in the countryside. Where this cannot be achieved AMP 3 states that proposals will be required to make use of an existing vehicular access onto the Protected Route. This proposal involves the creation of a new access onto the protected route and the proposal is contrary to AMP 3 of PPS 3 as amended.

PPS 15 Flood Risk FLD 1, FLD 3 & FLD 4

The southern boundary of the field is located within the Q100 flood plain and a significant portion of the southern and eastern boundaries are within a surface flooding zoning. At this section of the site there is a grassed area together with the access road into the development and part of the car parking proposed. This is obviously substituting suitable agricultural soil moisture storage for a hard-surfaced area which can increase the changes of flooding elsewhere. As the Red Line of the development site contains land which is within the Q100 flood plain the proposal must be assessed against FLD 1. As the proposal is for a sport and recreational ground this proposal would meet the exception criteria (f) within FLD 1 provided that it is accompanied by a flood risk assessment which demonstrates that the proposal will not result in increased flooding in other areas. The Flood Risk Assessment and

Drainage Assessment has been submitted in 2015 with the application and Rivers Agency has responded to a consultation on this. Rivers Agency as statutory consultees has advised that the content is acceptable subject to the applicant providing the applicant renews a previously approved schedule 6 agreement. This can be negatively conditioned to be submitted if approval were forthcoming. However, since the submission of the revised scheme detailing a Sewage treatment plant, which is located in the area of land identified to flood, **the submitted FRA is no longer valid**. The construction of the tank itself will utilise significant ground water storage, with the proposed soakaway also located in an area of the site known to flood. This may increase flooding within the locality especially on the shared laneway adjacent to the site and the nearby Drumsesk Road. Therefore, the proposal is contrary to policy using the precautionary approach set out within FLD 1 of PPS 15.

Rivers Agency have advised that the storage attenuation cells to be developed within the car park will leave the site having a greenfield run off rate. However again this does not take into consideration the septic tank located at a lower level than the car park. Again, utilising the precautionary approach undertaken throughout PPS 15 **the DA would be deemed to be no longer valid** as it is not up to date with the current proposal before me. Again, I would recommend refusal on FLD 3.

There is proposed culverting to pipe an existing unnamed drain along the southern boundary to allow the access road to be constructed. This meets the policy requirements of FLD 4.

CTY 16 of PPS 21 assesses the disposal of sewage in development schemes in the Countryside. Given that the suggested disposal method here is a septic tank and that tank and its soakaway has been located in the area of the site which has been identified as known to flood and hold surface water, the Planning Authority does not envisage that this sewage disposal scheme is viable and would therefore not be content to negatively condition it. The proposal is therefore contrary to CTY 16 also.

Recommendation:

Therefore, having considered the proposal against all the prevailing planning policies the Planning Department have concluded that the proposal is contrary to the following Planning Policies and refusal reasons detailed below.

Refusal Reason:

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 CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that: the proposed development is a prominent feature in the landscape; it is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; it relies primarily on the use of new landscaping for integration; ancillary works do not integrate with their surroundings; the proposal fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the development would, if permitted, be unduly prominent in the landscape, the impact of ancillary works would damage rural character, and it would therefore result in a detrimental change to the rural character of the countryside.
4. The proposed development is contrary to Policy OS 3 of the Department's Planning Policy Statement 8 Open Space, Sport and Outdoor recreation, in that it has not been demonstrated that there will be no adverse impact on the natural and built heritage of this area, the proposal will have an adverse impact on the visual amenity of the area, the development will not integrate adequately with its surroundings and as the road network cannot safely handle the additional traffic that is likely to be attracted to the premises.
5. The proposal is contrary to Policy BH 11 of the Department's Planning Policy Statement 6 Planning, Archaeology and the Built Heritage in that it has not been demonstrated that the development will not have an adverse impact on the setting of a nearby listed building.
6. The proposed development is contrary to Policy AMP 3 of the Department's Planning Policy Statement 3 Access, Movement and Parking (as amended), and associated guidance, in that it would result in the creation of a new access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general road safety.
7. 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 the private laneway off the Drumsesk Road.
8. The proposal is contrary to the Department's Planning Policy Statement 2, Planning and Nature Conservation policy NH 6 in that the site lies within the Mourne AONB a designated site of local and national importance and would, if permitted, adversely affect the setting and integrity of the area by reason of integration and visual amenity.
9. The proposal is contrary to the Department's Planning Policy Statement 2, Planning and Nature Conservation policy NH 1 in that the proposal if permitted, may adversely affect the features and integrity of the Carlingford Lough SPA, Marine proposed SPA and RAMSAR site, Carlingford Shore SAC and Carlingford Lough SPA (ROI) due to ground water pollution and contamination.
10. The proposal is contrary to Policy CTY16 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not submitted sufficient information on the means of sewerage to properly consider the impact of the development in terms of pollution.
11. The proposal is contrary to Policy FLD 1, of Planning Policy Statement 15, in that an up to date FRA for the current proposal has not been submitted for consideration.

12. The proposal is contrary to Policy FLD 3, of Planning Policy Statement 15, in that an up to date Drainage Assessment for the current proposal has not been submitted for consideration.

Case Officer: J McParland

Date: 28/09/2020

Authorised Officer: Pat Rooney

Date: 07/10/2020



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

Application Reference: LA07/2019/0585/O

Date Received: 15/04/2019

Proposal: One detached house and garage

Location: 9 Derryleckagh Road, Newry, County Down, BT34 2NL

Site Characteristics & Area Characteristics:

The application site is a small rectangular area of a larger field located along Derryleckagh Road. The site is relatively flat and is in agricultural use. It is located approx. 50m south of the dwelling 9 Derryleckagh Road – the applicant's address and approx. 160m north of number 13 Derryleckagh Road. The site is accessed via a narrow laneway off Derryleckagh Road, with hedgerows on both sides of the road. The site is bounded to the road by a range of mature vegetation.

The site is designated out-with any settlement limits in the Banbridge/ Newry and Mourne Area Plan 2015. An Area of Special Scientific Interest is located to the rear of the application site. Within this ASSI are a number of ASSI Habitat Points, including Purple moor-grass and rush pasture and Fen sites.

Date of Site Visit: 04/02/2020

Site History:

P/2005/0233/F

- 210m south of 9 Derryleckagh Road, Newry
- Site for dwelling and garage
- Planning permission refused

Refusal Reasons:

1. The proposal is contrary to Policies SP6, HOU8 and DES5 of the Department's 'A Planning Strategy for Rural Northern Ireland' in that a building on this site would not integrate into the countryside, as the site is unable to provide a suitable degree of enclosure due to the lack of sufficient boundaries or any other means of achieving

satisfactory integration, and as a consequence would, if permitted, have an adverse impact on the landscape as it is unduly conspicuous.

2. The proposal is contrary to Policies SP6, HOU8 and DES6 of the Department's Planning Strategy for Rural Northern Ireland in that the development when considered in the context of existing and proposed development, would, if permitted, result in a detrimental change to the rural character of this area of countryside by reason of build-up.
3. The proposal is contrary to Policies SP6, HOU8 and DES7 of the Department's Planning Strategy for Rural Northern Ireland in that the development would, if permitted, adversely affect the visual amenity and character of the countryside by the extension of ribbon development along the laneway 210m south of 9 Derryleckagh Road.
4. The proposal is contrary to Planning Policy Statement 3: Access, Movement and Parking and would, if permitted, prejudice the safety and convenience of road users since it proposed to use an existing access at which visibility cannot be provided to an adequate standard.

Planning Policies and Material Considerations:

Banbridge Newry Mourne Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21

Planning Policy Statement 3

Consultations:

Transport NI – The existing laneway is substandard and the proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2.

NI Water – Generic response to routine planning application

NIEA – Water Management Unit refers to standing advice for single dwellings. Natural Environment Division advises that Planning Authority should consult and guidance on DAERA website.

Shared Environmental Services - 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 would not be likely to have a significant effect on the features of any European site.

Objections and Representations:

3 neighbours were identified and notified of the proposal on 20.04.2020. The proposal was also advertised in local press on 01.05.2019.

No objections or representations were submitted for consideration.

Consideration and Assessment:**The Banbridge, Newry and Mourne Area Plan 2015**

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

Strategic Planning Policy Statement (SPPS)

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

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY 1 states a range of types of development which in principle are considered to be acceptable in the countryside.

Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.

This application is for a dwelling and garage in the countryside. Planning permission will be granted for an individual dwelling house in the countryside in the following cases:

- A dwelling sited within an established cluster of buildings in accordance with Policy CTY 2a;
- A replacement dwelling in accordance with Policy CTY 3
- A dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6
- A dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7
- The development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8
- A dwelling on a farm in accordance with Policy CTY10

- The application site is not located within an established cluster of buildings in accordance with Policy CTY 2a.
- The application site does not have a replacement opportunity located on-site.
- There has not been evidence submitted for the application to be assessed based on special personal or domestic circumstances.
- There has not been evidence submitted for the application to be assessed to meet the needs of a non-agricultural business enterprise
- The application site is not within a small gap site with an otherwise substantial and built-up frontage.
- No information/evidence has been submitted in support of a farm dwelling.

The applicant has supplied information outlining that he wishes to secure planning permission for his daughter to live close by, and that this site has water supply and access to an electricity supply. These are not material planning considerations and this application fails to meet any of the criteria outlined in CTY 1. There are no overriding reasons why this development is essential and cannot be located within a settlement. It is therefore contrary to CTY 1 of PPS 21.

CTY13 – 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.

As the proposal is for Outline Permission, a ridge height condition can be applied to ensure the new building is not a prominent feature in the landscape. The site can provide a suitable degree of enclosure to integrate into the landscape. The application site does not rely primarily on the use of new landscaping for integration. Ancillary works can integrate into their surroundings. The design of the building will be assessed at Reserved Matters stage, as will the ability of the new building to blend with the landform, existing trees, buildings and other natural features which provide a backdrop.

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.

As the proposal is for Outline Permission, a ridge height condition can be applied to ensure the new building is not unduly prominent in the landscape. The proposal does not result in a suburban style build-up of development when viewed with existing and approved buildings. The design of the proposal would be assessed at Reserved Matters stage to ensure the dwelling and garage respects the traditional pattern of settlement. The impact of ancillary works would not damage rural character.

The application site is located between numbers 9 and 13 Derryleckagh Road. The application site is not an exception to policy and creates a ribbon of development along Derryleckagh Road. As outlined in CTY 8, Planning permission will be refused for a building which creates or adds to a ribbon of development. The proposal adversely affects the rural character of the local environment by the extension of ribbon development and is therefore contrary to CTY 14. As outlined in the related refusal P/2005/0233/F (refusal reason 3), ribbon development has consistently been opposed and will continue to be unacceptable.

CTY 16 – Development relying on non-mains sewerage

The P1 form indicates that foul sewage will be disposed of by septic tank. The application complies with Policy CTY 16. A condition should be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

Planning Policy Statement 3 – Access, Movement and Parking

Consultation responses from DFI Roads are highlighted below:

15 May 2019 - *“Before DFI Roads can make comment on this application, can you please ask the applicant to submit an amended 1/2500 scale plan clearly showing the red line adjoining a public road”.*

24 March 2020 – *“An amended 1/2500 showing the required sight visibility splays 2.4m by 90m and a widened access of 4.8m for the first 10m to be within the red line”.*

30 June 2020 – *“Previous comments dated 24 March 2020 still applicable, sightlines to be drawn in accordance with DCAN 15”.*

25 August 2020 – *“Please ask the applicant to submit an amended 1/2500 scale plan clearly showing the red line extending for a distance of 2.4m x 80m either side of the existing laneway”.*

The Planning Department have offered a number of opportunities for the relevant information to be forwarded for consideration. To date this has not been submitted.

The latest consultation response from DFI Roads (7 September 2020) is of the opinion that the existing laneway is substandard. The proposal would, if permitted, prejudice the safety and convenience of road users. The width/visibility of the existing access renders it unacceptable for intensification of use. The proposal is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

Recommendation:

Refusal.

Reasons for refusal:

1. The proposal is contrary to the Strategic Planning Policy Strategy for Northern Ireland and to Planning Policy Statement 21 – Sustainable Development in the Countryside in that it is contrary to CTY 1. There are no overriding reasons why this development is essential and cannot be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Strategy for Northern Ireland and to Planning Policy Statement 21 – Sustainable Development in the Countryside in that it is contrary to CTY 14. The proposal creates a ribbon of development along Derryleckagh Road.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the width/visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

Case Officer: Emma Moore 08-09-2020

Authorised Officer: M Keane 11-09-2020

I have come up with the following reasons to dispute the departments recommendation to deny planning permission for a site at:

9 Derryleckagh Road, Newry, BT342NL

(Reference: LA07/2019/0585/O)

1. I live alone and as I get older, I will need care closer at hand as I suffer from hypertension, depression and trigeminal neuralgia.
2. My daughter plays an active role in my pony stud farm and I need her on site.
3. This is the only land that I own so this is where I need the site to be.
4. The access lane meets the DFI's site line requirements. It is only 10cms narrower than their width recommendations. An articulated milk tanker and other farm vehicles weighing approximately [15-20](#) tons make use of the lane daily so I feel one extra household will not make a substantial impact on the lane.
5. The planning application was received by the department on 10th April [2019](#), that is 79 weeks ago. There have been multiple case officers and at some points no allocated case officer. It has taken nearly 10 times as long as your departments aim of 8 weeks to complete a planning application. During this time, I have received one correspondence to let me know the application was received, and one other correspondence to ask me to provide an amended scale map, which I provided within 10 days. During the last 79 weeks I have rang your department multiple times to try to move the application along. In fact I was told by my case officer in November [2019](#) that the application should be completed by Christmas.
6. With regards to policy SP6- It states that a major theme of the public consultation response was that those brought up in rural areas should not be prevented from building their homes there. Our family bought the farm in the early [1980](#)'s and we renovated the farmhouse and moved in in [1998](#), my 2 daughters lived there with me from then.
7. When I applied for planning permission for 2x sites in [2005/2006](#) I was told by the planning department that I could get one site passed but not two. At that time, I was going through a divorce, was in poor mental health and as a result did not pursue this matter.
8. Policy SP6 states it is not necessary to establish a need for a new dwelling however I have provided you with extensive personal reasons as to why this site is needed.

9. There have been no objections from any of my neighbours or the public, to the site.
10. HOU8 states single dwellings can be granted outside green belts, which the site is. I feel it is unfair to say the site will have "an adverse impact on the landscape as it is unduly conspicuous" as it is outline planning permission I am seeking; I have no designs submitted.
11. HOU8 also states the main planning considerations include access, method of sewage, disposal, and drainage. There is already access and scope for a septic tank. The site is on a slope, so drainage is not an issue.
12. DES5 details a new site should conform to specific requirements in relation to prominence, siting, landscaping, access, and design. In regards to prominence, the site has an "identifiable, long-established boundary" in the form of a fence, which blends it "sympathetically with landform". It does not occupy a prominent skyline; in fact it is 45m below the skyline. With regards to siting, it is positioned approximately 50m from the group of farm buildings which the stud farm operates out of. With regards to landscaping, the existing hedgerows will remain and there are no other trees, walls, archaeological sites or monuments on site. With regards to access, there is an existing lane and access point to the site and water/electric are already on site. With regards to design, it is outline planning permission I am seeking, but I am keen to keep it within the rural farmhouse design to integrate it into the countryside.
13. DES6 is a policy relating to rural character, as I am seeking outline planning permission, I don't see how the department can argue it will cause "detrimental changes to the overall character". As I mentioned I am keen to keep it within the rural farmhouse design to integrate it into the countryside.
14. DES7 is a policy relating to ribbon development and infill. As there is already existing access to the site and it is surrounded by hedgerows and mature vegetation, I feel the proposed site is not detrimental to the character or amenity of the countryside. The site is situated down a private lane which is 0.5miles long with 9 houses along it. It is a private lane, not a main road, so I feel that this will not contribute to ribbon development.
15. CTY13 & CTY14- as the request is for outline planning permission, I am open to conditions to ensure the rural character is preserved.
16. CTY16- I am willing to submit consent for a septic tank.
17. The site is approximately 350m from the ASSI (area special scientific interest) so I feel it would have no impact on it.

I make the following points in respect of Mr Cathers case – Planning Application LA07/2019/0585/O

1. Mr Cathers live alone and as he gets older he will need care closer at hand as he suffers from a number of medical issues including hypertension, depression and trigeminal neuralgia.
2. His daughter plays an active role in my pony stud farm and as such he needs her on site.
3. The proposed location of the site is the only land within Mr Cathers ownership and serves as his only possibility for a site.
4. The access lane meets the DFI's site line requirements. It is only 10cms narrower than their width recommendations. An articulated milk tanker and other farm vehicles weighing approximately [15-20](#) tons make use of the lane daily so it is felt one extra household will not make a substantial impact on the lane.
5. The planning application was received by the department on 10th April [2019](#), that is 75 weeks ago. There have been multiple case officers and at some points no allocated case officer. Mr Cathers has made reference to the department's aim to complete a planning application in 8 weeks and which has been multiplied by 9 in his case. During this time he received one piece of correspondence to let him know the application was received, and one other piece of correspondence to ask him to provide an amended scale map, which was provided within 10 days. During the last 75 weeks he contacted the department multiple times to try to move the application along. He had been told by his case officer in November [2019](#) that the application should be completed by Christmas.
6. With regards to policy SP6- It states that a major theme of the public consultation response was that those brought up in rural areas should not be prevented from building their homes there. Mr Cathers family bought the farm in the early [1980](#)'s, renovated the farmhouse and moved in in [1998](#), where he and his 2 daughters have lived ever since.
7. When Mr Cathers applied for planning permission for 2x sites in [2005/2006](#) he was advised by planning service that he could get one site passed but not two. At that time he was going through a divorce, was in poor mental health and as a result did not pursue this matter.
8. Policy SP6 states it is not necessary to establish a need for a new dwelling however Mr Cathers has provided the planning department with extensive personal reasons as to why this site is needed.
9. There have been no objections from any of his neighbours or the public, to the site.
10. HOU8 states single dwellings can be granted outside green belts, which he considers the site to be. Mr Cathers feels it is unfair to say the site will have "an adverse impact on the landscape as it is unduly conspicuous" given that it is outline planning permission he is seeking at this stage and no house design has been designed.
11. HOU8 also states the main planning considerations include access, method of sewage, disposal and drainage. There is already access and scope for a septic tank. The site is on a slope so drainage is not an issue.
12. DES5 details a new site should conform to specific requirements in relation to prominence, siting, landscaping, access and design. With regard to prominence, the site has an "identifiable, long-established boundary" in the form of a fence, which blends it "sympathetically with landform". It does not occupy a prominent skyline, in fact it is 45m below the skyline. With regards to siting, it is positioned approximately 50m from the group of farm buildings which the stud farm operates out of. With regards to landscaping, the existing hedgerows will remain and there are no other trees, walls, archaeological sites or monuments on site. With regards to access, there is an existing lane and access point to the site and water/electric are already on site. With regards to design, it is outline planning permission Mr Cathers is seeking and he would be keen to keep it within the rural farmhouse design to integrate it into the countryside.
13. DES6 is a policy relating to rural character and as he is seeking outline planning permission, Mr Cathers does not see how the department can argue it will cause "detrimental changes

to the overall character". As mentioned, he is keen to keep it within the rural farmhouse design to integrate it into the countryside.

14. DES7 is a policy relating to ribbon development and infill. As there is already existing access to the site and it is surrounded by hedgerows and mature vegetation, Mr Cathers feels the proposed site is not detrimental to the character or amenity of the countryside. The site is situated down a private lane which is 0.5miles long with 9 houses along it. It is a private lane, not a main road, so he feels that this will not contribute to ribbon development.
15. CTY13 & CTY14- as the request is for outline planning permission, Mr Cathers is open to conditions to ensure the rural character is preserved.
16. CTY16- Mr Cathers is willing to submit consent for a septic tank.
17. The site is approximately 350m from the ASSI (area special scientific interest) so Mr Cathers believes it would have no impact on it.



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

Application Reference: LA07/2019/1228/F

Date Received: Fri 02 Aug 2019

Proposal: Erection of dwelling and garage (change of house type to P/2009/0633)

Location: 60 metres south east of 29 Leitrim Road Kilkeel

Site Characteristics & Area Characteristics:

The site is located in a rural area approximately 2 miles north-west of Kilkeel within the Mourne AONB. The area is characterised by agricultural fields and buildings and single houses.

Site History:

P/1996/0080/O and P/1998/0596/RM – Permission granted for replacement dwelling.

P/2009/0633/F - Proposed erection of replacement dwelling and detached garage with associated work, Lands at 29 Leitrim Road, Kilkeel - Permission granted, 07 Aug 2009

P/2009/1484/F Proposed amended access to previously approved application P/2009/0633/F, Lands at 29 Leitrim Road, Kilkeel - Permission granted 16 Jun 2010

LA07/2015/0166/LDE - Construction works undertaken were lawful under planning reference P/2009/0663/F and P/2009/1484/F and therefore constitute a material start to the dwelling approved under reference P/2009/0663/F, 29 Leitrim Road Kilkeel
Refused

Appeal 2016/E0045 – appeal (partially) allowed

LA07/2016/1573/F - Replacement dwelling and detached garage, 55m SE of No 29 Leitrim Road Kilkeel – Permission refused 13 Apr 2018

Planning Policies & Material Considerations:

The Banbridge Newry and Mourne Area Plan 2015

The Strategic Planning Policy Statement (SPSS) for Northern Ireland
 Planning Policy Statement (PPS) 3 – Access, Movement and Parking
 Planning Policy Statement (PPS) 2 – Natural Heritage
 Planning Policy Statement (PPS) 21 – Sustainable Development in the Countryside
 Planning Policy Statement (PPS) 7(Addendum) - Residential Extensions and Alterations
 Building on Tradition – Design Guide for Rural Northern Ireland

Consultations:

None required.

Objections & Representations

3 neighbour notifications were issued on the 21 August 2019. The application was advertised in local papers on 28 Aug 2019.

No objections or representations have been received in relation to this proposal.

Consideration and Assessment:

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 located outside of settlement development limits, is unzoned and is in the Mourne AONB. There are no specific policies in the plan relevant to the determination of the application so the application will be considered under the operational policies of the SPPS, PPS 21 and the impact on the AONB will be assessed under PPS 2.

The application is for a change of house type to planning approval P/2009/0633/F. Permission to amend the access to the site was granted under P/2009/1484/F.

The issue of whether planning application P/2009/0633/F was lawfully commenced was considered under application LA07/2015/0166/LDE. This application was refused on the basis that the pre-commencement conditions relating to this application had only partially been complied with and that the existing works do not constitute commencement. This decision was appealed.

The Planning Appeals Commission (Appeal reference 2016/E0045) allowed the appeal in respect of the works relating to the demolition of the dwelling to be replaced in accordance with planning reference P/2009/0633/F and the construction of the access as approved under P/2009/1484/F. Both elements of work were found to be lawful and a certificate of lawfulness of existing use or development (CLUD) attached. The Commissioner pointed out that proposals for future lawful development (i.e. In this case the proposal to complete the dwelling approved in accordance with application P/2009/0633/F) should be considered in the context of Section 170 relating to a Certificate of Lawfulness of proposed use or development (CLOPUD). The Commissioner notes that,

“The application for a certificate of existing lawful development is before me and this is what should be determined in this appeal. However, as most of the evidence presented by both parties related to the question of whether the works, if they were

lawful, represented a material start to the development as approved by application P/2009/0633/F I will set out my views on that matter in order to be helpful."

On this point the Commissioner refers to Articles 34 and 36 of the Planning (Northern Ireland) Order 1991 also stating that such provisions have been repeated in Section 61 of the Planning Act (Northern Ireland) 2011. In accordance with Article 36 (1) development is taken to be begun on the earliest date on which any of the operations specified in subsections (a) to (d) comprised in the development begins to be carried out. In respect of the construction of a building sub section (a) specifically states development is begun "where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building". The approved development (P/2009/0633/F) in this case relates to the 'erection of a replacement dwelling and detached garage with associated works'. It therefore must be determined if the works under taken by the appellant involve any work of construction in the course of the erection of the buildings approved by the application.

Conditions 2 and 3 require works to be undertaken before the commencement of development on the site. Such pre-commencement conditions play an important role within a planning permission. Until pre – commencement conditions have been satisfied, a planning permission cannot be implemented. The original dwelling at 29 Leitrim Road has been demolished, the access to the site has been put in place in accordance with planning permission P/2009/1484/F and a boundary wall has been constructed around the property of the new dwelling at 29 Leitrim Road. The Commissioner found that:

- "these works do not either individually or cumulatively amount to any work of construction in the course of the erection of the approved buildings that were the subject of the planning permission (P/2009/0633/F)" ; and
- "The approved development in accordance with P/2006/0663/F cannot be taken to have begun until the earliest date on which any work of construction in the course of erection of the replacement dwelling and garage began to be carried out. Article 36 (1) does not mention the demolition of existing buildings on the site or the undertaking of access works for the site."

The Commissioner pointed out as part of Planning Appeal 2016/E0045 that the issue of whether works to construct the dwelling approved P/2009/0633/F would be lawful if they took place (i.e. whether P/2009/0633/F was lawfully commenced) should rightfully be assessed under a CLOPUD rather than a CLUD. Although these issues technically cannot be assessed through a CLUD, they were considered by both the Planning Department and the Commissioner. I agree with the assessment that P/2009/0633/F has not been lawfully commenced for the reasons outlined above.

A subsequent application on the site for a replacement dwelling (LA07/2016/1573/F) was also refused.

As P/2009/0633/F was not lawfully commenced it is not possible to grant approval for a change of house type application relating to this approval. No other approval exists at this site.

In a letter submitted with the application, the applicant puts forward a number of arguments as to why the Planning Department should now take a different view on this matter. These are:

1. On the issue of commencement, the views of a single Commissioner on a subject not formally before her for consideration should not form part of the assessment of this new application.

Although the matter was not formally before the Commissioner, I agree with the reasoning set out in the report and the previous decision of the Planning Department on this matter.

2. The Planning Committee meeting of 11.04.2018 and others subsequently where a number of change of house type applications were approved contrary to planning officer recommendations. As PAC rulings on commencement have been set aside by the Planning Committee, they should also be set aside in this case as these decisions set a precedent and change of direction by the Council on this issue. The applicant has been treated unfairly as his previous application was not overturned and he has not been treated in the same way as other applicants.

On balance, I do not consider that this outweighs the other material considerations discussed above.

If a valid permission existed on the site, the proposed design and landscaping would be considered to be acceptable and conditions would be required in relation to landscaping, sewerage and archaeology (see previous approval).

Recommendation: Refusal

Refusal Reasons:

- 1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY 1 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.***

| | |
|----------------------------|----------------------------|
| Case officer: | M Keane 02-09-2020 |
| Authorised officer: | P Rooney 02-09-2020 |

1. The applicant, Mr Sloan, was granted planning permission for a replacement dwelling in 2009. The dwelling had previously been replaced (historically) however this decision pre-dated the stipulation in PPS 21 CTY3 which was published in June 2010 and stated "In cases where the original building is retained, it will not be eligible for replacement again". The permission for replacement of the subject dwelling was legitimate under the prevailing policy at that time.
2. Planning permission was granted and Mr Sloan sought to commence development in line with guidance at the time.
3. The advice of the day was that in order to ensure commencement of the development, it was sufficient to *either* dig foundation trenches or construct the access to the site.
4. Within the specified timeframe, acting on the advice of the day, Mr Sloan;
 - constructed the access to the site in accordance with Roads Service requirements and;
 - demolished the old dwelling.

Evidence of this work (prior to June 2013) was submitted in photographic form and this was not disputed by the Council.

5. In 2015, Mr Sloan decided to apply for a Certificate of Lawfulness (Existing) 2016/E0045 to verify that works undertaken were sufficient to commence the development. This application was refused as the Council was not satisfied that there was sufficient evidence to show that the operations carried out did constitute the commencement of planning approval P/2009/0633/F and an appeal was lodged with the Planning Appeals Commission.
6. The PAC allowed the appeal and issued the CLUD;

Decision:

1. "The appeal is allowed in respect of the works relating to the demolition of the dwelling to be replaced in accordance with planning reference P/2008/0663/F and the construction of the access as approved under P/2009/1484/F. Both elements of work are lawful and a certificate of lawfulness of existing use or development is attached."
7. The issue arises however within the text within the Appeal decision. The Commissioner, whilst having provided a legitimate decision on the application, went on to explain that the remit of the application for an (existing) CLUD did not allow her to make a determination on the lawfulness of future development as this would have required a CLUD (proposed).
8. The Commissioner set out her **view** on this issue, in order to be 'helpful' in her own words. She found that the works that had been undertaken on this site represented the fulfilment of pre-commencement conditions and not actual commencement.

9. The problem with this of course is that the Council appeared to seize upon this line instead of looking at it objectively for what it was... a genuine attempt by Mr Sloan to commence his development in good faith in keeping with the advice routinely given out by the planners at the time. He undertook extensive works at the site (lawfully) which could only be consistent with someone wishing to implement their approval. The planner's decision was presented to councillors as being that of the PAC and therefore binding. In fact, this was a *view* taken by the commissioner and the councillors were equally entitled to take an objective view of their own on the matter, based upon the evidence available.
10. In 2016 Mr Sloan made another application to the Council for replacement of the same dwelling hoping that the Council would take the fact that the PAC had found that the works undertaken were lawful and on the whole represented an intention by the developer to preserve his permission based upon advice routinely given by the planners.
11. This application was however refused, this time citing that the dwelling had been previously replaced*(see 12. below). This did not take into account the planning history on the site which was an important material consideration but this was completely disregarded owing to situation regarding commencement and the *view* of the planning appeals commissioner.
12. *The planning application (P/2009/0633/F) was assessed under policy draft PPS 14 and was legitimately approved as there was no 'abandonment' test at this time. Should the Council find that the lawful development undertaken by Mr Sloan did go far enough to represent commencement of P/2009/0633/F then this issue of a previous replacement is not at all relevant as it relies upon planning policy that did not exist at the time that this valid decision was made.
13. The significant works undertaken by Mr Sloan were verified with evidence and have been substantiated as 'lawful' by the PAC.
14. The works undertaken to commence this development are more substantial, and have the benefit of having been verified, than has been the case on other sites whereby the question of commencement has been before the Committee in recent years. In the majority of these instances the Committee have recognised that operations as considerable as those undertaken by Mr Sloan, do represent a genuine and honest attempt to commence development within the specified timeframe.
15. Finally, in many ways Mr Sloan could be considered to be the victim of poor timing, as the planning advice upon which he sought to commence his development became outdated by the time he applied for the CLUD and when the CLUD and planning application were considered by the Council, it was taking a very inflexible line in relation to the commencement issue.
16. We ask that the Council recognises that the extent of the lawful works undertaken on this side do represent a genuine attempt by the applicant to commence the development as approved under P/2008/0663/F and subsequent application for the access P/2009/1484/F.



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

Application Reference: LA07/2020/0492/F

Date Received: 13.03.2020

Proposal: Proposed infill dwelling

Location: 40m north west of 100 Kilbroney Road, Rostrevor

Site Characteristics & Area Characteristics:

The application site relates to a rectangular parcel of land located to the rear and within the curtilage of 100 Kilbroney Road. No 100 is a one and a half storey dwelling with associated garages located to the rear. The paved area to the rear of the dwelling is separated from the application site by a wall which extends from the entrance along the laneway, towards the rear of the dwelling and extends along the west of the dwelling towards Kilbroney Road. The application site is a grassed area which sits at a higher level than the paved area. The northern site boundary is formed by fencing with mature trees located to the rear. The application site is located outside any defined settlement limits and within an Area of Outstanding Natural Beauty, a small section of the northern portion of the site is within a Special Countyside Policy Area.



Application Site

Planning Policies & Material Considerations:

This application will be assessed under the following policy considerations:

- The Strategic Planning Policy Statement for Northern Ireland
- Banbridge Newry and Mourne Area Plan 2015
- PPS3 Access, Movement and Parking
- DCAN15- Vehicular Access Standards
- PPS21- Sustainable Development in the Countryside
- Planning Policy Statement 2- Natural Heritage
- Building on Tradition Sustainable Design Guide.

Site History:

- **P/2010/1028/F-** Proposed retention of existing garage at 100 Kilbroney Road. Permission granted 23rd November 2010.
- **P/1997/05260-** Retention of transport haulage business maintenance workshop and yard at 100 Kilbroney Road, Rostrevor. Permission granted 27th June 2007.
- **P/1998/1310-** Extension and alterations to dwelling at 100 Kilbroney Road. Permission granted 30th November 1998.
- **P/1983/0901-** Replacement farm bungalow at Kilbroney Road, Rostrevor. Permission granted 21st January 1985.

Consultations:

- **NI Water-** No objection
- **DFI Roads-** No objections, conditions provided.

Objections & Representations:

Three neighbours were notified of the application and it was advertised within one local newspaper with statutory expiry on 02/06/2020. One letter of support has been received from the applicant's mother at 100 Kilbroney Road.

Assessment

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 unzoned. 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. A small portion of the northern part of the site is within the Special Countryside Policy Area.

Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for an individual dwelling house are outlined. This application seeks permission for an infill dwelling.

Following a site inspection, correspondence was issued to the applicant advising that the *“Planning Department are of the opinion that the buildings located to the north west of the site do not have a frontage onto the laneway. On this basis, there is no principle for development under PPS21 and the application is likely to be recommended for refusal.*

Notwithstanding the above, the plans submitted do not show existing or proposed levels for the application site or adjoining lands. In order to assess the application against Policies CTY13 and CTY14 of PPS21 levels are required on the site layout plan and an existing and proposed cross section from northwest to south east (including building to north west, proposed dwelling, No 100 Kilbroney Road and road) is required".

The applicant provided the requested sections on 10th August 2020 and provided aerial images and a covering letter detailing how the photos illustrate a continuously built up frontage. The proposal will be assessed against the plans received.

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of 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.

In assessing proposals against policy CTY8, the PAC has set out four steps to be undertaken (Reference 2016/A0040):

- a) Identify if there is a substantial and continuously built up frontage
- b) Establish if the gap site is small sufficient only to accommodate a maximum of two houses
- c) Determine if 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.

The application site forms part of the existing curtilage of a dwelling, No 100 Kilbroney Road. The approved curtilage of No 100 is shown below, No 100 has a frontage onto both Kilbroney Road and the lane to the north east.



The laneway runs past the side boundary of No 100 and ends at the entrance to the yard. The laneway does not run beyond the boundary of the yard but terminates as an entry to the yard itself. The yard and buildings do not, therefore, have a frontage to the laneway and as a result the proposal does not represent a line of 3 or more buildings along a road frontage.

The site itself, as proposed, will only have an access point onto the laneway and the curtilage of the dwelling will not touch the laneway. The applicant has provided aerial images which are useful.



The buildings to the north are not considered to have a road frontage and therefore it is not considered that there is a substantial and continuously built up frontage consisting of a line of 3 or more buildings along a road frontage without accompanying development to the rear as required by Policy CTY8, the proposal fails to meet the first requirement to qualify as an exception under Policy CTY8.

As per appeal decisions 2019/A0075, 2019/A0059, 2019/A0104, 2018/A0206, 2018/A0088 and 2016/A0145, where there is no substantial and continuously built up frontage the application site cannot qualify as a gap site and no infill opportunity therefore arises. In these circumstances, such matters of development pattern, plot size, frontage width and scale of development are irrelevant as the proposal fails to meet the first policy test. If this application were to be approved, there would be concerns in terms of overlooking and loss of privacy for the residents of No 100 given the difference in levels and proposed windows along the side elevation.

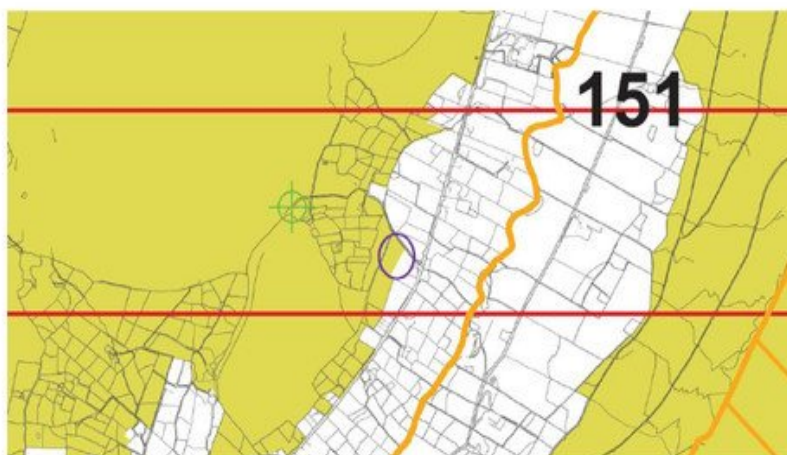
The proposal fails to meet Policies CTY 13 and CTY14 (outlined below) and therefore fails to meet the fourth element required by Policy CTY8. Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape.

The dwelling proposed is a one and half storey dwelling with a ridge height of 7.6m on an elevated site. The front projection is proposed at ground and first floor level and finished in natural stone. The proposed dwelling will sit at a higher level than No.100 and I believe it will appear prominent in the landscape on approach from both directions along Kilbroney Road.

Whilst the buildings to the north may have a higher ridge height, given the positioning to the rear of the site and with the mature boundary, they are screened from public view. Approaching from the north the dwelling will be prominent with the front elevation clearly visible at a higher level than No 100. Whilst the building would have a mature backdrop from trees within the yard they would not be sufficient to provide enclosure travelling along Kilbroney Road. In terms of design, the surrounding dwellings are predominately single storey/ one and half storey, however the one and half storey front projection proposed would not be desirable in the rural area. I consider the proposal to be contrary to criterion a, b, e and f of Policy CTY13.

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 outlined above, the proposed dwelling would be unduly prominent in the landscape and would create a ribbon of development in conflict with criterion a and d of Policy CTY14. It is considered that the approval of this dwelling, when read in conjunction with existing adjacent development would also result in an inappropriate ribbon and suburban style build up in development. This inappropriate form of development would be accentuated due to the prominent nature of the site. The proposal is contrary to Policy CTY 14, criteria a,b, c and d.

As detailed at the beginning of this report, a small portion of the site is within a Special Countryside Policy Area. However, as the lands to the north of the site have been developed and the site is within the curtilage of an approved dwelling the site has lost any unique qualities (site circled in purple below). No part of the proposed dwelling would be located within the SCPA and given the existing development on the lands to the north, it is not considered reasonable to add Policy COU1 as a reason of refusal.



The site is located within an Area of Outstanding Natural Beauty and as such Policy NH6 of PPS 2 is applicable. As shown in the image above, the site is in close proximity to Special Countryside Policy Areas which are recognised as exceptional landscapes such as the High Mourne, stretches of the coast or lough shores, and certain views or vistas, wherein the quality of the landscape and unique amenity value is such that development should only be permitted in exceptional circumstances.

As stated above, the approval of this dwelling, on this elevated site would create inappropriate ribbon and suburban style build up in development on this elevated site. It is also considered that the proposed scale of development is not appropriate to this area within an AONB. The proposal is contrary to Policy NH6 of Planning Policy Statement 2.

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. This refusal notice related to the following plans: 01, 02, 03
3. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside as the application site not constitute a small gap site within a line of three or more buildings in the countryside, does not meet other planning and environmental requirements and would, if permitted, result in the addition of ribbon development along the laneway.
4. The proposal is contrary to criterion a, b, e and f Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside and therefore would not visually integrate into the surrounding landscape.
5. The proposal is contrary to criterion a, b, c and d of Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in a detrimental change to the rural character of the countryside.
6. The proposal is contrary to Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be unsympathetic to the special character of the Area of Outstanding Natural Beauty.

Case Officer Signature: E. Hart

Date: 03/09/2020

Appointed Officer Signature: M Keane

Date: 21-09-2020

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| Committee Meeting 21/10/20 | Planning Application Number : LA07/2020/0492/F | Requested by: Aaron Tinnelly |
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Proposed Infill Dwelling

The above application is on the schedule for refusal for the following reasons

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. This refusal notice related to the following plans: 01, 02, 03
3. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside as the application site not constitute a small gap site within a line of three or more buildings in the countryside, does not meet other planning and environmental requirements and would, if permitted, result in the addition of ribbon development along the laneway.
4. The proposal is contrary to criterion a, b, e and f Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside and therefore would not visually integrate into the surrounding landscape.
5. The proposal is contrary to criterion a, b, c and d of Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in a detrimental change to the rural character of the countryside.
6. The proposal is contrary to Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be unsympathetic to the special character of the Area of Outstanding Natural Beauty.

Reasons in support of the application

The case officer is of the opinion that the existing laneway ends at the corner of the site (marked in blue on the map) and therefore the buildings to the North of the site do not have frontage. Extract from report

"The laneway runs past the side boundary of No 100 and ends at the entrance to the yard. The laneway does not run beyond the boundary of the yard but terminates as an entry to the yard itself. The yard and buildings do not, therefore, have a frontage to the laneway and as a result the proposal does not represent a line of 3 or more buildings along a road frontage."

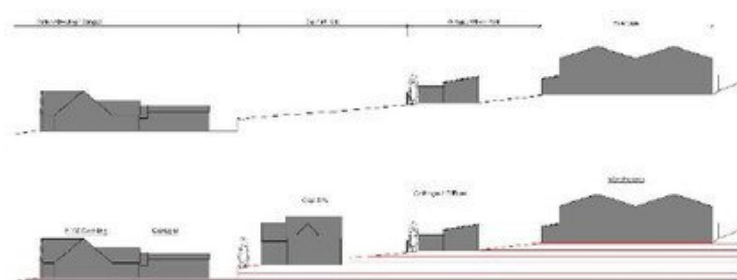
As can be seen from the attached map (goggle earth) the laneway in fact continues up past the yard and forms the access to lands at a higher level, we are therefore of the opinion that the buildings to the North do have frontage onto the laneway, it is possible that the case officer did not realise this on the day of the visit. In fact this laneway is a ROW for various parties to access the lands to the North East of the site. There is also a public ROW running parallel to the lane that can be seen on the maps - this reason appears to be the over-riding reason for the refusal, and therefore requires the committee to review it.

The case officer also mentioned that there are potential issues with gable windows and the protection of the privacy of number 100 and integration. Number 100 is my mother who has written in with a letter of support. However given the opportunity if the issue of "infill" can be overcome I am happy to look at the design of the dwelling in order to comply with **CYT 13, CYT 14 & NH6** as these can be overcome with a design solution. If the department wished the floor level of the new dwelling could be reduced to a similar level to that of the existing house Nr100 although there is a 20M separation distance between side of new dwelling and rear of existing dwelling Nr100.

Finally in relation to **CTY1** As mentioned above the my mother lives in the adjoining dwelling number 100 and I own the business and adjoining warehouses which employs 20 people, it is our opinion that a dwelling in the location could suitably integrated into the surroundings and not have any impact on the surrounding landscape

The case officers report notes that the lane finishes at the yard, it is possible that they never walked to the top of the site and therefore did not realise that this lane continued – this is noted in the report “the proposal fails to meet the first requirement to qualify as an exception under Policy CTY8.”. As can be seen from the section below through the lane this clearly shows the frontage and gap to the laneway when considered with the buildings to the North.

We would therefore ask that the committee, the opportunity to discuss this application and with this additional information showing that this is indeed is a small gap site capable of sitting 1Nr dwelling and that we are afforded the opportunity to revise the design of the dwelling and agree a suitable design with the planning department including proposed floor levels / ridge level and or removal of gable windows





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/0674/F

Date Received: 26/05/2020

Proposal: Dwelling and detached garage (Change of house type to that approved under P/2003/1768/O and P/2006/1874/RM)

Location: 100m NE 47 Mayo Road, Mayobridge

Site Characteristics & Area Characteristics:

The application site forms part of a larger grassed agricultural field located to the east of Mayo Road, close to the junction with Tamnaharry Hill. Levels on the site drop from the roadside towards the east. The roadside boundary is formed by wire and post fence with access to the site via an agricultural gate. The northern and southern boundaries are formed by mature hedgerow with the rear boundary undefined. The site is located outside any defined settlement limits and within an Area of Outstanding Natural Beauty. The dwellings in the surrounding area are a mix of single storey, one and half storey and two storey.



Entrance 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 2- Natural Heritage
- Planning Policy Statement 3- Access, Movement and Parking
- Planning Policy Statement 21- Sustainable Development in the Countryside

Site History:

- **P/2003/1768/O**- Proposed site for dwelling and garage 100m North East of No 47 Mayo Road, Mayobridge. Permission granted 9th October 2003 subject to 17 conditions.
- **P/2006/1874/RM**- Erection of dwelling and garage 100m north east of 47 Mayo Road, Mayobridge, Newry. Permission granted 14th January 2010 subject to 7 conditions. Condition 4 required that the vehicular access, including visibility splays and any forward sight line, shall be provided in accordance with the approved plans, prior to the commencement of any other works or other development hereby permitted. Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

Consultations:

- **DFI Roads**- No objection to the proposal, advised that the proposed sight visibility splays are in place.

Objections & Representations:

Six neighbours were notified of the application it was advertised within one local newspaper. Following receipt of amended plans and an amended description, neighbours were again notified expiring on 20/08/2020 and advertised with a statutory expiry of 15/09/2020. No objections or representations have been received.

Assessment:

The application seeks the erection of a dwelling and detached garage, a change of house type to that approved under P/2003/1768/O and P/2006/1874/RM. The application was accompanied by supporting information as follows:

- Photographs of 'entrance under construction' dated 12/01/2012.
- Invoice from Calmor Properties Ltd (dated 27/01/2012) detailing the following: "Total for work completed on 12/01/2012 for making of new entrance to site 100m north east of 47 Mayo Road, Mayobridge. All ground works and digger work and forming of site lines. Supply and fitting of new fence and gate and fitting of electrical ducting to adjacent property.
- Consent to carry out excavation in, or break up the surface of a road from Roads Service dated 9th January 2012.

The Agent was contacted prior to the site visit to arrange access and confirmed he did not believe there were any foundations on site to inspect but that the access and visibility splays were clearly visible. On 29th July 2020 the Agent was advised that whilst the application has been accompanied by documentation relating to the access which was a pre-commencement condition, we would require evidence of what works were completed in order to commence the development and therefore ensure the approval was extant in order to consider this application for a change of house type, I was advised that the Applicant remains of the firm opinion that works completed on site render the existing approval extant, and is content for it to progress to the Council's Scheme of Delegation.

The correct manner to determine whether the previous approvals have been implemented is to apply to the Council under Section 169 of the Planning Act (Northern Ireland) 2011 for a Certificate of Lawful Use or Development. It has been well established through the appeals process that this is the correct manner in which to rely on a previous approval for a change of house type: Ref 2019/A0002, 2018/A013.

In any case, it appears visibility splays may be in place but the agricultural gate into a field is not considered to be in accordance with the access requirement of the plans and no commencement has begun on site. Accordingly, it is considered the previous permission has expired.

The application must therefore be assessed against current policy provision.

Strategic Planning Policy Statement for Northern Ireland

The site lies outside any settlement limits defined by the Banbridge/ Newry and Mourne Area Plan (2015) and within an Area of Outstanding Natural Beauty. 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 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 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. There have been no arguments presented as to how the proposed development meets any of the exceptions set out under Policy CTY1 of PPS21 nor any overriding reasons why it could not be located within a settlement.

Policy CTY1 states that planning permission will be granted for an individual dwelling house in the countryside in the following cases:

- *A dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a; The proposal is not located at an existing cluster of development.*
- *A replacement dwelling in accordance with Policy CTY 3;*

The proposal is not for a replacement dwelling.

- *A dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*
No personal or domestic circumstances information has been provided with this application.
- *A dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*
No evidence of a non-agricultural business enterprise has been provided with this application.
- *The development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or*

The proposal is not located on a gap site within a substantial and continuously built up frontage.

- *a dwelling on a farm in accordance with Policy CTY 10.*
The dwelling is not located on a farm.

Planning permission will also be granted in the countryside for:

- *A small group of houses in a designated Dispersed Rural Community in accordance with Policy CTY 2;*
The site is not within a Dispersed Rural Community nor is it for a small cluster of development at a focal point.
- *The conversion of a non-residential building to a dwelling(s) in accordance with Policy CTY 4;*
The proposal is not for the conversion of a non-residential building.
- *The provision of social and affordable housing in accordance with Policy CTY 5;*
The proposal is not for social or affordable housing.
- *A residential caravan or mobile home in accordance with Policy CTY 9;*
The proposal is not for the temporary use of a residential caravan or mobile home.
- *The conversion of a listed building to residential accommodation in accordance with the policies of PPS 6;*
The proposal is not for the conversion of a listed building to residential accommodation.

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.

Policy CTY 8 relates to ribbon development and states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two

houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

The proposal does not represent an exception to Policy CTY8 as the application site does not sit within a small gap site within an otherwise substantial and built up frontage includes a line of 3 or more buildings along a road frontage. The approval of the proposed dwelling and garage would create a ribbon of development along Mayo Road which is contrary to Policy CTY8.

Policies CTY13 and CTY14 seek to ensure that new buildings in the countryside can be visually integrated into the surrounding landscape, are of appropriate design and will not cause a detrimental change to, or further erode the rural character of an area. The application site has no rear boundary as is visible travelling along Carmeen Road and Edentrumly Road. I do believe the dwelling would appear as prominent in the landscape but it will be viewed along with No 48 which is a large two storey dwelling and so a reason of refusal in terms of prominence and design would be difficult to sustain. However, as discussed above, the proposal would result in the creation of a ribbon of development which is contrary to criterion d of Policy CTY14.



View from Edentrumly Road

PPS3- Access, Movement and Parking

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

PPS2- Natural Heritage

The application site is located within an Area of Outstanding Natural Beauty. Policy NH6 states 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 certain criterion are met. As outlined above, the surrounding context must be taken into consideration and on this basis 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.

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. This refusal notice relates to the following plans: P01, P02 Rev A, P03, P04.
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 Mayo Road.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Case Officer Signature: E.Hart

Date: 16/09/2020

Appointed Officer Signature: M Keane

Date: 16-09-2020

Representation Against a Recommendation to Refuse on behalf of The Applicant Mr. Peter Kehoe in relation to an Application for Change of Housetype Ref: LA07/2020/0674/F To that Approved under P/2003/1768/O and P/2006/1674/RM 100m North East of 47 Mayo Road, Mayobridge.

Chronology

- Outline Planning Approval was granted for the erection of a dwelling and garage on 9th October 2003.
- Approval of Reserved Matters was granted for a single storey dwelling & garage on 14th January 2010.
- Access & visibility splays were completed on 12th January 2012.
- Application for Change of Housetype submitted 22nd May 2020.
- Transport NI have no objection to the current proposals.

Is the Original Planning Permission Preserved

The Professional Planning Report opines that it is not. The applicant is of the firm opinion that it is.

By request, the applicant was advised by Planning Services that the formation of the entrance and visibility splays, in accordance with the approved plans, would be sufficient as a material start to the development. That in keeping with formal Planning advice that prevailed at that time.

The applicant duly constructed the access and visibility splays on January 12th 2012 and formally notified Planning Services on the same day. The applicant was satisfied that the permission was preserved by making a 'material start'!

The following are attached as evidence to demonstrate a material start:

1. Two typical letters from Planning Services for similar proposals, one locally, confirming that construction of an access, provided it is in accordance with the approved plans would be sufficient to indicate that development had begun. These letters are dated September 2008 and March 2009.
2. Email from the applicant's then agent, to Planning Services, with accompanying photographs confirming that development had commenced.
3. Invoice from 'Calmor Properties LTD' dated 27th January 2012 for all works in connection with forming the visibility splays.
4. Consent & payment receipt for £150.00 to carry out excavation on, or, break up the surface of a road, from DOE Road Services, dated 9th January 2012.

Conclusion

The above commentary and evidence attached demonstrates that works to the original approval commenced prior to the expiry of approval dated 14th January 2012. Therefore there is no reason why a change of housetype should not be granted Planning Permission.

BD 13TH OCTOBER 2020

Agenda 12.0 / Item 14 - LA07.2020.0674.F.pdf

Back to Agenda



Your Ref:

Our Ref: FOI 19415

Being dealt with by:

Date: 26 September 2008

Divisional Planning Office

Marlborough House
Central Way
Craigavon
BT64 1AD

Mr Martin J Bailie MCIAT
Martin Bailie Architectural Services Limited
92 Newry Street
Rathfriland
Newry
BT34 5PY

LA/2015/0203/F

Dear Mr Bailie

Thank you for your letter of 15 September 2008 requesting information about the commencement of development in relation to planning permission.

Every new planning permission is deemed to be subjected to a condition that development shall be commenced within five years or such other period as the planning authority may expressly impose. An outline planning permission has two timescales and the consent will require the submission of a further planning application for the approval of reserved matters within 3 years. Once the last of the reserved matters has been approved, there is usually a two year period within which the development must commence.

No definitive ruling can be given with regard to when development is commenced, as so much will depend on the facts of each case. However, development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out. Generally speaking the construction of an access or the layout of foundations, provided they are in accordance with the approved plans, would be sufficient to indicate that development had begun.

You should therefore satisfy yourself that a material start has been made in accordance with the above prior to the expiration of your planning permission.

I hope this is helpful.

Yours sincerely

Ian McAllister

IAN McALLISTER
For Divisional Planning Manager



Northern Ireland Government
Environment

Tel. (028) 3834 1144 Fax. (028) 3832 0004
Email. divisional.planning.office@craigavon.nics.gov.uk
Web. www.planningni.gov.uk



FOUNDED IN 1998

Date: 20 March 2009
 Our Ref: P/2007/1090/F (FOI 20278)
 Being dealt with by: Julie Brown



Divisional Planning Office

Marlborough House
 Central Way
 Cragavon
 BT64 1AD

Mr D Mallon
 3 Ayalogue Road
 Newry
 BT35 8QY

Dear Mr Mallon

Location: Adjacent to No.4 Low Road, Ayalloghue, Newry.

Proposal: Erection of dwelling and garage in compliance with conditions on approval P/2002/1210/O

I refer to your correspondence dated 10 February 2009 regarding the above planning application.

I can advise that generally speaking the construction of an access, provided it is in accordance with the approved plans, would be sufficient to indicate that development had begun. Unfortunately Planning Service does not currently have the resources to carry out inspections of works undertaken.

Yours sincerely

for Divisional Planning Manager



An Agency within the Department of the
Environment
environment.gov.uk

Tel. (028) 3834 1144 Fax. (028) 3832 0004
 Email. divisional.planning.office.cragavon@nics.gov.uk
 Web. www.planningni.gov.uk



LD25040MW
 INVESTOR IN PEOPLE

Barney Dinsmore

67

From: Peter Kehoe <peter@nwkehoe.com>
Sent: 24 January 2020 12:32
To: info@bdinsmore.co.uk
Subject: FW: P/2006/1874/RM
Attachments: P-2006-1874-RM PHOTO 01.JPG; P-2006-1874-RM PHOTO 02.JPG; P-2006-1874-RM PHOTO 03.JPG

From: Colm Higgins <colm2010@live.co.uk>
Sent: 24 January 2020 11:57
To: Peter Kehoe <peter@nwkehoe.com>
Subject: FW: P/2006/1874/RM

From: Colm Higgins <colm2010@live.co.uk>
Sent: 12 January 2012 16:26
To: trudy.chapman@doeni.gov.uk <trudy.chapman@doeni.gov.uk>
Subject: P/2006/1874/RM

Dear Trudy

Please find attached photos showing commencement of works at site P/2006/1874/RM
 100m North East of 47 Mayo Road, Mayobridge, Newry
 For : Mr & Mrs Peter Kehoe

Roads service are to inspect access and visibility splays on Friday 13th Jan. 2012. Hard copies and a copy of letter from Roads Service will be forwarded to your department for your records.

Thanks

Colm Higgins







CALMOR
PROPERTIES LTD

62a Drumlough Road
Rathfriland
Newry
Co. Down
N Ireland
BT34 5DP

Tel: 028 3085 1663 / 028 3085 1993

Fax: 028 3085 0259

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INVOICE

Mr & Mrs Peter Kehoe
4 Glenmullan
Newry
BT34 1BJ

27/01/2012

Total for work completed on the 12/ 01/ 2012 for making of new entrance to site 100M Northeast of
47 Mayo Road Mayobridge

All Grounds works and digger work and forming of Site Lines

Supply and fitting of New Fence and Gate and fitting of Electrical Ducting to adjacent property

TOTAL £4700.00

The Roads (Northern Ireland) Order 1993, Article 78

71

Consent to carry out excavation in, or break up the surface of a road

Applicant's details

Consent No: 5756

Receipt No: 925671

Name: Mr Peter Kehoe
Address: No: 4 Glenmullan, Rathfriland Road Newry
Postcode: BT34-1BT

The Department for Regional Development (hereinafter called "the Department") HEREBY GRANTS A CONSENT under the provisions of Article 78 of the Roads (Northern Ireland) Order 1993 in accordance with your application for a consent to carry out excavations in, or break up the surface of the road in accordance with Drawing No: submitted to the Department for the purpose of Forming a new entrance.

at 100M N-E of 47 Mayo Road. Road No: Mayo bridge
The CONSENT relates to Forming a new entrance
at the position indicated on the said Drawing No: P/2006/1874/RM

Failure to comply with any of the following conditions is an offence under Article 78 and the offender is liable on summary conviction to a fine.

The Consent is given subject to the following conditions.

Conditions of Consent

1. Period

The works shall be completed within a period of 6 months from the date of the Consent.

2. Execution

The works shall be executed in accordance with these conditions, specification and Drawing No: and, reinstatement to be in accordance with Type

3. Traffic Safety and Control

In carrying out the approved work no unnecessary obstruction or delay shall be caused to traffic, either vehicular or pedestrian using the road and adequate accommodation adjoining the road shall be provided for vehicles waiting to load/unload or otherwise using the road for any purpose relating to any such works. You shall pay due regard to the safety and control of all road users and the additional particular needs of disabled and visually impaired persons. Restrictions may also be required in the times and method of working to cater for high traffic flows or other situations identified by the Department. You shall comply with any such restrictions.

4. All obstructions and excavations shall be marked, signed and guarded and during the hours of darkness shall be lighted and guarded throughout the duration of the works in accordance with -

- in the case of works on or near a motorway or dual carriageway with hard shoulders, the recommendations on traffic safety measures for road works as set out in Chapter 8 of the "Traffic Signs Manual" published by the Stationery Office (ISBN 011550937 2);
- in the case of works on or near any other road, "Safety at Street Works and Road Works - A Code of Practice" published by the Stationery Office (ISBN 011551958-0).

5. No works shall be carried out or materials deposited on the road before the site has been adequately protected with signs, barriers and any hoardings where necessary, as required by the said Traffic Signs Manual or Code of Practice as appropriate.

6. All necessary steps shall be taken to ensure that no unnecessary damage is caused to the carriageway kerbstones or footways either by you or any other person, and if such damage does occur you shall be liable for the cost of the reinstatement.

1. **Emergency**

If at any time the Department requires the excavation to which this consent relates to be filled in you shall when requested to do so by the Department remove any associated hoardings, platforms, barriers and other obstructions, fill-in any excavations and reinstate the footway and carriageway immediately. Should you fail to remove the said hoardings, platforms, barriers and other obstructions or to fill-in any excavation or to reinstate the footway and carriageway when called upon to do so the Department may carry out such removal, filling-in or reinstatement and the costs of such works shall be recoverable from you as a debt due to the Department and may be deducted from any deposit or other monies due to you by the Department. In a case of emergency when the Department is unable to contact you, the Department may carry out the required removal, filling-in or reinstatement and recover the expenses reasonably incurred by it from you.

3. **Cash Deposit**

You shall lodge with the Department the sum of £150 pounds deposit prior to the work commencing, from which sum may be deducted any costs incurred by the Department in restoring the road to a condition similar to that which existed prior to the execution of the works.

9. **Additional Costs**

You shall be liable to pay any additional costs as may be incurred by the Department exceeding the amount of the deposit where the Department has filled in the excavation, removed any associated building materials or rubbish deposited on the road and made good any damage done to the road.

10. **Maintenance**

You shall maintain the works in a safe and satisfactory condition until such time as they have been inspected and accepted as complete by the Department. A refund of any monies due to you shall then be made.

11. **Indemnity**

You shall indemnify the Department against any claim in respect of injury, damage or loss arising out of the carrying out of the works, other than a claim in respect of injury, damage or loss which is attributable to the negligence of the Department.

12. **Insurances**

- a. Without prejudice to your liability to indemnify the Department under Condition 11 you shall maintain such insurances as are necessary to cover your liability in respect of injury, damage or loss arising out of:-
 - (1) the carrying out by any person of the works authorised by this consent;
 - (2) the execution of works executed in pursuance of condition 7 of this consent or arising out of the revocation of this consent which is not attributable to the negligence of the Department.
- b. The insurance cover shall not be less than £5,000,000 for any one occurrence or series of occurrences arising out of one event.
- c. As and when you are reasonably required to do by the Department you shall produce for inspection by the Department documentary evidence that the insurances required by Condition 12a. are properly maintained and on any occasion the Department may require to have produced for inspection the policy or policies and premium receipts in questions.
- d. Should you default in insuring or continuing to insure as provided for a Condition 12a. the Department may itself insure against any risk with respect to which the default should have occurred and such amount shall be recoverable from you as a debt.

13. **Notification of Completion**

On completion of the work you shall notify the Section Engineer at the address shown below by sending to him the Restoration order attached.

Any person aggrieved by any of the above conditions may within 21 days of receiving this consent, appeal to the Planning Appeals Commission by notice in writing under Article 84(1) of the Roads (NI) Order 1993.

The above conditions are without prejudice to the obligations imposed by Article 78 of the Roads (NI) Order 1993 on applicants or any right or remedy which the Department may now or hereafter possess.

Dated this 9th day of January 2012

Signed: Noble

(Authorised Officer)

Address of Section Office

DEPT. FOR REGIONAL DEVELOPMENT
ROADS SERVICE - SOUTHERN DIV.
NEWRY SECTION OFFICE
1 CECIL STREET
NEWRY
BT35 6AU
Tele: 02830 253333

Dept of Regional Development
 Roads Service - Southern Division
 Newry Section Office
 1 Cecil Street
 Newry
 BT35 6AU

Tele: 02830 253333

The Roads (Northern Ireland) Order 1993, Article 78

Excavation in a Road

Guidance Notes for Applicant

1. The applicant is required to provide the following information, on the attached form when applying to the Department for consent to undertake the above operations on a public road:-
 - (a) a description of the works;
 - (b) the location of the works;
 - (c) the name and permanent address of the applicant;
 - (d) a drawing showing the nature of the work (where appropriate); and
 - (e) details of the appropriate planning approval including drawings if relevant.
2. The applicant shall indemnify the Department against any claims in respect of injury, loss or damage arising from the works.
3. The applicant is required to provide Insurance cover.
4. The applicant is required to make such monetary deposit as the Department shall assess against the proper undertaking and satisfactory completion of the works. An estimate of the deposit likely to be required can be obtained by applying the rates contained on the attached leaflet.
5. A consent and a receipt for the deposit will be issued by the Section Office together with a Permanent Restoration Notice. Where necessary a specification showing the standard for the work will be included.
6. The deposit is returnable to the applicant when :-
 - (a) the works are completed and the applicant has submitted the Restoration Notice to the Department; and
 - (b) six months has elapsed from receipt of the Restoration Notice; and
 - (c) the work is completed to the satisfaction of the Department and in accordance with the current specification for reinstatement.
7. The applicant shall be responsible for traffic safety and control during the execution of the works in accordance with Chapter 8 of the Traffic Signs Manual in the case of works on or near a motorway or dual carriageway with hard shoulders or in accordance with "Safety at Street Works and Road Works - A Code of Practice" in the case of all other roads.
8. Any person aggrieved by the refusal of the Department to give its consent under Article 78 (2) of the Roads (NI) Order 1993 or any condition subject to which any such consent is given, may, within 21 days of receiving notice thereof, appeal to the Planning Appeals Commission by notice in writing under Article 84 of the Roads (NI) Order 1993.

9. WARNING

When excavating within public road boundaries there is the risk of **death or serious injury** from striking underground services. To fulfil obligations under the Health and Safety legislation the licensee and its contractors / agents **must** comply with the statutory guidance given in "HSG47 – Avoiding Danger from Underground Services" available from The Stationary Office. This warning is designed to complement the construction safety management obligations of the licensee and its contractors / agents. When the work permitted under this consent/ licence is likely to be within the curtilage of a Roads Service construction site you must agree the co-ordination and cooperation arrangements with Roads Service's contractor.



The Roads (Northern Ireland) Order 1993, Article 78

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Application for Consent to Carry Out Excavations in, or break up the surface of, a Road

● Please read the notes overleaf before completing this form

Applicant's details

Name Mr Peter Kehoe
Address 4, Glenmullan
Rathfriland Road.
Newry
Postcode BT34-1BT
Telephone No. 07831547898

Agent's details

Name _____
Address _____
Postcode _____
Telephone No. _____

Location of proposed works

100m N.E of 47. Mayo Road
Mayobridge

Brief details of proposed works

Forming a new entrance

Proposed date to commence installation of works _____

Time required to execute _____

Ref. No. of attached drawing (2 copies) _____

Has planning permission been sought Yes ☐ No ☐ If Yes, Applic. No. _____

Additional comments

I hereby apply for a consent to carry out the above works.

Signature of Applicant / Agent

Peter Kehoe

Date

9th January 2012

An Agency within the Department for
Regional Development



Authority if acting for an Organisation or Company _____

Completing this form

Excavations in,
of, a Road

Agent's details

Name _____

Address _____

Telephone No. _____

Postcode _____

47. Mayo Road

new entrance

c. No. _____

Department for Regional Development

Official Receipt

925671

and Address of Office D.R.D. Roads Service, 1. Cecil St. Newry

ed from Mr Peter Kehoe

m of (including VAT) One Hundred +

Fifty Pounds

£ 150 00p

(tick appropriate box)

Cheque ☒

Postal Order ☐

Cash ☐

in respect of

Forming a new entrance @ Mayo Road.

ount of VAT included

£ p

Signature Luona McGovern Date 9.1.2012

REGISTRATION NO. GD080



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

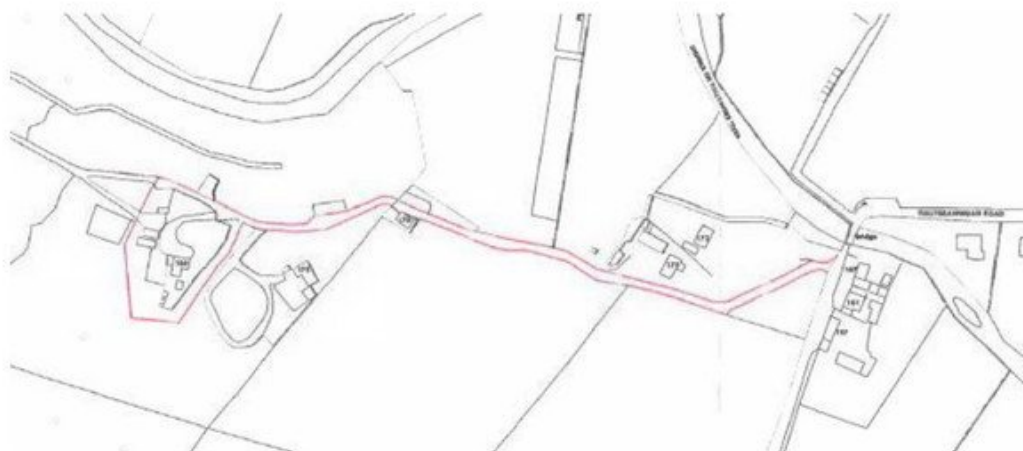
**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1221/F

Date Received: 13.08.2019

Proposal: The application is for full planning permission for Proposed Guest House Tourist Accommodation & associated site works.

Location: The application site is located outside the settlement limits in the open countryside, within Tollymore Park Historic Park, Garden and Demesne and Area of Outstanding Natural Beauty (AoNB) as designated in the Ards and Down Area Plan 2015.



Site Characteristics & Area Characteristics:

The site is located off Tullybrannigan Road, Newcastle and to the eastern side of Tollymore Park which is designated as an Historic Park, Garden and Demesne in the ADAP 2015. Access is via an existing laneway which serves a number of other properties and lies westwards from Tullybrannigan Road approx. 360 from the road. The site lies within the forest and therefore is surrounded by trees. The site accommodates an existing detached two storey building, garage and a number of outbuildings

Site History:

R/1984/0844 - Extension To Dwelling 180, Tullybrannigan Road, Newcastle.

Planning Policies & Material Considerations:

The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document, which is read in conjunction with PPS 3 and PPS 21.

Consultations:

NI water – No objections

DFI Roads – Objection

NIEA Water management – No objections

Historic Environment Division – No objections

Rivers Agency – No objections, however, although this development does not exceed the thresholds as outlined in Policy FLD 3 and subsequently a Drainage Assessment is not required, there may be potential for surface water flooding as indicated by the surface water layer of the Flood Hazard Maps (NI). As such 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.

Objections & Representations

In line with statutory requirements four neighbours have been notified on 30.08.2019. The application was advertised in the Mourne Observer and the Down Recorder on 28.08.2019.

Consideration and Assessment:

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Strategic Planning Policy Statement for NI Ireland (SPPS) is material to all decisions on individual applications. The SPPS retains policies within existing planning policy documents 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.

PPS 21 Sustainable Development in the Countryside

The site is located in the countryside, therefore the policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). Policy CTY 1 indicates that there are a range of types of development which in principle are considered acceptable in the countryside and that contribute to the aims of sustainable development.

PPS 21 states that planning permission will be granted for tourism development in accordance the TOU Policies of PSRNI. The TOU policies within PSRNI have since been superseded by SPPS and Planning Policy Statement 16: Tourism (PPS 16), published in its final form in June 2013. It follows that compliance with any of the policies in PPS16 would mean that the principle of such development in the countryside has been established in accordance with Policy CTY 1 of PPS 21. The SPPS also contains policies dealing with tourism, these do not conflict with any retained policies and consequently the relevant policy context in respect of tourist development is provided by Planning Policy Statement 16 – Tourism (PPS 16).

The proposal is to replace a number of existing buildings within the site with a building to be used for tourist accommodation. The building is 6.2m to FFL and comprises timber clad vertical boards (brown), corrugated tin roof (black) aluminium frames, double glazed and hardwood framed doors. The accommodation provides for 3 double bedrooms all three with ensuite and two with dressing rooms, kitchen/living/dining, utility and car port.

In the agents Design and Access & supporting Statement he deems the application to meet the requirements of PPS 16 – Tourism policy TSM 3 – Hotels, Guest Houses and Tourist Hostels in the Countryside.

TSM 3 – Hotels, Guest Houses and Tourist Hostels in the Countryside

TSM 3 states that planning permission will be granted for a new hotel/ guest house/ tourist hostel in the countryside in the following circumstances and will be assessed under the specified criteria:

Circumstances

- (a) The replacement of an existing rural building;
- (b) A new build proposal on the periphery of a settlement

It goes on to state the specified criteria in such circumstances.

Before this criteria can be considered it is important to refer to Appendix 1 – Glossary Of Terms at the end of PPs 16. The definition of a guest house – As defined by the Tourism (NI) Order 1992 – Categories of Tourist Establishment (Statutory Criteria) Regulations

“A guest house shall provide overnight sleeping accommodation for visitors in separate rooms comprising not less than three double bedrooms”.

In the same glossary, Self Catering Establishment is also defined by the Tourism (NI) Order 1992 – Categories of Tourist Establishment (Statutory Criteria) Regulations – Schedule 4 – Criteria for self catering Establishments

“A self catering establishment shall comprise one or more self contained units providing furnished accommodation (including sleeping accommodation and catering facilities for visitors”.

It goes on to state that The Tourism Order defines a self catering unit as including "houses, cottages, apartments or rooms, bungalows, chalets, cabins and caravans". The following categories of tourist accommodation established by the Article 12 of the Tourism (NI) Order 1992 and Amendment – Categories of Tourist Establishment Order (NI) 2011, have no specific policy provisions included in PPS 16: Bed & Breakfast Accommodation, Bunk Houses, Campus Accommodation, Guest Accommodation.

The agent is misguided in his assessment of the proposal as a guest house, the proposal would seem to fit as self catering accommodation in which case the application would need to be assessed under TSM 5 – Self Catering Accommodation in the Countryside

TSM 5 – self catering accommodation in the countryside

Policy TSM 5 states that planning permission will be granted for self catering units of tourist accommodation if any of the three listed circumstances are met. Circumstance (a) requires that one or more units be located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park, this would not be the case in this context. Circumstance (b) is not relevant as the proposal does not provide a cluster of three or more new units but seeks to replace two existing buildings with one building of tourist accommodation. Circumstance (c) of Policy TSM 5 allows for the restoration of an existing clachan or close through conversion and/or replacement of existing buildings. Whilst "clachans" are not defined in PPS 16, the existing buildings could not be described as a clachan. Circumstance (c) allows for the replacement of existing buildings, not just conversion, subject to the retention of the original scale and proportions of the buildings and sympathetic treatment of boundaries. In this evidential context, it is considered that the proposed development does offend circumstance (c) as it seeks to replace existing buildings not within a group of buildings defined to be a clachan. As such, it does conflict with Policy TSM 5.

Thus following consideration of the proposal against Policy TSM 5, the proposal does not meet any of the specified circumstances.

In terms of assessment of other relevant policies of PPS 21, Policy CTY4 which is entitled 'Conversion and re-use of an existing buildings' is one such instance. However, as the application is to replace the existing building, it would not fall into this category.

PPS 3 - Access, Movement and Parking AMP 2

PPS 3 sets out the planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning. Transport NI have been consulted regarding the proposal and would deem that there would be an intensification of the access.

Conclusion

Following consideration of the proposal against TSM 5 – self-catering accommodation in the countryside, the proposal does not meet any of the specified circumstances. In addition, it would fail the tests of AMP 2 of PPs 3

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to Policy CTY 1 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 and Policy TSM 5 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal does not meets any of the specified criteria.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the width/visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

Case Officer Signature

Date

Appointed Officer Signature

Date



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

| | |
|-------------------------------|--|
| Application Reference: | LA07/2019/1221/F |
| Date Received: | 01.08.2019 |
| Proposal: | Proposed Guest House Tourist Accommodation & associated site works. Assessed under PPS16, TSM3 |
| Location: | Land 10m North West of 180 Tullybrannigan Road Newcastle Co Down |

RECONSIDERATION FOLLOWING COMMITTEE DEFERRAL AND SITE VISIT

Application was presented to the 08 Jan 2020 meeting of Newry Mourne and Down Planning Committee with a recommendation to refuse based on Planning Policy Statements 3, 21 and 16.

1. The proposal is contrary to Policy CTY 1 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 and Policy TSM 5 of Planning Policy Statement 16, Sustainable Development in the Countryside, in that the proposal does not meets any of the specified criteria.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the width/visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Departments Development Control Advice Note 15.

Application was deferred by Committee to conduct a site visit. Site visit was held on the 27 Jan 2020.

Application was placed on Committee Schedule for 12 February 2020 but was withdrawn from the schedule to allow for further discussions between agent and planning office.

Revised plans were received on the 18 March 2020 in the form of a Revised P2A and a drawing of proposed Guest House Plans and elevations P04 dated 8 March 2020. Notice was served on No 159 Tullybrannigan Road.

The elevational and floor plan drawings mirror those as originally submitted, there has been no change in the scheme of the accommodation being provided. The Planning Office remain of the opinion that the scheme of accommodation proposed reflects that of a self-contained self-catering holiday let as opposed to a Guest House as directed by the agent and therefore the applicable policy is TSM 5 of PPS 16 and not TSM 3 of PPS16. Whilst the proposal description states Guesthouse the layout is certainly not reflective of this.

The agent has not sought to address this matter through the submission of amendments to the layout.



The focus of attention from the agent has been in attempting to address the traffic issues with the proposed development, this is reflected in the following drawings and statements submitted.

Further plans submitted 06 May 2020 including

- Site location
- Site Layout with Access
- Guesthouse Plans and Elevations
- Lisbane Traffic Consultant Supporting Statement
- Lisbane Traffic Consultant Site Plan

Neighbours were notified on the 15 June 2020, 1 letter of rep was received following this round of NN stating that the laneway is a Forestry Service a right of way entrance to Tollymore Park for walkers and cyclists.

Further information submitted on 24 July 2020 from agent and again on 09 September 2020 from Roads consultant

- Lisbane Consultants (Supporting Statement)

- Lisbane Consultants (Section Through northern sightline)
- Lisbane Consultants (Traffic Volume – TRICS)

DFI Roads have been consulted at every stage following the submission of additional information by the agent and his roads consultant. Roads have maintained their position on the unacceptability of the proposed development. Their final response on the information submitted reflects this. They consider in taking into account all matters relating to all aspects of Road Safety and progression in considering such applications that in order to achieve a safe and well-designed access in accordance with DCAN 15, the department will require the existing laneway to be repositioned to a satisfactory point where the minimum standard of 33m (to the northern side) can be achieved clear of the existing bridge parapet wall.

In order to achieve any sight visibility, splay the maximum height for the verge between 2 specified points has to be no greater than 250-300mm above ground level (Refer to paragraph 4.1 on page 8) of the document DCAN 15

The proposed sight visibility splays to the southern boundary cannot be achieved within the current site location plan outlined in red.

Drawings considered

| | | |
|-----------|------------------------|----------------|
| P01 Rev A | Site Location | 11 May 2020 |
| P02 | Site Layout | 01 August 2019 |
| P03 Rev A | Site Layout and Access | 11 May 2020 |
| P04 Rev A | Plans and elevations | 11 May 2020 |
| 19-180-A1 | Plan of Access | 11 May 2020 |

The reasons for refusal offered are as follows

1. The proposal is contrary to Policy CTY 1 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 and Policy TSM 5 of Planning Policy Statement 16, Sustainable Development in the Countryside, in that the proposal does not meets any of the specified criteria (a) (b) or (c).
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since adequate forward sight distance (of 33 metres) is not available, on the public road, at the proposed access in accordance with the standards contained in the Department's Development Control Advice Note 15.
4. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

Appointed Officer: Annette McAlarney

Date: 07 October 2020

BF / J550 / 15 October 2020

Re: PROPOSED DEMOLITION OF OUTBUILDINGS & PROVISION OF GUEST HOUSE TOURIST ACCOMMODATION & ASSOCIATED SITE WORKS ASSESSED UNDER PPS16, TSM3 AT LAND 10m NORTH WEST OF 180 TULLYBRANNIGAN ROAD, NEWCASTLE, CO. DOWN

REF: LA07 2019 1221 F

Dear Sir

The above planning application has been recommended for refusal for the following reasons

1. The proposal is contrary to Policy CTY 1 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 and Policy TSM 5 of Planning Policy Statement 16, Sustainable Development in the Countryside, in that the proposal does not meets any of the specified criteria (a) (b) or (c).
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since adequate forward sight distance (of 33 metres) is not available, on the public road, at the proposed access in accordance with the standards contained in the Department's Development Control Advice Note 15.
4. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

Refusal reason 2 states that the application as amended does not meet any of the specified criteria a, b or c of TSM5 of PPS16 which would be self-catering accommodation whereas we had submitted the application under TSM3 of PPS16 for Guest House accommodation.

An outcome of the planning committee meeting dated 08 January 2020 defined that a guesthouse had to have min 3 bedrooms for guests and 1 bedroom for the owner of the guest house to live. The original scheme had 3 bedrooms. The latest revised scheme has 4 bedrooms. 1 bedroom & ensuite on the ground floor for the guest house owner to live and 3 ensuite bedrooms on the first floor for paying guests.

We therefore feel that the amended scheme is that of a guest house and not a self catering establishment as identified in the planning case officers report. We also disagree with the planning officers statement in their report in that they have said that the 'agent has not sought to address this matter through the submission of the layout' as it is clear to see that the layout is different for the reason stated above. There is no set design for a guest house.

They also say that 'the focus of attention from the agent has been in attempting to address the traffic issues with the proposed development, this is reflected in the drawings and statements provided. It would appear that the planning officer has failed to recognise the difference in the latest plans proposed from that in the original scheme.

Refusal reason 3 refers to a forward sight distance of 33m not being available on the public road at the proposed access and refusal reason 4 states that the visibility splay from the existing access renders it unacceptable for intensification of use and not in accordance with DCAN 15.

It is felt that our submission dated 30 April 2020 has satisfied the requirements of DCAN 15: Vehicular Access Standards for the access to the proposed site, in that the access as modified, provides sight visibility splays of 2.4x45m to the south and 2.4m x tan to the north and the access is widened to 4.8m for the first 10m.

The hedge to the south had been cut back to provide a sight visibility splay of 2.4x45m. The land owner has been notified of same and permission given to the applicant to maintain the sight splay. It is felt that the request by DFI Roads to move the access is unreasonable.

Paragraph 4.1 of DCAN 15 states '*To reduce the impact of an access on the countryside, its location and design must be carefully considered and existing access, including lanes, should be used where possible*'. We have demonstrated that the modification of the existing lane meets policy, therefore the lane and access should be utilised.

Paragraph 4.2 of DCAN 15 states '*Visibility in a vertical plane must normally be provided from a driver's eye height of 1.05m to 2.00m to an object height between 0.26m and 1.05m. For a minor access carrying less than 250 vehicles per day the minimum object height may be relaxed to 1.05m provided there is no relaxation of the distance given in Table B*'. There are 6 dwellings on the existing private lane. DFI Roads have defined that that each dwelling has a traffic flow of 10 vehicles per day. Therefore 60 vehicles total per day on the existing lane. It is therefore proposed that 1 no additional Guest house would have a traffic flow of 10 vehicles per day. The new total traffic flow for the lane would be 70 vehicles per day. This is almost 35% of the maximum traffic flow for number of vehicles referred to in paragraph 4.2 of DCAN 15. It should also be noted that Tullybrannigan Road is a quiet rural road in the countryside. There has been no reported Road Traffic Accidents in the last 3 years in the stretch of road in and around the Priest's Bridge.

The underlined sentences from the above paragraphs show that we have followed policy guidelines of DCAN 15 as indicated on the J550/W03A Site Layout Plan without the need for relocating the access.

It should also be noted that the height of the wall over the bridge is no greater than 0.90m which is under the minimum object height of 1.05m quoted in DCAN15.

In addition to the above, the traffic speed approaching from the north over the bridge is low in the same way that the traffic speed approaching from the south is low as the bridge is a single width carriageway.

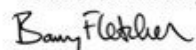
The above are all factors which should be taken into consideration in the determination of the above planning application.

It should also be noted that the planning officer refers to a letter of representation that stated the laneway to the site is a Forestry Service right of way entrance to Tollymore Park for walkers and cyclists. This representation is not available for viewing on the planning portal. For clarity, the lane from Tullybrannigan Rd is a public right of way and the lane from Park boundary west of no 176 is a Forest Service right of way.

We would like to seek further clarity from the planning committee once again on a Guesthouse and further discussion on why the object height of 1.05m as defined in DCAN 15 is not being taken into account as a relaxation for this minor access. We ask why was this written into DCAN 15, if it cannot be applied to this exceptional circumstance.

As a consequence, it is requested that this application is presented before the planning committee for further discussion & assessment.

Yours sincerely



Barry Fletcher RIBA



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

Application Reference: LA07/2018/0001/O

Date Received: 02.01.2018

Proposal: Demolition of former school building, erection of food store and mountain rescue centre, provision of car parking and associated site works

Location: Site of former St Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road, Newcastle

Site Characteristics & Area Characteristics



Fig 1 Site Location



Fig 2 Aerial of Site

The site is comprised of a 1.43 hectare site accessed off Bryansford Road, Newcastle. The site currently contains the former St Mary's Primary School and associated grounds and is relatively flat in nature. It is defined along its northern, western and southern boundaries with mature vegetation, the trees of which are subject to a TPO (see R/2001/0936/TPO) and fencing, while that to the east has been in recent times defined with temporary fencing.

The site is located immediately adjacent to a predominantly residential area known as 'Tullybrannigan' a number of dwellings within this residential area directly adjoin the site. In addition, the site is also adjacent to a recently erected apartment development known as Roslyn Place. A mix of dwelling types and apartments are therefore present within the immediate vicinity.

The site is located within the settlement limits of Newcastle as designated in the Ards and Down Area Plan 2015.

Proposed Development

The application proposes the demolition of a former school building (St Mary's PS) and erection of a food store (Lidl) and a mountain rescue centre (MMR), provision of car parking and associated site works.

In addition to the application forms and drawings the application has also been supported by a Drainage Assessment, Arboriculture Impact Assessment, Biodiversity Checklist, Environmental Site Assessment, Lighting Impact Assessment, Noise Impact assessment, Outline Construction Assessment, PACC Report, Planning Design Assessment, Retail Impact Need and Sequential Assessment, Service yard management and Transport Assessment.

Site History

The planning history of the site itself predominantly relates to applications associated with the school i.e temporary classrooms, storage facilities, toilet block.

Planning Policies & Material Considerations

The application exceeds the thresholds for major developments as set out in the Planning (Development Management) Regulations (Northern Ireland) 2015.

On this basis the applicant has undertaken the Pre Application Notification procedure and has submitted the required Pre-application Community Consultation Report (PACC) with the application itself. The report notes some limited feedback received during the consultation process of which they note was 'very positive'. A number of points were raised regarding increased traffic, potential for alternative uses on the site and concerns raised by Tollymore United FC about sale of alcohol to underage persons.

Consultations

In assessment of the proposal consultations were carried out with

Transport NI – No objections in principle – A scale plan and accurate site survey at 1:500 shall be submitted as part of the reserved matters application showing access to be constructed and other requirements in accordance with attached form RS1

NIEA- No concerns subject to conditions

Rivers Agency – No objections in principle. Schedule 6 Culvert Consent has been approved by DFI Rivers.

Environmental Health – No objections in principle subject to conditions

Shared Environmental Services. - No objections in principle subject to conditions

Neighbour Notification

The following neighbors were notified of the proposal initially on 11.01.18 and subsequently on 27.07.18 and 05.12.18, following amendments

- Nos 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 18 Roslyn Place
- Nos 1, 3, 5, 7, 9, 11, 13, 15, 17, 17a-d, 39 Shan Slieve
- Nos 2, 4, 6, 8, 10 Tullybrannigan Road
- Nos 19, 21, 21a, 23, 25, 27, 29, 32, 34, 36, 38, 39 Bryansford Road
- No 50 Shimna Road (Orange Hall)

Advertising

The application was advertised in the local press initially on 17.01.2018 and subsequently following amendments on 19.02.2018

Objections & Representations

Objections

17 letters of objection have been received

Support

5 Letters of support have been received

Non committal

1 non-committal comment has been received

Policy Context

In assessment of this proposal regard shall be given to the

Strategic Planning Policy Statement (SPPS),
Ards Down Area Plan 2015,
Planning Policy Statement 2, Natural Heritage
Planning Policy Statement 3 Access Movement and Parking
Planning Policy Statement 15 Revised Planning and Flood Risk

Local Development Plan Context

Section 6(4) of the Planning Act (Northern Ireland) 2011 requires that in making a determination on planning application regard must be had to the requirements of the local development plan and that determination must be in accordance with the plan unless material considerations indicate otherwise.

The Ards and Down Area Plan (ADAP) 2015 is the statutory development plan for the area. The application site lies within the settlement limits of Newcastle and within whiteland as identified in the ADAP 2015. The site is located outside the Town Centre Boundary.

Assessment

Strategic Planning Policy Statement (SPPS)

The SPPS published in September 2015 states that until the Council adopts the Planning Strategy for its new Local Development Plan there will be a transitional period in operation. During this period, planning policy within existing retained documents and guidance will apply. Any conflict between the SPPS and policy retained under transitional arrangements must be resolved in favour of the provisions of the SPPS.

The Statement indicates that a guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to the interests of acknowledged importance

In practice this means that development which accords with an up-to-date development plan should be approved and proposed development than conflicts with an up-to-date plan should be refused, unless other material considerations indicate otherwise.

The site has been previously developed through its use as a primary school and therefore represents a Brownfield site.

Retail Impact and Need

The SPPS states that planning authorities should retain and consolidate existing district and local centers as a focus for local everyday shopping and ensure their role is complementary to the role and function of the Town Centre. Retailing will be directed to town centers and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing Centre within the catchment and meet the requirements of policy elsewhere in the SPPS.

Paragraph 6.273 states that planning authorities must adopt a Town Centre first approach for retail and main town Centre uses. This is achieved by application of the 'sequential test' as set out at paragraph 6.280.

Paragraph 6.281 states that proposals should be considered in the following order of preference Primary Retail Core (PRC), town centres, edge-of-centre; and out-of-centre locations. The application site is located within 300m of the town centre boundary of Newcastle and is therefore considered as edge-of-centre.

All applications for retail or town centre type development above a threshold of 100 sqm gross external area, which are not proposed in a town centre location should be required to undertake a full assessment of retail impact as well as need. The SPPS notes where appropriate the planning authority may choose to apply a lower threshold taking into account local circumstance such as the size, role and function of their town centres.

It is further advised in the SPPS that in order to ensure high quality and otherwise satisfactory forms of development all applications for retail development uses will also be assessed in accordance with normal planning criteria including transportation and access arrangements, design, environmental and amenity impacts.

A Retail Impact and Need Assessment was submitted with the application which provided a background to the Lidl application and the need for a new store, consideration of the existing retail provision in and surrounding Newcastle, the impact the proposal will have on existing retail development and how the proposal meets the sequential test of the SPPS.

As identified in the ADAP 2015, Newcastle Town Centre is noted for its linear form, stretching along Main Street to either side of the Shimna Bridge. The Plan identifies a Primary Retail Core (PRC). The existing Lidl store is outside the PRC but within the Town Centre. All of Newcastle's local and through traffic use the town centre streets and often results in congestion particularly at peak tourist times. The plan also states that the environment of the main streets therefore suffers and the attraction of the shopping area is diminished.

The Town Centre is currently relatively healthy with a low vacancy level.

The current application proposes a gross floor space of 2206 sq, with 1338sqm dedicated to sales. The current Lidl store is located within the identified town centre and is housed within a Listed Railway Tower, opportunities for expansion are limited at their current location.

In consideration of the sequential test the Agent advises that Lidl have been looking for an alternative Town Centre site for 10+ years without success. It draws attention to the 11 Development Opportunity Sites within the Town Centre, as identified in the ADAP 2015. None of these sites have been considered suitable, predominantly because they are too small. There are no other available sites within the Town Centre which would accommodate a supermarket of this size.

In undertaking the sequential test, applicants should adopt a flexible approach to scheme design and consider the potential for their proposal to be accommodated in a different form on smaller sites. Given the format of Lidl stores it would not be possible to accommodate a Lidl store within the town centre even if there were smaller sites available in the Town Centre.

In assessing the need for the proposal, the agents' assessment advises that through the SPPS councils should require applicants to prepare an assessment of need which is proportionate to support their application. It also notes that 'need is not defined in the SPPS' and has provided a UK court ruling which 'held that it can mean necessity at one end of the spectrum and demand or desire at the other'.

In this case the Agent advises that Lidl's existing store has a sales area which is too small for the store to carry a full range of goods, it has narrow aisles with limited circulation space, its car park is too small, its servicing facilities do not meet Lidl's requirements and the general customer experience falls short of the standards expected of a modern foodstore.

The main like for like convenience retailer in the catchment is Tesco on the Castlewella Road, this store is located outside the Town Centre and is therefore not afforded any policy protection in terms of retail impact. The next largest food retailer would be ASDA in Downpatrick. There are a number of other top up convenience retailers outside the town centre namely Barbican Super Valu and Nisa Castlewella Road, however, these are not afforded protection either. Wider afield in Dundrum, Castlewella and Clough there are a number of large PFS format convenience outlets which cater mainly for the top up shopper. Lidl is unlikely to impact on such outlets given the discount retailer format of Lidl, which will not appeal to every customer.

Centra (Smyths) on Railway Street is a newsagent with a convenience offer of top up shopping, it is located in the Primary Retail Core, the store already operates in the shadow of the existing Lidl store on Railway Street. It is considered that this store may suffer through loss of footfall if the existing Lidl store is relocated as proposed.

The RIA has assessed the competitors of Lidl and noted that the out-of-centre Tesco store is overtrading, thereby indicating that there is a clear need for another foodstore in Newcastle.

The RIA forecasts the highest retail impacts on the existing Lidl store, for obvious reasons, the out of town Tesco store at 7% Retail impact and the Mace in Tullybrannigan at 9% Retail Impact. Neither of which have protected status given their out of town location. Overall a retail impact on Newcastle Town Centre of 4.3%. A retail impact of >10% usually indicates an unacceptable impact occurring.

94% of the proposal turnover will be in trade diversion from within the catchment, with 92.6% coming from the 0-5 min catchment ie Newcastle itself. 6% of the proposal turnover will be clawback from trade leaving the catchment currently.

The Planning Office have considered the content of the RIA and would have no reason to disagree with its findings.

In assessment of the above, it is acknowledged that there are obvious restrictions for redevelopment or expansion of the Lidl current premises, there is also the unavailability of suitable vacant sites in the town centre which would accommodate such a store. An alternative retailer format would not be realistic for the current proposal. A suitable brownfield site has become available at the edge-of-centre which could accommodate the proposal, it is considered therefore that the proposal has met the requirements of the SPPS. The RIA has identified an acceptable level of impact on existing retail providers in the catchment, therefore, it is not considered that the proposal will have a significant or unacceptable retail impact on Newcastle Town Centre.

Impact on existing land uses within the vicinity of the site

The current site is occupied by the former St. Mary's PS. The proposal seeks outline planning permission for the demolition of a former school building (St Mary's Ps) and erection of a food store (Lidl) and the Mourne Mountain Rescue Centre (MMR), provision of car parking and associated site works.

The proposed layout is shown below and identifies the only access via Bryansford Road.



Fig 3 Proposed Foodstore Layout

The site is surrounded predominantly by residential properties, Shan Slieve Drive, Bryansford Road and Roslyn Place, several of which immediately adjoin the site. These dwellings, particularly those at Bryansford Road, will notice an increase in activity from the proposed development. The Councils Environmental Health office have been requested to comment and have indicated that they have no objections in principle to the proposal provided conditions are attached to any forthcoming approval restricting hours of operation and deliveries, conditions relating to the noise levels of condenser units and the mushroom vents proposed on the indicative plans, conditions relating to floodlighting are also considered to be applicable in this case.

The adjoining site at Roslyn Place has a history of approvals granted for apartments and dwellings. The most recent approval being R/2008/0537/F for 14 No. apartments with associated car parking, LPG tank installation and amenity areas. The approval was granted in November 2009 with an expiry of November 2014.

The Council, in the absence of a CLUED being submitted on the site of R/2008/0537/F, is not in a position to comment on the status of approval R/2008/0537/F. However, in the interests of completeness the Planning Office has assessed the relationship of the approved apartment block to the proposed foodstore.



Fig 4 Foodstore layout

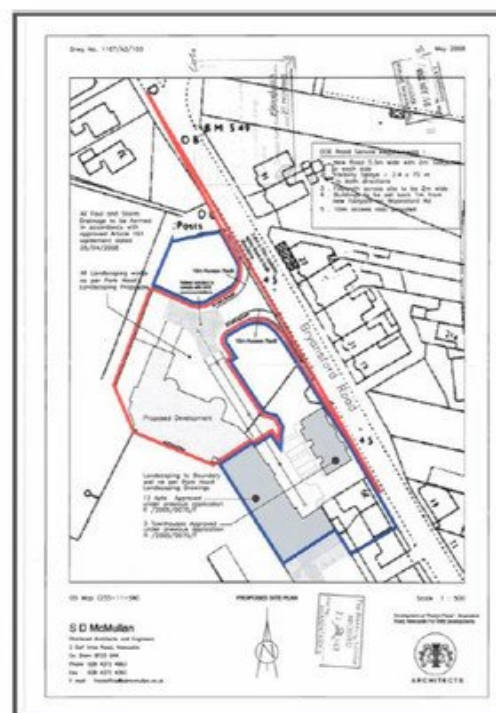


Fig 5 Apartments R/2008/0537/F

The apartment block is located 6m from the common boundary with the application site. The proposed foodstore is located a further 7m from the common boundary. The apartment block is some four storeys in height with the elevation along the application site having bedroom and living room windows (see Fig 6 circled). The foodstore is according to the information provided on the application of typical lidl format, single storey building 6.12m in height.



Fig 6 Elevations of Apartments

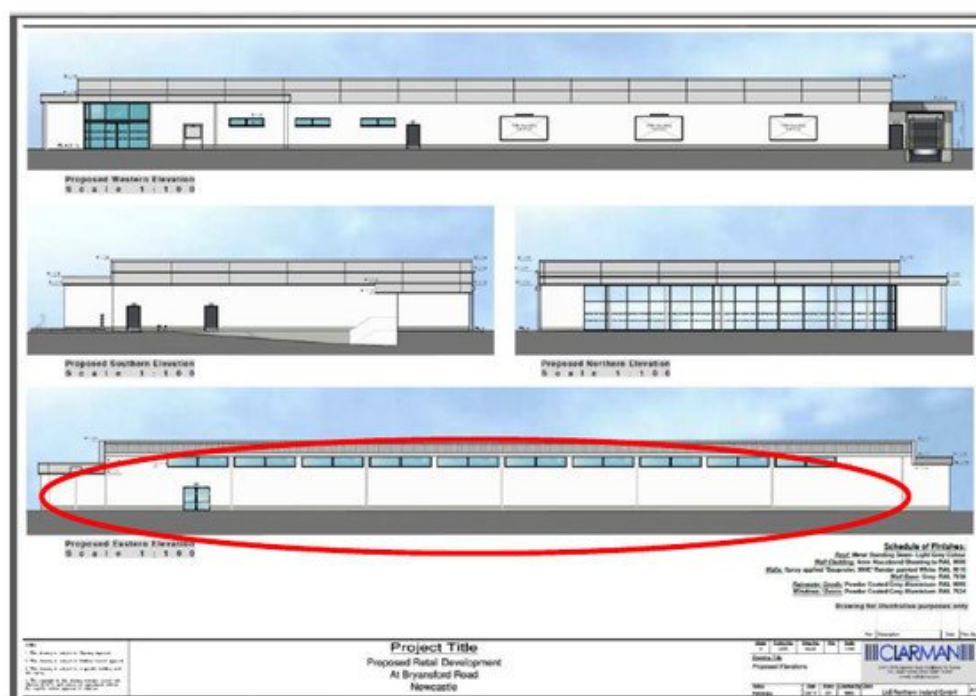


Fig 7 Elevation to Common boundary with Roslyn Place

Consideration is limited to the blocks eastern elevation with the application site. The Ground floor of the proposed apartment comprises the parking, lobby entrances bins and stores. The first floor comprises living rooms (2) and bedrooms (4). The first floor is separated from the boundary wall by patio areas/planted areas of amenity. The boundary treatment comprises a 1.3m high timber slat screen fence on top of a 500mm raised blockwork rendered planter. A 1m high hedge is indicated on the inside of the screen fence. There will therefore be limited appreciation from the 1st floor apartments or their associated amenity areas of the proposed foodstore.

The second floor comprises living rooms (2) and bedrooms (4). At this higher level the roof of the proposed food store and the car parking will come into view, however views will be had over the roof of the foodstore and beyond given the height of the foodstore at 6m and its distance of 7m from the common boundary.

At the 3rd and rooftop floors at this height the foodstore will not impede or hinder open views across the application site. Any potential occupants will have an open view across the application site, but views will not be impeded by the foodstore.

It is considered that whilst the apartment block has benefited from the vacant St Marys School site in proposing an apartment block close to the common boundary it is considered that there is no detrimental impact on the residential amenity of any future occupants of the apartment block as a result of the foodstore as proposed for the reasons given above.

Adequate access, car parking and maneuvering provision

Vehicular access will be via a new access onto the Bryansford Road.

A Transport Assessment, Travel Plan and Service Yard Management Plan was submitted in support of the application. Given the nature of the proposal in comparison with that currently on site, it is envisaged that this will result in a greater number of car trips to the site.

The Transport Assessment concluded that all junctions in the vicinity of the site have been assessed and were all forecast to operate well within capacity for all scenarios. Facilities for pedestrians, cyclists and disabled people have been considered. A new pedestrian crossing at the Bryansford Road/ Shimna Road is proposed. Public transport provision was shown to be good and there were considered to be no environmental or safety problems associated with the development.

The indicative drawings show 147 car parking spaces in total, 8 of which are allocated to the MMR facility. It is noted that current car parking standards for the foodstore require 1 non-operational parking space for each 14sqm of gross floor area – the TA states that the GFA is 1848sqm therefore 132 spaces are required for the foodstore. Whilst no specific car parking standards apply for the MMR centre, it is considered that given the nature and proposed use of the facility that 8 allocated spaces represents sufficient parking. Overspill could potentially be accommodated in the car park for the foodstore. The Service Management Plan advises that the site will be serviced once a day by an articulated vehicle and a dedicated service area will be provided for the servicing vehicle.

A lengthy consultation has been carried out with Transport NI and a number of amendments have been submitted to address their concerns. DfI Roads are content with the proposal as now proposed.

Potential effects of flooding and water management as result of the proposal

Planning Policy Statement 15 sets out the planning policies to minimise and manage flood risk to people, property and the environment. It adopts a precautionary approach to development and the use of land that takes account of climate change and emerging information relating to flood risk through the implementation of the EU Flood Directive in Northern Ireland and the implementation of sustainable drainage systems. The proposal is subject to consideration of its impacts in terms of flood risk at the site and potential for effects at other locations as a result of the development. A Drainage Assessment was submitted in support of the application.

Following consultation Rivers Agency advise that provision for access to the designated watercourse on the western boundary and the undesignated watercourse on the northern boundary have been addressed in the Drainage Assessment dated December 2017. DfI have issued Schedule 6 culvert consent for the works to the culvert. DfI Rivers accept the logic of the Drainage Assessment and have no reason to disagree with its conclusions.

NIEA Water Management have no objections to the proposal subject to conditions being applied as detailed in NIEA Standing Advice on Commercial and Industrial Developments.

Design and Landscaping of proposal

While the application seeks approval in principle, indicative drawings have been submitted showing the retail unit (Lidl) with a mono-pitched roof approx. above 6.125m above ground level at its highest point. The walls are to be clad with 4mm Alucobond Sheeting, and painted white rendered walls with grey rendered base. The roof is to be metal standing seam light grey in colour. While the proposed eastern, western and southern elevations will have limited fenestration, the northern elevation will be almost completely glazed. Matters of finish will be reserved.

The indicative plans of the proposed Mountain Rescue Building show a mono-pitched building with a roof approximately 7.4m above finished ground level at its highest point. The building will be finished with smooth render walls, painted white, with natural local stone cladding where indicated. The roof will be clad with kingspan, while the windows and rainwater goods will be aluminium ppc in charcoal colour.

From a scale and massing perspective it is not considered that these indicative designs would be inappropriate in the area. Furthermore, it is noted that the development site while within the Area of Outstanding Natural Beauty is not within any area of Townscape Character or close to a listed building which would influence its design. The design would not be incompatible with the requirements for this AoNB in line with PPS 2 Natural Heritage NH6 similarly DES 2 Townscape of a Planning Strategy for Rural Northern is not offended.

From a landscaping perspective the existing site is defined on all boundaries by a number of mature trees which are subject to a Tree Preservation Order (TPO) – see R/20010936/TPO. It is noted in the Arboricultural Impact Assessment that two trees are proposed for removal – T1 (Silver Birch) to facilitate the development and T24 (Alder) which is dead and requires removal. The Assessment states that retained trees are to be protected in accordance with BSI and allied industry recommendations and construction methods and surface treatments sympathetic to the needs of the trees. This is considered appropriate.

In addition to the above a Biodiversity Checklist Report, ecological appraisal and bat survey report, which have been sent to NIEA Natural Environment Division (NED) for comment.

Following this consultation NED note that the site is subject to the Conservation (Natural Habitats, etc) regulations (NI) 1995 as amended (known as the Habitats Regulations) and that the site is hydrologically connected to the Shimna River ASSI which is of national importance and is protected by the Environment (NI) Order 2002 (as amended). The application site also contains bats as protected by the Habitats Regulations. SES have returned with no objection subject to a condition of NIEA requiring the submission of a final CEMP pre-commencement.

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

Representations

A number of objections have been received, issues raised can be summarised as follows:

- The proposal is not in keeping with the residential nature of the area.
- Closure of the existing store will have a detrimental impact on the town centre and surrounding convenience stores
- Traffic Issues – increased traffic and adequacy of traffic surveys undertaken
- Result in increased Flooding
- Concern regarding the impact of the sale of alcohol particularly to young people
- Residential amenity of No.32 Bryansford Road
- Japanese Knotwood present on site
- Proposal is contrary to the SPPS in that the proposal is located outside the primary retail core and proposal is not in the interest of the local community
- The proposal will impact on the residential amenity of those residents of Shan Slieve
- Inaccurate land ownership
- Failure of Lidl to recognise the extant apartment development adjacent and full extent of vehicular rights of way

SD Mullan on behalf of Don Holdings submitted on 26 February 2019 a detailed 62-page submission raising issues as previously rehearsed in its previous submissions and highlighted in the summary above. This submission was uploaded to the planning portal for public scrutiny and comment.

Consideration of the Representations

Proposal not in keeping with the character of the area

The site is located within the settlement limits of Newcastle, where there is a presumption in favour of development provided it does not cause demonstrable harm to interest of acknowledged importance. The proposal involves the redevelopment of a brownfield site, previously used as a primary school. The site was never in residential use. There are a number of non-residential uses in the area, public houses and restaurant, Donard Park Playing fields and changing facilities and an orange hall. There is no diminution in the residential character of the area as a result of this proposal.

Contrary to SPPS in terms of the sequential test, need for new food store in Newcastle and impact on Town Centre

See assessment of the SPPS and assessment of retail impact above, which concludes that given the linear nature of Newcastle, the potential for adequately sized sites are limited, therefore, the applicant has explored the town centre and found it to be inadequate for its needs, the proposal has therefore moved to a more suitable site out-of-centre. The sequential test as outlined in the SPPS has been complied with. The RIA submitted has been found to be robust in its methodology and the Planning Office have no reason to disagree with its findings.

Traffic impact including the underestimation of traffic flow, omission of seasonal info and use of Shan Slieve Drive as an access to the site.

The Shan Slieve Drive access has been removed from the proposal.

Transport NI have considered all the information submitted with the application and are content that the development proposed can be accommodated and will not have an adverse impact on

the existing road infrastructure and the proposed access is considered acceptable in terms of road safety.

Potential for Flooding

The potential effects of flooding and water management as result of the proposal have been considered through assessment under PPS 15 and a consultation with DfI Rivers Agency, who have concluded that they have no objections in principle to the proposal subject to clarification of the alignment and structural integrity of the culvert within the site.

Sale of Alcohol

Such a matter would be for the operator of the foodstore to ensure it is complying with its legal requirements in relation to the sale of alcohol to underage customers. This is not a matter which can be controlled by planning. This would not be a matter specific to the proposed development but would affect many establishments within the settlement limits of Newcastle.

Noise and General Disturbance

In consideration of the potential noise and general disturbance of the proposal, it is acknowledged the immediate neighbours of the site will experience and increase in potential disturbance, given that the site is currently no longer in use as a primary school, however, Newry, Mourne and Down Environmental Health Dept were consulted with a Noise Impact Assessment dated Dec 2017 and advised that there were no objections in principle provided conditions relating to hours of operation, restricted hours of delivery, delivery into specified service yard, restricted sound pressure level of condenser units etc.

Loss of Privacy / Amenity at No 32 Bryansford Road

No 32 Bryansford Road is particularly affected by the proposal given its proximity to the development. It is noted that the dwelling at No.32 is 24m (at its nearest point) to the Lidl building. The access – specifically the pedestrian footpath to the development will be located 12m from No 32 at its nearest point. The development will result in a notable change for No 32 given that the site adjacent has been vacant for some time. However, it is considered that given the position of No 32 within the settlement limit of Newcastle, along an already busy road, in addition to the separation distance between the dwelling and presence of mature vegetation along the boundary of No 32 that the proposal would not cause significant demonstrable harm to the amenity of No 32 that the proposal should be refused. I would, however, recommend that additional planting is carried out along the northern boundary the site shares with No 32.

Japanese Knotweed

Consultation has been undertaken with NIEA NED they note that the north eastern corner of the site contains a significant area of Japanese Knotweed (*Fallopia japonica*). Japanese Knotweed is an invasive alien species under Schedule 9 of the Wildlife (Northern Ireland) Order 1985 (as amended) and as such it is an offence to cause this plant to grow in the wild. The ecological appraisal report states that a detailed management plan to eradicate Japanese Knotweed from the site has been developed, agreed and is currently being implemented. NED is content that the proposal will not have a significant impact on natural heritage interests, subject to the attaching of conditions.

Inaccurate Land Ownership

The Planning Office can confirm that as required under Section 42 of the Planning Act (NI) 2011 a statement of ownership has been completed on the application by the applicant and on this basis the Planning office is content to proceed.

Impact on apartments approved adjacent under planning application R/2008/0537/F

The Council acknowledge the submission of correspondence and a photographic record of works undertaken from SD McMullan to the Planning Office on the 24 November 2014 stating that the developer carried out substantial works approximately 2 years ago in the commencement of R/2008/0537/F. SD McMullan at that time requested that the information be placed on file. This information was placed on application reference R/2008/0537/F. The evidence as submitted would appear to suggest the commencement of R/2008/0537/F.

The Planning Office has had account of the relationship of the proposed foodstore to the approved apartment block under R/2008/0537/F. The relationship has been considered in full above and it has been concluded that there is no detrimental impact to the residential amenity of potential occupants of the apartment block as a result of the approval of the Foodstore and its associated development. Determining weight cannot be attached to any potential loss of outlook as raised by the objector.

Support

5 Letters of Support have been received all of which refer to support for the Mourne Mountain Rescue Centre.

Conclusion

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

Recommendation: Approval

Conditions

1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-
 - i. the expiration of 5 years from the date of this permission; or
 - ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.

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

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

3. A scale plan and accurate site survey at 1:500 shall be submitted as part of the reserved matters application showing access to be constructed and other requirements in accordance with attached form RS1

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

4. The net retail floorspace of the food store hereby approved shall not exceed 1340 square meters. No goods or merchandise shall be stationed or displayed on the forecourt of the premises.

Reason: To control the nature, range and scale of retailing activity so as not to prejudice the continued vitality and viability of existing retail centers

5. The store shall be used only for the retail sale and ancillary storage of the items listed below and for no other purpose, including any other purpose in Class A1 of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015.

For the purposes of this permission, convenience goods are defined as:-

- (a) food and drink;
- (b) tobacco, newspapers, magazines and confectionery;
- (c) stationery and paper goods;
- (d) toilet requisites and cosmetics;
- (e) household cleaning materials; and
- (f) other retail goods as may be determined in writing by the Council as generally falling within the category of convenience goods or as generally being appropriate to trading in these premises.

Reason: To control the nature, range and scale of retailing activity so as not to prejudice the continued vitality and viability of existing retail centres.

6. The foodstore hereby approved shall be operated as a single unit and shall not be subdivided without the prior permission in writing of the Council.

Reason: To control the nature, range and scale of retailing activity so as not to prejudice the continued vitality and viability of existing retail centres.

7. No internal operations including the installation of mezzanine floors shall be carried out to increase the gross retail floorspace available for retail use without the prior written consent of the Council

Reason: To control the nature, range, and scale of retailing activity so as not to prejudice the continued vitality and viability of existing retail centres

8. The development hereby approved shall be operated in accordance with the approved Service Management Plan dated December 2017

Reason: To ensure that adequate provision has been made for servicing and traffic circulation within the site.

9. The food store hours of operation shall be limited to hours of 08:00 – 21:00 Monday to Saturday and 13:00 – 18:00 Sunday as specified in Noise Impact Assessment dated December 2017.

Reason: To protect the amenity of neighbouring dwellings

10. Deliveries to the site shall not occur between the hours of 23:00 and 07:00 as specified in the Noise Impact Assessment, dated December 2017.

Reason: To protect the amenity of neighbouring dwellings

11. A maximum of 2 condenser units, each not exceeding a sound pressure level of 47 dBLAeq at 5m, shall be located as shown in Figure 2, page 13 of Noise Impact Assessment, dated December 2017.

Reason: To protect the amenity of neighbouring dwellings

12. A maximum of 2 mushroom vents shall be located as shown in Figure 2, page 13 of Noise Impact Assessment, dated December 2017. There shall be no additional external plant installed without prior consultation and agreement in writing with the Council.

Reason: To protect the amenity of neighbouring dwellings

13. All Floodlighting on site shall be installed and maintained in accordance with the Lighting Impact Assessment Report dated 13 November 2017.

Reason: To protect the amenity of neighbouring dwellings

14. Floodlighting on site shall only operate within the hours of 07:00 to 23:00 and as specified on page 6 of the Lighting Impact Assessment Report dated 13 November 2017.

Reason: To protect the amenity of neighbouring dwellings

15. No development activity, including demolition, ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management

Plan (CEMP) has been submitted to and approved in writing by the Planning Authority. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Planning Authority. The CEMP shall include the following:

- a) Pollution Prevention Plan;
- b) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- c) Water Quality Monitoring Plan;
- d) Environmental Emergency Plan;
- e) Details regarding the timing of any necessary vegetation clearance to take place outside the bird breeding season and bat foraging season;
- f) Details of temporary protection barriers to be erected around retained trees to protect their root zones during the construction phase;

Reason: To protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified within the outline CEMP and to prevent likely significant effects on the Shimna River Area of Special Scientific Interest (ASSI).

16. At submission of Reserved Matters, a Bat Mitigation Plan (BMP) shall be submitted to and approved in writing by the Planning Authority. The approved BMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved BMP, unless otherwise agreed in writing by the Planning Authority. The BMP shall include the following:
 - a) Details of the provision of alternative roosting locations for bats, including the number, model, specifications and location (including height and aspect) of bat boxes;
 - b) Details of the timing of works and the implementation of mitigation measures;
 - c) Further details of the lighting proposed for the exterior of the site relevant to the location of the bat boxes;
 - d) Details of updated bat surveys prior to any demolition works commencing and the development of any additional mitigation measures should bats be found;
 - e) Details of the appointment of a suitably qualified and experienced bat ecologist to oversee all works and the implementation of mitigation measures.

Reason: To protect bats.

17. Prior to commencement a detailed Landscaping and Planting Plan shall be submitted to the Council. No site clearance or development activity shall take place until the Landscaping and Planting Plan has been agreed in writing by the Council. The Plan shall include details of compensatory and mitigatory planting with native species of trees, shrubs, grasses and wildflowers. Species and numbers of trees and shrubs to be planted must be provided.

Reason: To minimise the impact of the proposal on the biodiversity of the site, including protected species.

17. Prior to commencement a landscape management and maintenance plan shall be submitted to and approved by the Council. The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and

maintenance schedules for all areas of landscaping. The landscape management plan shall be carried out as approved.

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

- 18. The Travel Plan as submitted date stamped 19 December 2017 shall be implemented in line with provisions set out within the Plan upon any part of the development hereby approved becoming operational.

Reason: To support sustainable transport objectives including a reduction in single occupancy car journeys and the increased use of public transport, walking and cycling.

SignedDate

SignedDate



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

| | |
|-------------------------------|---|
| Application Reference: | LA07/2018/0001/O |
| Date Received: | 02.01.2018 |
| Proposal: | Demolition of former school building, erection of food store and mountain rescue centre, provision of car parking and associated site works |
| Location: | Site of former St Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road Newcastle |

Addendum to Case Officers Report

The application was recommended for approval on the 22 November 2019 and placed on the Agenda for the 11 December 2019 Planning Committee. The Agenda was published on the 27 November 2019. The application was removed from the 11 December 2019 Committee Agenda.

On the 25 November 2019 additional information was submitted by the agent MBA Planning in the form of an addendum to the Noise Impact Assessment prepared by FR Mark and Associates in December 2017. The NIA Addendum specifically refers to the approved apartment block under R/2008/0537/F and not impact on those properties on the Bryansford Road/Shan Slieve as this was previously considered in the NIA of December 2017.

The Addendum report specifically assesses any potential for noise impact to those future occupants of the apartment block as a result of the development of the food store. The Addendum maintains there will be no loss of amenity to future occupants of the apartments as a result of noise from plant on the proposed food store or from any other aspect of the proposed development.

The additional information has been consulted upon with the Councils Environmental Health Department (EHO) and those persons making representation on the application have been notified of the submission of this information. At the time of writing the Planning Office have not received any further representations on the application.

The Councils Environmental Health Department have responded that they require additional acoustic screening to be put in place between the condenser units and the apartments (R/2008/0537). The screening should be placed close to the condenser units to produce effective screening for the upper level apartments and be a minimum of 2 metres in height. This acoustic screening shall be constructed of either masonry, timber panelling (close lapped with no gaps) or of earth and shall have a minimum self-weight of 25 Kg/m2. This can be attached as a condition of this approval.

Alternatively, EHO have suggested the relocation of the condenser units to the southern elevation as an alternative.

EHO recommend attaching the same conditions as previously offered (see body of main case officers report)

The Planning Office have considered the potential for noise impact on the adjacent approved apartment block. The Planning Office find no ground to reject the proposal on the basis of noise impact subject to the necessary acoustic screening as required by EHO being in place.

Signed

December 2019



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

| | |
|-------------------------------|---|
| Application Reference: | LA07/2018/0001/O |
| Date Received: | 02.01.2018 |
| Proposal: | Demolition of former school building, erection of food store and mountain rescue centre, provision of car parking and associated site works |
| Location: | Site of former St Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road Newcastle |

Addendum I to Case Officers Report

The application was recommended for approval on the 22 November 2019 and placed on the Agenda for the 11 December 2019 Planning Committee. The Agenda was published on the 27 November 2019. The application was removed from the 11 December 2019 Committee Agenda.

On the 25 November 2019 additional information was submitted by the agent MBA Planning in the form of an addendum to the Noise Impact Assessment prepared by FR Mark and Associates in December 2017. The NIA Addendum specifically refers to the approved apartment block under R/2008/0537/F and not impact on those properties on the Bryansford Road/Shan Slieve as this was previously considered in the NIA of December 2017.

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Alternatively, EHO have suggested the relocation of the condenser units to the southern elevation as an alternative.

EHO recommend attaching the same conditions as previously offered (see body of main case officers report)

The Planning Office have considered the potential for noise impact on the adjacent approved apartment block. The Planning Office find no ground to reject the proposal on the basis of noise impact subject to the necessary acoustic screening as required by EHO being in place.

Signed



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

| | |
|-------------------------------|---|
| Application Reference: | LA07/2018/0001/O |
| Date Received: | 02.01.2018 |
| Proposal: | Demolition of former school building, erection of food store and mountain rescue centre, provision of car parking and associated site works |
| Location: | Site of former St Mary's Primary School (opposite and east of 1-15 Shan Slieve Drive and south of 32-38 Bryansford Road and 2-8 Tullybrannigan Road) and portion of Bryansford Road Newcastle |

Addendum II to Case Officers Report

The application was recommended for approval on the 22 November 2019 and placed on the Agenda for the 11 December 2019 Planning Committee. The application was removed from the 11 December 2019 Committee Agenda and the 08 January 2020 Committee Agenda.

On the 02 February 2020, additional information was submitted by MBA Planning by way of an updated TA, an Access report, planning statement of rebuttal of objectors concerns and a site plan for illustrative purposes only showing the relationship of the proposed store to the apartment block approved under R/2008/0537/F.

Neighbour notification was issued on the 06 Feb 2020 and expired on the 20 Feb 2020. On this specific round of NN 1 letter of objection was received and one non-committal letter from the neighbouring property at 32 Bryansford road and the other from No.7 Spelga Ave.

Issues raised refer to Knotweed on the site and the recently erected hoarding on the apartment site adjacent and impact on site visibility spays.

Other matters raised refer to residential character, residential amenity and environmental quality all matters which have been previously raised and addressed.

The matter of the Knotweed has been addressed by the applicant in the ecological appraisal report which stated that a detailed management plan to eradicate Japanese Knotweed from the site has been developed, agreed and is currently being implemented. NIEA NED are aware of this and are content to proceed on this basis.

The matter of the recently erected hoarding on the apartment site adjacent and impact on vis spays for that development is currently under investigation by the Councils enforcement section. Consultation was undertaken with DFI Roads who responded on the 13 Feb 2020 DFI Roads having reviewed all the recent submitted information from the applicant and having noted the objections received they returned with No objection in principle subject to condition as per RS1 Form.

An additional letter of representation was received on the 21 Feb 2020 from Stephen Masterson of Cleaver Fulton Rankin and attached a submission from MRA Transport Planning. The submission makes reference to generated traffic, inadequate visibility splays, outdated modelling software and parking.

DFI Roads were consulted on this submission relating as it does to traffic matters. DFI Roads have returned advising that following review of the transport assessment and access statement DFI Roads considers the application acceptable as submitted.

DFI Roads consider the proposed sight visibility splays of 2.4m by 70m to be acceptable due to the fact that the Bryansford Road is a one way street and the requirement as noted in objections letters for 4.5m X distance is to enable a second vehicle waiting to exit simultaneous to the first vehicle looking. It is DFI Roads opinion that at this location with the two lanes on the one way-street an X distance of 2.4m is safer as each vehicle leaving the proposed access will have to assess the situation at the junction prior to egress onto the Bryansford Road.

A further letter of representation was received on the 24 September 2020 from Cleaver Fulton Rankin on behalf of Don Holdings in response to the MBA letter of 04 Feb 2020. The CFR rep makes reference to

- Status of planning permission R/2008/0537/F on neighbouring site
- PPS 8 Open space
- Land ownership
- Inadequate information provided at Outline

These issues have been previously addressed in the assessment reports. Planning permission R/2008/0537/F has been included in the assessment of the proposed development in terms of potential impact on residential amenity to occupiers of those apartments. The planning office consider there to be no detrimental impact to the unbuilt neighbouring apartments as a result of the proposed development. Consultation has been carried out with EHO who content subject to conditions, see Addendum I.

Open space is taken to mean all open space of public value which offer important opportunities for sport and outdoor recreation and can also act as a visual amenity.

The issue of Open Space has been considered, the site represents the grounds and buildings of a former Primary school, the vast majority of the site comprises dilapidated school buildings with associated hardstanding areas, a small portion of the site remains as grass. The question is does it represent public value. This site is not considered to be of public value but a brownfield site. Annex A of PPS 8 provides a list of types of open space which are of public value

- (i) Parks and Gardens

- (ii) Outdoor sports facilities
- (iii) Amenity green space (common in housing development, informal recreation spaces, communal greens etc
- (iv) Provision for children and teenagers – play areas, kick about areas, skateboard parks etc
- (v) Green corridor, canal river banks, amenity footways cycleways
- (vi) Natural and semi-natural urban green spaces- Woodlands, urban forests, grasslands, wetlands etc
- (vii) Allotments and community gardens
- (viii) Cemeteries and churchyards
- (ix) Civic spaces

It is considered that the grassed areas contained with the application site do not fall within any of the above types of open space. The question as to does it act as visual amenity.

The Council consider this to be a brownfield site in private ownership, the grassed area is not accessible to the public nor indeed would any member of the general public be aware of its existence, given that it is not openly viewable from public vantage points as an area of open space. For this reason this area of green space does not contribute to the visual amenity of the area. The CFR rep refers to Annex A of PPS 8

as a visual amenity – even without public access, people enjoy having open space near to them to provide an outlook, variety in the urban scene, or as a positive element in the landscape.

The current site contains the dilapidated remains of old school buildings, with minor ancillary grassed areas, the neighbouring properties at Bryansford road back onto this dilapidated site, the properties on Shan Slieve Drive similarly look out onto the old school buildings, it is not considered that the outlook currently enjoyed by those residents is one of an expanse of open space or one to be protected in creating a positive element in the local landscape. The outlook to be enjoyed by the apartment development not yet constructed under R/2008/0537/F will remain unchanged. There will be no impact on their visual amenity as a result of this proposal.

It must also be factored that there is a considerable community benefit to the proposed development in providing a base for the Mountain Rescue Centre.

Land ownership, the CFR letter acknowledges that this matter can be addressed through the imposition of negative conditions, no party is prejudiced as all parties are aware of the proposed development and its implications for land requirements.

With regard the comments that inadequate information has been provided at the Outline stage, the Council are content that enough information has been submitted at the outline stage to make an informed judgement on the acceptability of the proposed development. The Council consider that a considerable level of detail has been provided at the outline stage in terms of reports for traffic, biodiversity, Drainage Assessments, Arboriculture reports, retail statements, Lighting plans, construction noise reports and design details on the proposed building. Any remaining matters can be dealt with at Reserved matters stage.

To conclude

The proposed development has been assessed having regard to current planning policy, input from statutory consultees, representations from third parties and having regard to all other material considerations, the Council are content to recommend approval on the Outline proposal.

Signed

06 October 2020

Dear Democratic Services

I write in respect of the above application, which is listed at Item 2 for the 21/10/2020, Planning Committee with a recommendation to approve.

I would request speaking rights in opposition to the recommendation and case officers opinion.

Previously when this application was presented on 13/03/2019 there were several speakers and unfortunately there was insufficient time, as the speakers were not co-ordinated with the first speaker – a local resident MS Anderson using the majority of the allocation.

In this instance I'm aware of the previous legal proceedings brought by Don Holdings and their significant interest in the adjoining land. On that basis I'm content to rescind my time to Don Holdings and merely address the Committee during the Q&A.

However, I would indicate that having read the revised report and having examined the application again. There are two points that are very apparent:

1 - Whilst we accept that there are limited alternative sites. The applicants have occupied and operated from their current site Railway Street/Main Street for a significant period despite indicating a desire to find alternative premises (10+years). This demonstrates that the existing store is still functional, and the proposed edge of centre site is desirable, but not a necessity, which undermines the argument for the alternative site and exit from the town centre. Paragraph 6.289 of the SPPS states that; "*Applicants will be expected to identify and FULLY demonstrate why alternative sites are not suitable, available and viable*".

The applicants have discounted the existing site (640sqm net retail floorspace) but have not FULLY demonstrated how it could be adapted, through the use of creative or innovative design to accommodate 1,070sqm net retail floorspace. This have been overlooked by the Case Officer and the Council. It falls to the applicants to make their case and in respect of the existing site they have failed to FULLY demonstrate how it could not be adapted.

2 - The Planning Officers have not included a pre-occupation condition to ensure the Railway Street store remains occupied. This should not be problematic given the letter dated 24th November 2017 from Colin Mathewson of CBRE and the claimed expressions of interest. The lack of consideration of this matter by officers is fatal. The Council are permitting the relocation of a multinational retailer from a prominent listed building in the town to an edge of centre location, which is completely contrary to the town centre first approach in the SPPS. Such a re-occupation condition would prevent a prominent/vacant unit in the town centre and would mitigate against harm and a reduction in footfall by maintaining the vitality and vibrancy of Newcastle, which is accepted to be seasonal. It would also prevent any precedent for future occupiers of the Railway Street/Main Street building to argue for an edge of town centre site in the future.

The Council must attach a Condition to prevent the new store operating until the existing unit at Railway Street/Main Street is fully let on a long lease. This will mitigate against any potential impact by preventing a reduction in footfall and maintain the vitality and viability of Newcastle town centre. The lack of a condition, shows a fundamental lack of appreciation of the situation and the policies contained within the SPPS. When taken in conjunction with the shortcomings to FULLY demonstrate why the existing site cannot be adopted, it would be fatal in my opinion for a lawful decision to issue.

I trust that the Condition as suggested will be included and speaking rights will be confirmed.

Kind regards

Andy Stephens

Matrix Planning Consultancy
Saba Park
14 Balloo Avenue
Bangor
Co. Down
BT19 7QT

Speaking Note submitted on behalf of Don Holdings Ltd

Our client considers the current outline planning application to be fundamentally flawed and he has serious concerns that Councillors are being asked to make a decision on this application without a thorough assessment having been undertaken, and without being furnished with all the necessary information required to support their decision which calls in to question the lawfulness of the ultimate decision. The principal elements of our client's objection are as follows:

1. The access location for the proposed Lidl site is contrary to Planning Policy and Development Control Advice Note 15. More worryingly, is clearly unsafe for pedestrians and road users. DFI Roads have concluded that the acceptable visibility sightlines from the proposed access should be 2.4m x 70m. Such sightlines are inadequate for a development of this size. According to the TRICS¹ data, the number of vehicle trips generated by the proposed development is 114 vehicle trips per 100m². By multiplying this by the floor space (2090m²) it gives an estimation of 2382 trips per day to this development. This puts the sightlines into the category of 'over 1000 trips per day'². This results in **minimum** necessary sightlines of 6.0m x 70m. DFI Roads have proposed sightlines that are in complete contradiction of their standards resulting in a very unsafe access for cars and delivery vehicles.
2. Worse still, the reduced sightline cannot actually be achieved because of the adjacent 3rd party lands (see Exhibit 1 and 2). The applicant has relied on an outdated base map to illustrate the site access and visibility splays. The drawing is misleading as it ignores the current situation on the ground whereby the visibility splays clearly cannot physically be achieved. Consequently, the development would clearly prejudice the safety and convenience of road users and pedestrians.
3. The development would, if permitted, prejudice the safety and convenience of road users since adequate junction spacing of 46m (i.e. 2/3 of 70m visibility) between the proposed access and the adjacent approved access cannot be provided, leading to an unacceptable level of conflicting vehicular movements.³
4. The development would prejudice the safety and convenience of pedestrians since an adequate footway cannot be provided to link the site to the existing residential areas on Bryansford Road to accommodate the increased pedestrian movements. A minimum 2m footway linkage should be provided as this site is a major trip attractor.
5. There is a potential for significant traffic congestion in the locality, particularly in spring/summer, because the applicant has used an inaccurate and outdated transport assessment. The inadequacies include:
 - A failure to assess increased spring/summer traffic levels (which is especially important in a seasonal town like Newcastle where congestion is an issue);
 - Traffic has been assessed on the basis of an incorrect floor space which is 11% smaller than that proposed;

¹ Trip Rate Information Computer System

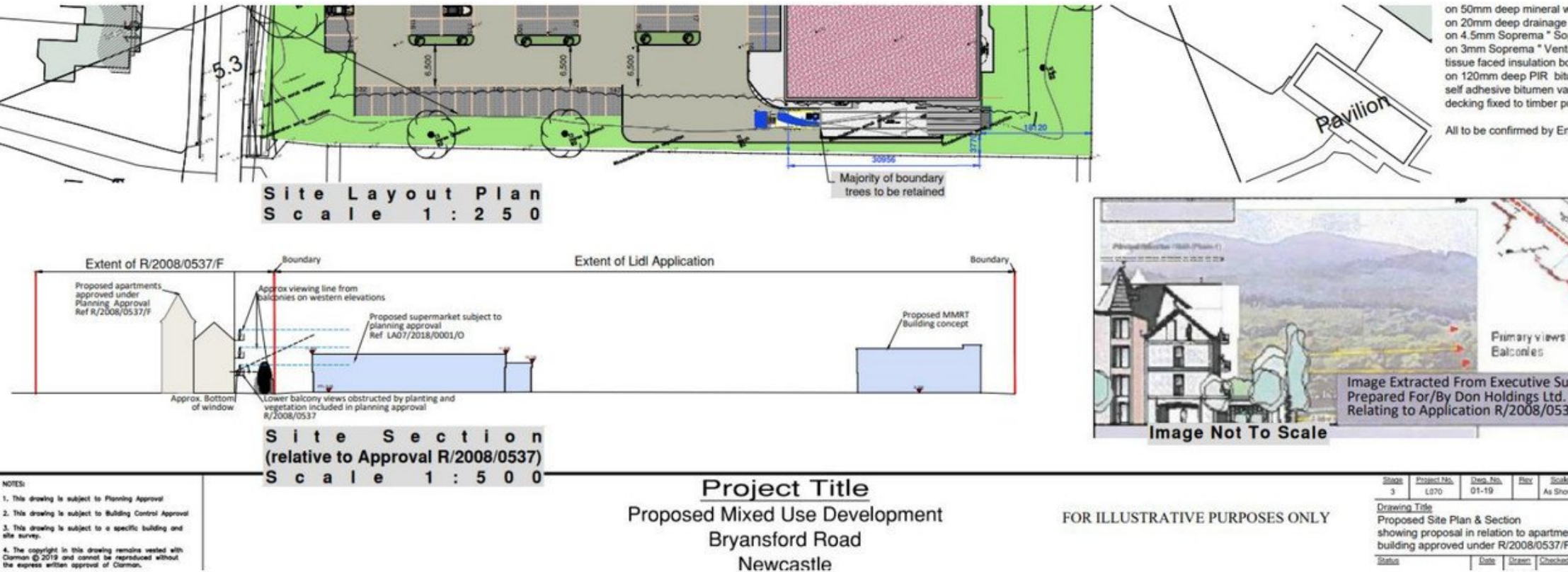
² DCAN 15, Table A

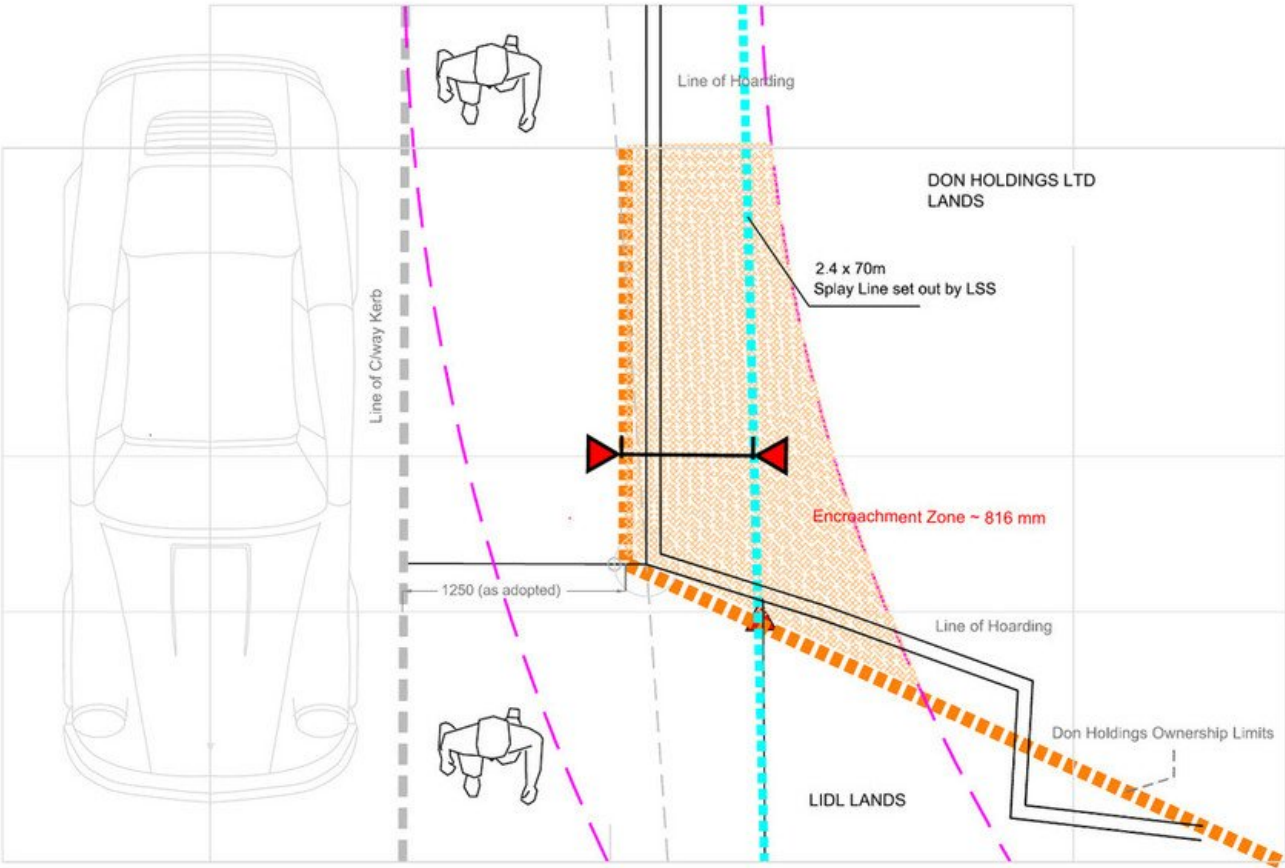
³ DCAN 15, CI 7.2 Fig 4.1 The position of this major access (defined as more than 250 vehicles per day) is too close existing and approved accesses.

- The assessment doesn't account for the removal of the Shan Slieve Drive access; and
 - The assessment ignores the requirement for increased visibility splays which can't be achieved.
6. The development is contrary to Planning Policy Statement 3, Development Control: Roads Considerations in that it would, if permitted, result in the creation of a new vehicular access/intensification of use of an existing access onto a Main Traffic Route/Protected Route A2; thereby prejudicing the free flow of traffic and conditions of general safety. This site bounds Shan Slieve Drive which is not a protected route and therefore policy is to form an access off this road and not the A2 Bryansford Road.
 7. The application and associated drawings were prepared at a time when the applicant did not consider the Roslyn Place permission (R/2008/0537/F) to be extant and thus the applicant did not give due attention to the development most affected by the proposal. This was conceded during the related judicial review proceedings. The many inadequacies have not been rectified since and thus the application misrepresents the situation on the ground.
 8. Addendum II asserts that there will be '*no impact on visual amenity*' and that the outlook from the approved development will '*remain unchanged*'. This is untrue. The development will blight the residential amenity of people living in the apartments approved at Roslyn Place located only 3.8m from the site boundary (not the 6m referred to in the officer's report) and less than 10m from the large commercial building with no intervening vegetation to screen the building.
 9. The planning report, whilst referring to the potential impact and to separation distances, fails to explain how these separation distances have been calculated, fails to recognise the impact of the absence of intervening vegetation and omits the cross section submitted by the applicants which we suggest confirms the unacceptability of the relationship between the approved and proposed uses and the potential adverse impact on residential amenity (See exhibit 3).
 10. Further evidence of the sweeping inadequacy of the application is demonstrated by the fact the P1 planning application form make an incorrect declaration regarding the presence of 3rd party interests. This constitutes a potential criminal offence under Section 42(6) of the Planning Act (NI) 2011.
 11. It is important to note that our client does not object to the concept of a Lidl store and Mountain Rescue Centre on this site, however the current application is fundamentally flawed. We have serious concerns that Members are being asked to make a decision based on inaccurate and outdated information, which is especially concerning when it leads to significant public safety issues. We respectfully ask for the application to be deferred in order for the applicant to be given the opportunity by Council to rectify the fundamental flaws with the current application and to ensure that Members have the appropriate information to consider in order to arrive at a **lawful** decision.

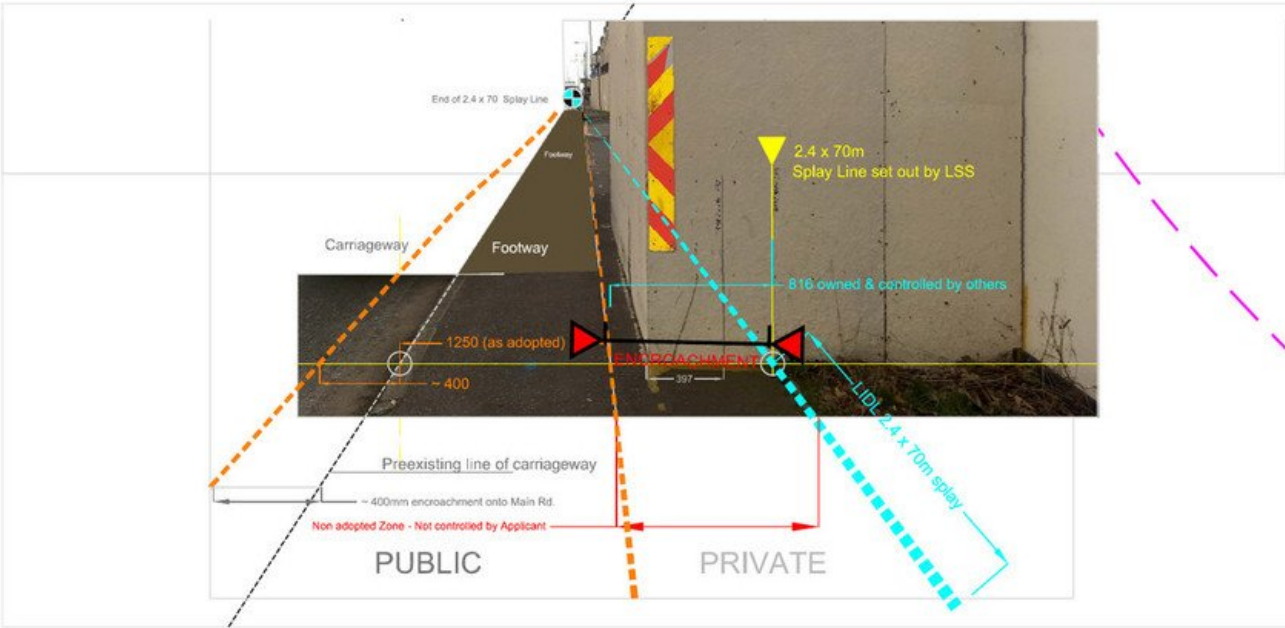


Extract from Drawing Submitted by Applicant - 5th February 2020





CLOSE UP PLAN VIEW



VIEW back TOWARDS MAIN STREET
(from centre of LIDL Entrance)

Statement to Planning Committee

on behalf of the Applicant, Lidl Northern Ireland

Proposed Foodstore & Mountain Rescue Centre, Bryansford Road,
Newcastle (ref: LA07/2018/0001/O)

October 2020

1. This Statement on behalf of the Applicant, Lidl Northern Ireland, supports the Planning Department's recommendation to approve this application for a foodstore and mountain rescue centre.
2. The proposed foodstore will allow the Applicant to relocate from its current premises at Railway Street. It is too small to carry Lidl's full range of goods, it has narrow aisles with limited circulation space, it has insufficient car parking and it falls short of the standards required of a modern foodstore.
3. The Railway Street store was only supposed to be temporary until a larger site could be found. Lidl looked for an alternative site in and around Newcastle Town Centre for over 10 years but none were large enough and suitable until the application site became available. It is only 80 metres from the Town Centre and the application complies with the sequential test.
4. The proposal will be a freestanding foodstore with adequate parking facilities that will offer additional choice for local shoppers in modern and spacious surroundings without undermining the vitality and viability of Newcastle Town Centre.
5. The mountain rescue centre will provide a new permanent base for the Mourne Mountain Rescue Team, allowing them to relocate from their current temporary premises at the PSNI Station in Newcastle. The proposal will allow the Team to provide a much improve service.
6. A large number of reports have been submitted with the application and confirm that the proposal will have no unacceptable adverse effects on the environment or the amenity of local residents. The

site is currently occupied by a dilapidated vacant school building, hardstanding and grassed area. It will be regenerated with a quality development.

7. The vast majority of trees on the site will be retained and supplemented with additional planting, while Lidl also plan to have natural stone and a green roof on the store to help it blend into its surroundings (these matters would be agreed at reserved matters stage and we note that the drawings submitted in respect of the reserved matters application LA07/2019/0592/RM on this site included these details, although that application could not be progressed following the legal challenge to the outline permission).
8. Details have also been submitted demonstrating that the proposal would not have an unacceptable impact on the apartment development that was permitted on the adjacent site under R/2008/0537/F (although, as we have noted in our submission dated 4th February 2020 which is on the planning portal, there is no evidence to suggest that development has commenced pursuant to this permission and no lawful development certificate has been produced to show that the permission is still live). Our February 2020 submission also demonstrates that the proposal is not at odds with Policy OS1 'Protection of Open Space' of PPS8 as an objector has suggested.
9. The illustrative drawings show access to the site at Bryansford Road. A substantial amount of supporting information has been submitted demonstrating that this is safe and that the traffic impacts of the proposal are acceptable. DfI Roads have been consulted on a number of occasions and are content with the proposal.
10. The proposal involves an investment of £3.2 million in construction and the creation of 12 additional retail jobs (in addition to the 14 existing jobs that will be maintained).
11. This is a sustainable development that complies with the local development plan and all other relevant planning policies. It will regenerate a brownfield site and has significant benefits. We commend it to the Council.

TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|------------------|--|---|-------------------|--|--|
| | | PLANNING MEETING – 1 AUGUST 2018 | | | |
| LA07/2017/1261/0 | Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield | Defer application to enable the Council's Legal Advisor to consider issues raised regarding ownership of the application site (Mr Thomas Mageean); the farm business in the name of Mr Bernard Mageean, who takes land in conacre from his brother and this farm business being altered by adding the applicant as an additional member of the business and in so doing have the applicants buildings at No. 20 Junction Road included within the farm business criterion © of CTY10 | Annette McAlarney | Await legal advice. | N |
| | | PLANNING MEETING – 29 AUGUST 2018 | | | |
| LA07/2017/0821/0 | Mr C Kane - Proposed off site replacement dwelling and garage - 123 Magherahamlet Road, Moneynabane, Ballynahinch. | Defer application for further discussion between agent/applicant and planning officers re: new information submitted and issues raised at the Planning Committee Meeting | Annette McAlarney | Issues raised at Planning Committee referred to the outcome of an application which has yet to be | N |

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|------------|---------|----------|--------------|---|------------------------------------|
| | | | | submitted to planning. In line with Committee wishes we have to await the submission of this application and its conclusion before returning to consider the current deferred application. Contact made with agent re progress on potential new application which has yet to be submitted. Meeting to be convened. Agent advised on 19 March 2019 that the application for the 2no broiler houses was to be submitted within the next 3 weeks. No application has been received at time of update 29/04/2019. | |

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|------------------|--|---|--------------|--|------------------------------------|
| | | | | <p>No application submitted to date 04/06/2019</p> <p>Application for poultry houses received LA07/2019/0953/F on 13/06/2019 Being processed.</p> <p>Determine application upon conclusion of LA07/2019/0953/F see below</p> | |
| | | PLANNING MEETING - 13 FEBRUARY 2019 | | | |
| LA07/2015/0149/F | Change of use of building to provide storage and distribution of fuel with alterations and new bulk fuel tank in yard – site between 54 and 58 Edenappa Road, Jonesborough | Withdrawn by the Planning Department to allow further consultation to be completed | A Davidson | Remains under consideration | N |

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|--|---|--|--------------|---|------------------------------|
| | | PLANNING COMMITTEE MEETING – 24 JULY 2019 | | | |
| LA07/2018/1787/F | Proposed extension to existing Materials Recovery Facility Building – 23 Downpatrick Road, Killough | Defer this application, which the Committee agreed was an exception under FLD 1, and refer the completed Flood Risk Assessment to Rivers Agency to be reviewed. | A McAlarney | Application to come back to Committee Under consideration. | N |
| | | PLANNING COMMITTEE MEETING – 17 SEPTEMBER 2019 | | | |
| LA07/2018/0860/F | Proposed replacement dwelling (amended drawings) – 45 metres NE of No. 14 Rath Road, Clonallon Glebe tb Warrenpoint | Defer for further discussion between Planning Officers and agent/applicant – additional information to be provided | M Keane | Remains under consideration | N |
| | | PLANNING COMMITTEE MEETING – 16 OCTOBER 2019 | | | |
| LA07/2019/0773/0 | Dwelling – to rear of 71 Church Street, Downpatrick | Withdraw from the addendum list for a meeting with Planners, applicant and agent | A McAlarney | Meeting to be convened with CPO and Agent/applicant | N |
| PLANNING COMMITTEE MEETING 8 JANUARY 2020 | | | | | |
| LA07/2019/1221/F | Proposed guest house tourist accommodation and associated site works – land 10m NW of | Defer for site visit and further discussion to take place with applicant, agent and Planners re: correct planning category for the | A McAlarney | Withdrawn from February agenda for more work to be done on the proposal | N |

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|---|--|--|--------------|--|------------------------------|
| | 180 Tullybrannigan Road, Newcastle | proposal. Traffic survey to be submitted and evidence that 2 x 45m sight visibility splays were achievable and within the control of the applicant | | Agent has submitted additional info. Application is under consideration. Application on schedule for October 2020 Meeting | |
| PLANNING COMMITTEE MEETING 11 MARCH 2020 | | | | | |
| LA07/2019/1644/0 | Replacement dwelling – lands at and located to the west of 24 Crabtree Road, Ballynahinch | Defer for agent to consult with applicant if they would be prepared to extend the curtilage to the rear of the existing building to accommodate a replacement dwelling. Officers to then issue the decision under delegated authority | A McAlarney | Awaiting Agent to provide timeframe for submission of Info. Agent has advised that info will not be submitted and to proceed with the application as is | N |
| LA07/2019/1455/F | New access to dwelling in substitution to that approved under planning ref: LA07/2018/0118/F – 30m SE of 8 Outlacken Road, Belleeks, Newry | Defer for further discussions and agent/applicant to provide evidence to show that the former approved existing access is no longer available to the applicant and that under Policy an alternative access can be granted | A Davidson | Remains under consideration. New agent on application. | N |

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|--|---|--|--------------|---|---------------------------------------|
| LA07/2019/1551/0 | Proposed 1 ½ storey dwelling and garage – immediately east of 15 Mill Road, Hilltown | Defer for further investigation regarding status of the buildings on site and farm ownership and take back to Committee for decision | M Keane | Await legal advice | N |
| PLANNING COMMITTEE MEETING 1 JULY 2020 | | | | | |
| LA07/2019/1279/F | New access and laneway to serve dwellings 27, 29 and 31 Islandmoyle Road – lands adjacent to 27 Islandmoyole Road, Cabra, Newry | Defer for a site visit | M Keane | Site visit held 04-09-2020 Add info now received. Aw rivers Agency | 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 | Agent has not submitted any new information to date | |
| LA07/2019/1087/0 | Replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar | Removed from the agenda as agent unable to attend | A McAlarney | | |

| Minute Ref | Subject | Decision | Lead Officer | Actions taken/ Progress to date | Remove from Action Sheet Y/N |
|---|--|---|--------------|------------------------------------|---------------------------------------|
| LA07/2019/1134/0 | Replacement dwelling - 90 Manse Road, Darraghcross, Crossgar | Removed from the agenda as agent unable to attend | A McAlarney | | |
| LA07/2019/0329 | Dwelling and garage - approx 60m south of 144 Loughinisland Road, Downpatrick | Removed from the agenda as agent unable to attend | A McAlarney | | |
| PLANNING COMMITTEE MEETING 23 SEPTEMBER 2020 | | | | | |
| LA07/2020/0176/F | Proposed rural infill detached dwelling and garage – 45m north of 5 Molly Road Lower, Jonesborough | Defer for 3 months to allow time for the garage to the north of the proposed site to be built and then application to be re-considered | A Davidson | | |
| | | | | | |
| | | | | | |

Newry, Mourne & Down District Council – September 2020

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1. Live Applications

| MONTH 2020/21 | NEW APPLICATIONS | LIVE APPLICATIONS | LIVE APPLICATIONS OVER 12 MONTHS |
|--------------------|------------------|-------------------|----------------------------------|
| March, April & May | 338 | 989 | 242 |
| June | 164 | 965 | 232 |
| July | 175 | 1,002 | 241 |
| August | 165 | 1,038 | 231 |
| September | 192 | 1,046 | 233 |

2. Live Applications by length of time in system

| Month 2020/21 | Under 6 months | Between 6 and 12 months | Between 12 and 18 months | Between 18 and 24 months | Over 24 months | Total |
|---------------|----------------|-------------------------|--------------------------|--------------------------|----------------|-------|
| May | 540 | 207 | 103 | 43 | 96 | 989 |
| June | 562 | 171 | 101 | 40 | 91 | 965 |
| July | 587 | 174 | 105 | 44 | 92 | 1,002 |
| August | 598 | 209 | 93 | 51 | 87 | 1,038 |
| September | 613 | 200 | 89 | 49 | 95 | 1,046 |

3. Live applications per Case Officer

| Month 2020/21 | Average number of Applications per Case Officer |
|---------------|---|
| May | 53 |
| June | 66 |
| July | 68 |
| August | 71 |
| September | 71 |

Newry, Mourne & Down District Council – September 2020

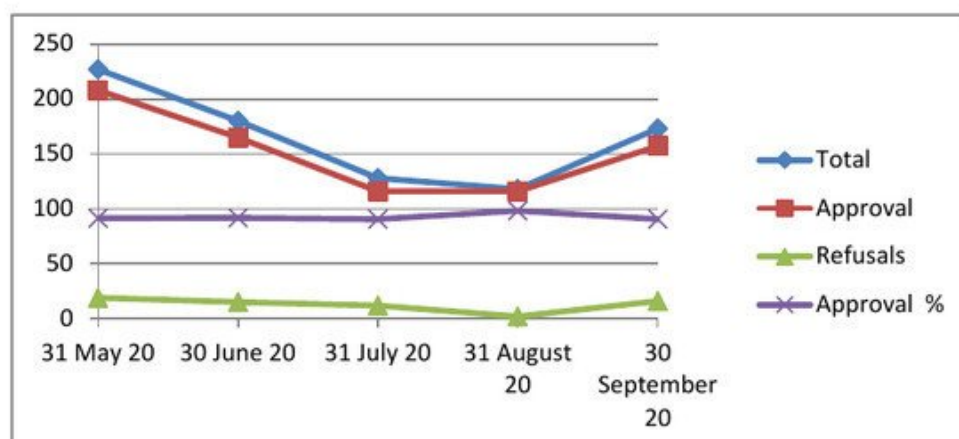
129

4. Decisions issued per month

| Month 2020/21 | Number of Decisions Issued | Number of Decisions Issued under delegated authority |
|--------------------|----------------------------|--|
| March, April & May | 227 | 216 |
| June | 180 | 166 |
| July | 128 | 122 |
| August | 118 | 110 |
| September | 173 | 163 |

5. Decisions Issued YTD

| Month 2020/21 | Number of Decisions Issued | Breakdown of Decisions | |
|--------------------|----------------------------|------------------------|-----|
| March, April & May | 227 | Approvals (208) | 92% |
| | | Refusals (19) | 8% |
| June | 407 | Approvals (373) | 92% |
| | | Refusals (34) | 8% |
| July | 535 | Approvals (489) | 91% |
| | | Refusals (46) | 9% |
| August | 653 | Approvals (605) | 93% |
| | | Refusals (48) | 7% |
| September | 826 | Approvals (762) | 92% |
| | | Refusals (64) | 8% |



Newry, Mourne & Down District Council – September 2020

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6. Enforcement Live cases

| Month 2020/21 | <=1yr | 1-2 yrs | 2-3 yrs | 3-4 yrs | 4-5 yrs | 5+yrs | Total |
|--------------------|-------|---------|---------|---------|---------|-------|-------|
| March, April & May | 180 | 177 | 174 | 89 | 35 | 91 | 746 |
| June | 229 | 168 | 175 | 95 | 35 | 89 | 791 |
| July | 236 | 158 | 187 | 97 | 35 | 92 | 805 |
| August | 238 | 158 | 179 | 107 | 40 | 93 | 815 |
| September | 246 | 147 | 190 | 110 | 44 | 93 | 830 |

7. Planning Committee

| Month | Number of Applications presented to Committee | Number of Applications Determined by Committee | Number of Applications Withdrawn/ Deferred for future meeting | Number of Officer recommendation overturned |
|-------------------|---|--|---|---|
| 3 June 2020 | 15 | 15 | 0 | 6 |
| 1 July 2020 | 5 | 4 | 1 | 1 |
| 29 July 2020 | 6 | 2 | 4 | 0 |
| 26 August 2020 | 16 | 8 | 8 | 4 |
| 23 September 2020 | 9 | 7 | 2 | 2 |
| Totals | 51 | 36 | 15 | 13 |

8. Appeals

Planning Appeal Commission Decisions issued during period 1 September 2020 to 30 September 2020

| Area | Number of current appeals | Number of decisions issued | Number of decisions Allowed | Number of decisions Dismissed | Withdrawn |
|----------------|---------------------------|----------------------------|-----------------------------|-------------------------------|-----------|
| Newry & Mourne | 16 | 2 | 1 | 1 | 0 |
| Down | 15 | 2 | 1 | 1 | 0 |
| TOTAL | 31 | 4 | 2 | 2 | 0 |

Newry, Mourne & Down District Council – September 2020

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Statutory targets monthly update - July 2020 (unvalidated management information)

Newry, Mourne and Down

| Major applications (target of 30 weeks) | | | | | Local applications (target of 15 weeks) | | | | Cases concluded (target of 39 weeks) | | | | | |
|---|-----------------|---------------------------------------|--------------------------------------|--------------------------------------|---|-----------------|---------------------------------------|--------------------------------------|--------------------------------------|--|---------------|---|------------------------------------|--------------------------------------|
| | Number received | Number decided/withdrawn ¹ | Average processing time ² | % of cases processed within 30 weeks | | Number received | Number decided/withdrawn ¹ | Average processing time ² | % of cases processed within 15 weeks | | Number opened | Number brought to conclusion ³ | "70%" conclusion time ³ | % of cases concluded within 39 weeks |
| April | 1 | - | 0.0 | 0.0% | | 63 | 3 | 18.2 | 33.3% | | 17 | 18 | 146.8 | 33.3% |
| May | 1 | - | 0.0 | 0.0% | | 99 | 91 | 24.2 | 16.5% | | 10 | 69 | 228.2 | 14.5% |
| June | 1 | 3 | 87.0 | 0.0% | | 122 | 161 | 26.4 | 18.6% | | 49 | 30 | 100.0 | 43.3% |
| July | 2 | 1 | 31.8 | 0.0% | | 131 | 113 | 20.0 | 25.7% | | 23 | 19 | 91.8 | 31.6% |
| August | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% |
| September | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% |
| October | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% |
| November | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% |
| December | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% |
| January | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% |
| February | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% |
| March | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% | | 0 | - | 0.0 | 0.0% |
| Year to date | 5 | 4 | 61.9 | 0.0% | | 415 | 368 | 23.0 | 20.4% | | 99 | 136 | 171.7 | 25.7% |

Source: NI Planning Portal

Notes:

1. CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures

2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median is used for the average processing time as any extreme values have the potential to inflate the mean, leading to a result that may not be considered as "typical".

Newry, Mourne & Down District Council – September 2020

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3. The time taken to conclude an enforcement case is calculated from the date on which the complaint is received to the earliest date of the following: a notice is issued; proceedings commence; a planning application is received; or a case is closed. The value at 70% is determined by sorting data from its lowest to highest values and then taking the data point at the 70th percentile of the sequence.

Current Appeals

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AUTHORITY Newry, Mourne and Down

| | | | |
|--|---|---------------------------|------------|
| ITEM NO | 1 | | |
| Planning Ref: | P/2014/0920/F | PAC Ref: | 2019/A0065 |
| APPELLANT | Mr Brian Mulholland | DEA | Crotlieve |
| LOCATION | To The Rear Of 37A Ballyholland Road Ballyholland Lower | | |
| PROPOSAL | Newry Retention of existing agricultural shed, hardstanding, agricultural laneway and earthen embankments | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Written Reps with Site Visit | Date Appeal Lodged | 27/06/2019 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

| | | | |
|--|--|---------------------------|--------------|
| ITEM NO | 2 | | |
| Planning Ref: | LA07/2018/0496/ | PAC Ref: | 2019/A0069 |
| APPELLANT | Eugene Stranney | DEA | Slieve Croob |
| LOCATION | 149 Ballydugan Road Downpatrick BT30 8HH | | |
| PROPOSAL | Change of use of existing garage, study & games room to a dwelling as ancillary to the main existing dwelling | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 04/07/2019 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

134

| | | | |
|--|--|---------------------------|----------------|
| ITEM NO | 3 | | |
| Planning Ref: | LA07/2017/1213/ | PAC Ref: | 2019/A0143 |
| APPELLANT | Tullyherron Farm Feeds | DEA | Slieve Gullion |
| LOCATION | 38 Tullyherron Road Mounthorris Armagh | | |
| PROPOSAL | Retention of extension to existing farm feeds business, including extension to hard standing area, storage buildings silos and associated works. | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Written Reps | Date Appeal Lodged | 16/10/2019 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

| | | | |
|--|--|---------------------------|--------------|
| ITEM NO | 4 | | |
| Planning Ref: | LA07/2019/0181/ | PAC Ref: | 2019/A0155 |
| APPELLANT | Anthony Flanagan | DEA | Slieve Croob |
| LOCATION | 152 Ballylough Road Castlewellan | | |
| PROPOSAL | 2 Storey side and rear extension to provide ancillary accomodation (Retrospective) | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 04/11/2019 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

135

| | | | |
|--|---|---------------------------|------------|
| ITEM NO | 5 | | |
| Planning Ref: | LA07/2019/1313/ | PAC Ref: | 2019/A0159 |
| APPELLANT | EDB Construction Ltd | DEA | Newry |
| LOCATION | 58 Armagh Road Newry | | |
| PROPOSAL | Demolition of existing building and erection of apartment development | | |
| APPEAL TYPE | DC - Non Determination of a Planning Application | | |
| Appeal Procedure | Informal Hearing | Date Appeal Lodged | 13/11/2019 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

| | | | |
|--|--|---------------------------|------------|
| ITEM NO | 6 | | |
| Planning Ref: | LA07/2019/0866/ | PAC Ref: | 2019/A0169 |
| APPELLANT | EDB Construction Ltd | DEA | Newry |
| LOCATION | Lands Opposite Numbers 20-24 Watsons Road Newry | | |
| PROPOSAL | Proposed residential development comprising 20 No dwellings (18 Semi-detached and 2 detached) change of house type in respect of Approval P/2006/1117/F. | | |
| APPEAL TYPE | DC - Non Determination of a Planning Application | | |
| Appeal Procedure | Informal Hearing | Date Appeal Lodged | 19/11/2019 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

136

| | | | |
|--|---|---------------------------|-------------|
| ITEM NO | 7 | | |
| Planning Ref: | LA07/2019/0149/ | PAC Ref: | 2019/A0187 |
| APPELLANT | Liam Phillips | DEA | Downpatrick |
| LOCATION | Adjacent To 11 Saul Road Downpatrick | | |
| PROPOSAL | Proposed Dwelling | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 06/01/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

| | | | |
|--|--|---------------------------|-------------|
| ITEM NO | 8 | | |
| Planning Ref: | LA07/2019/0811/ | PAC Ref: | 2019/A0194 |
| APPELLANT | C McManus | DEA | The Mournes |
| LOCATION | Land Adjacent To 177 Dundrum Road Newcastle | | |
| PROPOSAL | Proposed temporary mobile accommodation | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 06/01/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

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| | | | |
|--|--|---------------------------|-------------|
| ITEM NO | 9 | | |
| Planning Ref: | LA07/2016/1502/ | PAC Ref: | 2019/A0232 |
| APPELLANT | Robert Cairns | DEA | The Mournes |
| LOCATION | 7-9 Newry Street Kilkeel BT34 4DN | | |
| PROPOSAL | Extension to existing public house to include additional lounge and smoking area | | |
| APPEAL TYPE | DC - Refusal of LB Consent | | |
| Appeal Procedure | Written Reps with Site Visit | Date Appeal Lodged | 02/03/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

| | | | |
|--|---------------------------------------|---------------------------|-------------|
| ITEM NO | 10 | | |
| Planning Ref: | LA07/2015/1364/ | PAC Ref: | 2019/A0233 |
| APPELLANT | Mr Robert Cairns | DEA | The Mournes |
| LOCATION | 7 And 9 Newry Street Kilkeel BT34 4DN | | |
| PROPOSAL | | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 02/03/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

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| | | | |
|--|---|---------------------------|------------|
| ITEM NO | 11 | | |
| Planning Ref: | LA07/2019/0691/ | PAC Ref: | 2019/A0238 |
| APPELLANT | Paul Fitzsimons Esq | DEA | Rowallane |
| LOCATION | 65m South East 47 Saintfield Road Crossgar | | |
| PROPOSAL | RT30 9HY Proposed infill dwelling and garage | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 03/03/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|--|--|---------------------------|------------|
| ITEM NO | 12 | | |
| Planning Ref: | LA07/2018/1453/ | PAC Ref: | 2019/A0246 |
| APPELLANT | Miss M. Byrne | DEA | Crotlieve |
| LOCATION | 25 Lower Knockbarragh Road Rostrevor | | |
| PROPOSAL | RT34 3DP Proposed replacement dwelling (amended plan) | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Written Reps with Site Visit | Date Appeal Lodged | 09/03/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

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|--|--|---------------------------|------------|
| ITEM NO | 13 | | |
| Planning Ref: | LA07/2019/1755/ | PAC Ref: | 2019/A0247 |
| APPELLANT | David Sweeney | DEA | Crotlieve |
| LOCATION | Between Nos 36 & 38a Greenan Road Newry | | |
| PROPOSAL | RT34 20A Erection of infill dwelling | | |
| APPEAL TYPE | DC - Conditions of Approval | | |
| Appeal Procedure | Written Reps with Site Visit | Date Appeal Lodged | 10/03/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|----------------------|---|-----------------|-------------|
| ITEM NO | 14 | | |
| Planning Ref: | LA07/2019/1130/ | PAC Ref: | 2019 /A0248 |
| APPELLANT | Mr James Rogan | DEA | The Mournes |
| LOCATION | Site Adjacent To 33 Dunwellan Park Newcastle | | |
| PROPOSAL | New end terrace Dwelling with associated site works | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 10/03/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

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|----------------------|---|-----------------|-------------|
| ITEM NO | 15 | PAC Ref: | 2019/A0248 |
| Planning Ref: | LA07/2019/1130/ | DEA | The Mournes |
| APPELLANT | Mr James Rogan | | |
| LOCATION | Site Adjacent To 33 Dunwellan Park Newcastle | | |
| PROPOSAL | New end terrace Dwelling with associated site works | | |

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|--|------------------------------------|---------------------------|------------|
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 10/03/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|----------------------|---|-----------------|-------------|
| ITEM NO | 16 | PAC Ref: | 2019/A0254 |
| Planning Ref: | LA07/2019/0984/ | DEA | Downpatrick |
| APPELLANT | Mr S McMullan | | |
| LOCATION | Approx 180m W Of No 32 Myra Road Downpatrick | | |
| PROPOSAL | Proposed off site replacement dwelling | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 16/03/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

141

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|--|------------------------------------|---------------------------|------------|
| ITEM NO | 17 | PAC Ref: | 2019/E0053 |
| Planning Ref: | LA07/2019/1216/ | DEA | Crotlieve |
| APPELLANT | Mary Rooney | | |
| LOCATION | 80A Kilbroney Road Rostrevor | | |
| PROPOSAL | RT34 3RI Dwelling | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Written Reps | Date Appeal Lodged | 28/11/2019 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|----------------------|---|-----------------|-------------|
| ITEM NO | 18 | PAC Ref: | 2019/E0059 |
| Planning Ref: | LA07/2019/0876/ | DEA | Downpatrick |
| APPELLANT | Mr Michael Trainor | | |
| LOCATION | 42b And 42c Clanmaghera Road Tyrella | | |
| PROPOSAL | Downpatrick 2 no dwelling units | | |

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| APPEAL TYPE | DC- Refusal of CLUD | | |
| Appeal Procedure | | Date Appeal Lodged | 20/01/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

142

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|--|---|---------------------------|------------|
| ITEM NO | 19 | | |
| Planning Ref: | LA07/2019/1526/ | PAC Ref: | 2019/E0072 |
| APPELLANT | John Mc Williams | DEA | Crotlieve |
| LOCATION | Land Extending From A Point 190m SW Of No 97 Rathfriland Road Newry To 22 Sheeptown Road | | |
| PROPOSAL | Newry Form an agricultural lane | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Written Reps | Date Appeal Lodged | 16/07/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|--|--|---------------------------|------------|
| ITEM NO | 20 | | |
| Planning Ref: | LA07/2017/1559/ | PAC Ref: | 2020/A0002 |
| APPELLANT | EDB Constructions Ltd | DEA | Newry |
| LOCATION | 58 Armagh Road Newry | | |
| PROPOSAL | Demolition of existing dwelling and erection of 7 No. 2 bedroom apartments (7 in total) (change of description) | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Written Reps | Date Appeal Lodged | 16/07/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

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|--|--|---------------------------|------------|
| ITEM NO | 21 | | |
| Planning Ref: | LA07/2019/1021/ | PAC Ref: | 2020/A0003 |
| APPELLANT | Mrs E Fitzsimons | DEA | Rowallane |
| LOCATION | 53A Saintfield Road Crossgar | | |
| PROPOSAL | Retention of building in substitution of previous approval LA07/2015/1224/F | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 16/07/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|--|--|---------------------------|-------------|
| ITEM NO | 22 | | |
| Planning Ref: | LA07/2019/1257/ | PAC Ref: | 2020/A0014 |
| APPELLANT | Mr Shane Robinson | DEA | Downpatrick |
| LOCATION | 87 Seaview Killough Downpatrick | | |
| PROPOSAL | 2 Storey extension to side of dwelling | | |
| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 20/07/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

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|----------------------|--|-----------------|-------------|
| ITEM NO | 23 | PAC Ref: | 2020/A0020 |
| Planning Ref: | LA07/2019/0584/ | DEA | The Mournes |
| APPELLANT | Mr David Gordon | | |
| LOCATION | 34 Dougans Road Kilkeel | | |
| PROPOSAL | RT34 4HN Erection of farm dwelling and retention of existing building as a garage | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Written Reps | Date Appeal Lodged | 21/07/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|----------------------|--|-----------------|------------|
| ITEM NO | 24 | PAC Ref: | 2020/A0029 |
| Planning Ref: | LA07/2019/1184/ | DEA | Rowallane |
| APPELLANT | Mr D Graham | | |
| LOCATION | Lands Between 12 And 18 And Neighbouring House On Private Lane Raleagh Road Crossgar | | |
| PROPOSAL | 2 infill dwellings and garages | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 24/08/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

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|----------------------|--|-----------------|----------------|
| ITEM NO | 25 | PAC Ref: | 2020/A0045 |
| Planning Ref: | LA07/2019/0573/ | DEA | Slieve Gullion |
| APPELLANT | Mills Smyth | | |
| LOCATION | 95 Aughnagurgan Road Altnamackan | | |
| PROPOSAL | Newry Proposed demolition of all existing buildings and replace with dwelling house and garage. | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | Informal Hearing | Date Appeal Lodged | 10/09/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|----------------------|--|-----------------|-------------|
| ITEM NO | 26 | PAC Ref: | 2020/A0060 |
| Planning Ref: | LA07/2020/0194/ | DEA | The Mournes |
| APPELLANT | Drumee Farms Ltd | | |
| LOCATION | Lands Approx. 100m NE Of 125 Newcastle Road Castlewellan | | |
| PROPOSAL | Retention of multi-purpose agricultural shed, access from Newcastle Road, via established agricultural gateway | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 16/09/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

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|----------------------|----------------------------|-----------------|--------------|
| ITEM NO | 27 | PAC Ref: | 2020/A0066 |
| Planning Ref: | LA07/2019/1819/ | DEA | Slieve Croob |
| APPELLANT | William Henry McMaster | | |
| LOCATION | 42a Cherryhill Road Spa | | |
| PROPOSAL | Retirement bungalow | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 21/09/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|----------------------|------------------------------------|-----------------|------------|
| ITEM NO | 28 | PAC Ref: | 2020/A0067 |
| Planning Ref: | LA07/2019/1815/ | DEA | Newry |
| APPELLANT | David & Bronagh Strain | | |
| LOCATION | 15 Liska Road Newry BT35 8NH | | |
| PROPOSAL | Proposed new dwelling | | |

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| APPEAL TYPE | DC- Refusal of Planning Permission | | |
| Appeal Procedure | | Date Appeal Lodged | 17/09/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

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|--|--|---------------------------|-------------|
| ITEM NO | 29 | | |
| Planning Ref: | LA07/2018/1616/ | PAC Ref: | 2020/C002 |
| APPELLANT | David Trevor Shields | DEA | The Mournes |
| LOCATION | Approximately 35 Metres South East Of 8 Ballinran New Road Kilkeel | | |
| PROPOSAL | RT34 47N Retention of 2no. existing pig sheds with underground slurry tanks, 3no. feed silos and gravel yard, and extension to western gable of shed at rear of site, with loading bay. | | |
| APPEAL TYPE | DC- EIA Determination - app ES is required | | |
| Appeal Procedure | | Date Appeal Lodged | 11/08/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

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|----------------------|------------------------------------|-----------------|--------------|
| ITEM NO | 30 | | |
| Planning Ref: | LA07/2019/1600/ | PAC Ref: | 2020/E0001 |
| APPELLANT | Mr Paul Cunningham | DEA | Slieve Croob |
| LOCATION | 5c Teconnaught Road Downpatrick | | |
| PROPOSAL | Existing dwelling | | |

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| APPEAL TYPE | DC- Refusal of CLUD | | |
| Appeal Procedure | | Date Appeal Lodged | 16/07/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |

Current Appeals

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|---|--|--------------------|------------|
| ITEM NO | 31 | PAC Ref: | 2020/E0009 |
| Planning Ref: | LA07/2018/1250/ | DEA | Newry |
| APPELLANT | Mr Brian McNulty | | |
| LOCATION | 154 Dublin Road | | |
| | Newry | | |
| PROPOSAL | RT35 8NF | | |
| APPEAL TYPE | DC - Non Determination of a Planning Application | | |
| Appeal Procedure | | Date Appeal Lodged | 18/08/2020 |
| Date of Hearing | | | |
| Date Statement of Case Due for Hearing | | | |
| Date Statement of Case Due - Written Representation | | | |
| Date of Site Visit | | | |



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

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|-------------------------------|---|
| Appeal Reference: | 2019/A0218 |
| Appeal by: | Mr Hamilton Coulter |
| Appeal against: | The refusal of outline planning permission |
| Proposed Development: | Dwelling and Garage |
| Location: | SE of 7 Old Saintfield Road Creevecarnonan |
| Planning Authority: | Newry Mourne and Down District Council |
| Application Reference: | LA07/2018/1329/O |
| Procedure: | Written Representations with Commissioner's site visit on 17 th September 2020 |
| Decision by: | Commissioner Helen Fitzsimons 23 rd September 2020. |

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and whether it would have an adverse impact on the visual amenities of the countryside.
3. The appeal site lies outside any settlement or designation as defined by the Ards and Down Area Plan 2015 (AADAP) the Local Development Plan which operates in the area where the appeal site lies. It is in the open countryside and there are no plans or policies pertinent to the appeal proposal within AADAP. The Strategic Planning Policy Statement for Northern Ireland (SPPS) retains the policies of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) and consequently PPS 21 provides the relevant policy context for the appeal proposal.
4. Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is a dwelling in accordance with Policy CTY 8 'Ribbon Development'. Policy CTY 8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or

more **buildings** (my emphasis) along a road frontage without accompanying development to the rear. The council raised objections to the proposal under the requirement of Policy CTY 8 that proposals should respect the existing development pattern along the frontage in terms of size, scale, and siting and plot size and meet other planning and environmental requirements.

5. Notwithstanding that the Council's objections relate only to the existing development pattern, the whole of Policy CTY 8 and the principle of development is before me for my consideration. The appeal site comprises the north western portion of a roadside field. Planning permission has been granted for a dwelling and garage in the remainder of the field and is extant (Ref LA07/2019/0763/F). The evidence suggests that both parties consider the substantial and built up frontage to comprise No 1 Old Saintfield Road a roadside dwelling; No 3 Old Saintfield Road a roadside dwelling and garage; the site of the extant planning permission and No 7 Old Saintfield Road which lies immediately north of the appeal site. However, the dwelling and garage which were granted planning permission under Ref LA07/2019/0763/F are not built, and as planning permission is not a building, there is no line of three or more buildings within which the appeal site represents a small gap. The proposed development fails this fundamental part of the policy. This is fatal to the appeal. As the proposed development is not an exception set out under Policy CTY 8 of PPS 21 and I was given no overriding reasons why this development is essential in this rural location and could not be located within a settlement it is not acceptable in principle in the countryside and it fails Policy CTY 1 of PPS 21. The Council has sustained its first reason for refusal based on the SPPS and Policy CTY 1 of PPS 21.
6. As the appeal proposal fails the fundamental requirements of Policy CTY 8 of PPS 21 the arguments in respect of existing development pattern can no longer arise. In those circumstances the Council's second reason for refusal based upon this aspect of Policy CTY 8 cannot be sustained.
7. Policy CTY 13 'Integration and Design of Buildings in the Countryside' of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It continues that a new building will be unacceptable in seven stated circumstances one of which is (a) it is a prominent feature in the landscape
8. The appeal site benefits from mature vegetation on its northern and western boundaries. Although land within the appeal site rises from the road such is the extent of the vegetation along those boundaries that a dwelling and garage sited as proposed would be seen against that backdrop when viewed from Old Saintfield Road. The buildings would not be a prominent feature in the landscape and would integrate. The Council has not sustained its third reason for refusal based on Policy CTY 13 of PPS 21.
9. Because of intervening vegetation and separation distance I do not agree with the objector that the proposed dwelling would have an unacceptable adverse impact on the objector's property by virtue of a lack of privacy. The appellant is entitled to make the planning application as he sees fit and to have it assessed under prevailing planning policy. The objector's concerns do not carry determining weight in this appeal.

- 10. Although I do not consider that the proposed development would have an adverse impact on the visual qualities of the countryside by way of prominence, I have found that the appeal site is not a small gap in a substantial and continuously built up frontage and is not acceptable in principle in the countryside. Therefore the appeal must fail and planning permission is refused.

This decision is based on the 1:2500 scale site location plan and the 1:500 scale drawing entitled Ex & Proposed Site Plan.

COMMISSIONER HELEN FITZSIMONS

2019/A0218

List of Documents

Planning Authority: - PA1 Written Statement.

Appellant: - A 1 Written Statement and Appendices
A2 Comments



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

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| Appeal Reference: | 2019/A0164 |
| Appeal by: | Mr Terry Watson. |
| Appeal against: | The refusal of outline planning permission. |
| Proposed Development: | Proposed dwelling in a cluster. |
| Location: | Land adjacent to 83 Mill Road, Annalong. |
| Planning Authority: | Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne and Down District Council. |
| Application Reference: | LA07/2019/0892/O |
| Procedure: | Written representations and accompanied site visit on 10 th March 2020. |
| Decision by: | Commissioner Damien Hannon dated 16 th September 2020. |

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposal is acceptable in principle in the countryside and its impact on visual amenity and rural character.
3. The Ards and Down Area Plan 2015 (ADAP) is the relevant statutory development plan but contains no policies specific to proposals for residential development in the countryside. The Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS), confirms that planning authorities will apply existing retained policy and the SPPS until adoption of a Plan Strategy for the whole of the Council area. However, regarding this transition period, it is also stated that where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies, this should not be judged to lessen the weight to be afforded to the retained policy. Given that the provisions of the SPPS, in respect of new dwellings in existing clusters, are less prescriptive than those of retained policy and that no conflict arises between the SPPS and any other retained policy, the retained Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21), provides the policy context relevant to this appeal.
4. Policy CTY 1 of PPS 21 sets out a range of types of development which are acceptable in principle in the countryside. The appellant argued the proposal to be acceptable in principle, under Policy CTY 1, as a dwelling sited within an existing cluster of development in accordance with Policy CTY 2a. Policy CTY 2a states that approval will be granted for a dwelling at an existing cluster of development provided six listed criteria are met.

5. The wider area surrounding the appeal site displays a distinctive, dispersed, rural settlement pattern characteristic of the foothills of the Mourne Area of Outstanding Natural Beauty (AONB). The appellant argued the proposal to constitute the rounding off and consolidation of an existing cluster of development sited on both sides of Mill Road and comprising buildings at Nos.81, 83, 84, 71,72, 75,76, 68 and 67. This loose grouping comprises more than 4 dwellings and is sited outside a farm. Furthermore, the appeal site is bounded on at least two sides by other development in the group and, given the surrounding context, existing stone walling would provide a suitable degree of enclosure. Also, the proposed development, if appropriately conditioned, would not adversely impact on the residential amenity of neighbouring occupiers. The proposal would therefore meet the first, fourth and sixth criteria of Policy CTY 2a.
6. However, a number of the buildings within the group are set back off the road and accessed via laneways. Furthermore, these buildings are characteristically set in sizeable plots separated by open fields. Given the separation distances between them, these buildings present as a scattered group of buildings characteristic of the dispersed settlement pattern prevailing in the area, rather than a cluster appearing as a visual entity in the landscape. The second criterion of Policy CTY 2a would not therefore be met. No 85 Mill Road or Glassdrumman Lodge is no longer used as a commercial concern incorporating restaurant, function room and accommodation facilities and in this context cannot be considered a focal point for the purposes of CTY 2a. Consequently the third policy criterion would also be offended and I conclude that the proposal would not constitute a dwelling in an existing cluster in accordance with Policy CTY 2a.
7. Policy CTY 1 goes on to state that other types of development in the countryside will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. The appellant advanced no argument in this respect and I conclude that the proposal runs contrary to Policy CTY 1 of PPS 21. The Council's objection in principle is well founded and its first and second reasons for refusal, based on Policies CTY1 and CTY 2a, are sustained.
8. Policy CTY 8 states that permission will be refused for a building which creates or adds to a ribbon of development. The adjoining curtilages at Numbers 81 and 83 Mill Road both have frontages onto the laneway serving the appeal site. The appeal site adjoins the curtilage of No. 83. Construction of the proposed dwelling would result in a row of three dwellings which would be visually linked when viewed from the lane and would have a common frontage onto it. The proposal would therefore result in the creation of ribbon development contrary Policy CTY 8 and the Council's third reason for refusal is therefore sustained.
9. Policy CTY 14 seeks to prevent development that would cause a detrimental change to or further erode the rural character of an area. The Council objected on the grounds that the proposal would offend Criteria (b) and (d) of Policy CTY 14. Criterion (b) states that a new building will be unacceptable where it would result in suburban style build-up of development when viewed with existing and approved buildings. I have already stated that the proposal would read as an addition to a group of dispersed rural dwellings and outbuildings in keeping with the surrounding rural settlement pattern rather than as a formal, suburban style build-up of development. In this context the proposal would not therefore also offend criterion (b). Criterion (d) repeats the policy test of Policy CTY 8 and states that a

new building will be unacceptable where it creates a ribbon of development. I have already concluded that the proposal would create a ribbon of development and consequently, further conclude that it would offend criterion (d) of Policy CTY 1. The Council's fourth reason for refusal, based on Policy CTY 14 is sustained.

10. The Council's four reasons for refusal, which I have found sustained, are determining in this case.

This decision is based on the following drawings:-

1:1250, scale Ordnance Survey extract numbered 01 (REV 1) received by the Council on 1st August 2019.

1:500, scale drawing entitled 'Visibility Splays' numbered 02 and received by the council on 30th may 2019.

COMMISSIONER DAMIEN HANNON

List of Appearances

| | |
|----------------------|--|
| Planning Authority:- | Mr Gareth Murtagh |
| Appellant:- | Mr Aiden Cole (Agent) Mr Terry Watson Mr Geoffrey Watson Ms Shiela Watson Ms Ruth Watson |
| Third Parties:- | Ms Andrea Girvan Mr Mervyn Cousins Mr Alan Cousins Mr Bill Newell |

List of Documents

| | |
|----------------------|---|
| Planning Authority:- | COU 1 Statement of Case |
| Appellant:- | APP 1 Statement of Case |
| Third Parties:- | TP 1 Statement of Case of Mr Newell TP 2 Statement of Case of Mr & Mrs Cousins TP 3 Statement of Case of Ms Girvan on behalf of residents TP 4 Rebuttal Statement of Mr & Mrs Cousins |



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

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| Appeal Reference: | 2019/E0050 |
| Appeal by: | EDB Construction Ltd |
| Appeal against: | The non-determination of an application for a Certificate of Lawfulness for Proposed Use or Development (CLOPUD) |
| Development: | Construction of dwelling |
| Location: | Site 5 of Approval reference P/2006/1117/F at Watson's Road, 100m West of 26 Lisard Court, Newry |
| Planning Authority: | Newry Mourne and Down District Council |
| Application Reference: | LA07/2019/0907/LDP |
| Procedure: | Written Representations |
| Decision by: | Commissioner A Speirs, dated 11 th September 2020 |

Decision

1. The appeal is allowed and a Certificate of Lawfulness is attached.

Reasons

2. The application for a certificate of lawfulness for an existing use or development (CLOPUD) was received by the Council on 24th May 2019, in accordance with Section 170 of the Planning Act (Northern Ireland) 2011. This appeal was made under Section 173 of the 2011 Act against the Council's failure to make a timely determination on the CLOPUD application.
3. Section 170 of the Act makes provision for the issue of a CLOPUD; Section 170(1) states that "If any person wishes to ascertain whether – (a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land, would be lawful, that person may make an application for the purpose to the appropriate council specifying the land and describing the use or operations in question". Section 170(2) indicates that "if, on an application under this section, the council is provided with information satisfying it that the use or operations described in the application would be lawful if instituted or begun at the time of the application, it must issue a certificate to that effect; and in any other case it shall refuse the application".
4. In the case of an application for a CLOPUD, the onus is on the applicant to provide evidence of the lawfulness of the proposed use or development cited in the

application forms. The issue in this case is whether the submitted evidence is sufficient to demonstrate, on the balance of probability, that the construction of the dwelling on site 5 of the housing development approved under permission reference P/2006/1117/F would be lawful at the time of the application.

5. Full planning permission was granted By DOE Planning Service on 8th May 2013 for 'Construction of new housing development consisting of 77 dwellings and associated access, roads, parking and landscaping' under application reference P/2006/1117/F. The consent was granted subject to 24 conditions. In its evidence the Council states that "having considered the information provided is satisfied that the development has commenced within its respective time period and therefore the proposal as specified 'Erection of approved dwelling on site 5 of approval P/2006/1117/F' and as shown on the submitted drawings No. 01, 02 and 03 date stamped 31st May 2019 can be lawfully completed". Notwithstanding the Council's position I must consider whether the appellant's evidence is sufficient, on the balance of probability, to demonstrate that a CLOPUD should be issued.
6. Section 61(1) of the 2011 Act states that "subject to this section, every planning permission granted or deemed to be granted shall be granted or, as the case may be, deemed to be granted subject to the condition that the development to which it relates must be begun within – (a) 5 years of the date on which the permission is granted ...". Section 63 (2) indicates that "for the purposes of sections 61 and 62, development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out – (a) where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building ...". It has also been established that for any consent to be lawfully commenced, any conditions precedent that go to the 'heart' of the permission should also be discharged by the period stated.
7. For the appellant it is submitted that the approval contained 6 "pre-commencement" conditions as follows :-

(3) No development activity shall commence on site until a Badger Fencing Method Statement is submitted to the Department and agreed in writing and all badger fencing on site shall conform to this. This shall include a drawing showing the location of all badger fencing to be erected on the site and shall provide details of the type of fencing and the construction method used, including timing of works.

(6) No development activity shall commence on site until a lighting scheme is submitted to the Department and agreed in writing. The lighting scheme shall show the use of low level street lighting throughout the site and shall show no illumination of the badger sett exclusion zones, wildlife corridors, wetland area or retained trees and hedgerows.

(10) The visibility splays as indicated on drawing No FB1016-202 REV F bearing the date stamp 14th March 2013 at the junction of the proposed housing access

road with the public road, shall be provided in accordance with the approved plans, prior to the commencement of any works or other development.

(15) Prior to the commencement of any development hereby approved, the developer shall have written consent of NI Water to connect into existing foul and storm water systems or obtain the written consent of the Department for alternative means of disposal of storm and foul water from this development.

(18) The development hereby permitted shall not be commenced until a Street Lighting scheme design has been submitted and approved by the Department for Regional Development Street Lighting Section.

(23) The developer will contact Roads Service Traffic Management prior to commencement of works on site to agree a suitable position for any existing road signage that will require being relocated as a result of this proposal.

8. Documentation has been provided by the appellant to demonstrate that these conditions were discharged before development on the site commenced. There is a letter from the Council dated 10th May 2017 confirming that condition 3 had been discharged. Correspondence from DFI dated 4th May 2018 confirms the submission and approval of a street lighting scheme in accordance with conditions 6 and 18. A letter from DFI Roads dated 2nd May 2018 confirms that the visibility splays required by condition 10 had been constructed in accordance with the planning approval. This letter also confirmed that the submitted traffic management proposals were acceptable and that there was no existing signage that required relocation; this confirmed the discharge of condition 23. An email from an officer of NI Water dated 30th April 2018 confirmed that consent existed to connect foul and storm sewers in accordance with condition 15.
9. The appellant has provided a copy of an email from the Council's Building Control Department, stating that a gable foundation had been poured in respect of site 27 on 4th May 2018. This operation represented a work of construction in the course of the erection of a building that was part of the development approved on 8th May 2013 under application P/2006/1117/F. As the work of construction took place within 5 years of the date of approval, the housing development was lawfully commenced. The consent was therefore 'live' when the CLOPUD application was made. The construction of the dwelling on site 5 would also have been lawful on 24th May 2019 and a certificate of lawfulness to that effect is herewith granted.

COMMISSIONER ANDY SPEIRS

**PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 170
CERTIFICATE OF LAWFULNESS OF PROPOSED USE OR DEVELOPMENT**

The Planning Appeals Commission hereby certifies that on 24th May 2019 the operation described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate would be lawful within the meaning of section 170 of the Planning Act 2011, for the following reason:

The dwelling was part of an approved housing development that was lawfully commenced before 8th May 2018.

Signed



ANDY SPEIRS

11th September 2020

FIRST SCHEDULE

The erection of the dwelling shown on drawing 03 submitted to Council on 24th May 2019.

SECOND SCHEDULE

On site 5 of drawing 02(rev 9) stamped approved on 8th May 2013 in relation to planning permission reference P/2006/1117/F at Watson's Road, Newry

Notes:

- (1) This certificate is issued solely for the purpose of section 170 of the Planning Act 2011.
- (2) It certifies that the operation described in the First Schedule proposed on the land described in the Second Schedule would be lawful on 24th May 2019 and would not be liable to enforcement action under Section 138 or 139 of the Planning Act (Northern Ireland) 2011 on that date.
- (3) This certificate applies only to the extent of the operation described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operations which are materially different from that described or which relates to other land may render the owner and occupier liable to enforcement action.
- (4) The effect of the certificate is also qualified by the proviso in section 170(4) of the Planning Act (Northern Ireland) 2011, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

Documents:

- Doc A – Council’s Statement of Case
- Doc A1 – Council’s Rebuttal Comments
- Doc B – Appellant’s Statement of Case



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
E: info@pacni.gov.uk

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| Appeal Reference: | 2019/A0212 |
| Appeal by: | Chris Magorrian |
| Appeal against: | The refusal of full planning permission |
| Proposed Development: | Extension to dwelling and detached domestic garage/store |
| Location: | 37 Drumnaconagher Road, Crossgar |
| Planning Authority: | Newry, Mourne & Down District Council |
| Application Reference: | LA07/2019/1334/F |
| Procedure: | Written representations and Commissioner's site visit on 28 August 2020 |
| Decision by: | Commissioner Brigid McGlinchey, dated 4 September 2020 |

Decision

1. The appeal is allowed in respect of the proposed extension and full planning permission is granted, subject to the condition set out below.
2. The appeal is dismissed in respect of the proposed detached domestic garage/store.

Reasons

3. The main issue in this appeal is the impact of the proposal on the appearance and character of the surrounding area.
4. The appeal site lies within the countryside as designated in the Ards and Down Area Plan 2015. The plan offers no specific policy or guidance in respect of the proposed development. Other planning policy context for the proposal is provided by the Strategic Planning Policy Statement for Northern Ireland (SPPS). The SPPS indicates that the provisions of the Addendum to Planning Policy Statement 7: Residential Extensions and Alterations (APPS7) is retained and will continue to apply until such time as a new development plan is in place for the council area.
5. Policy EXT1 of APPS7 states that planning permission will be granted for a proposal to extend or alter a residential property where a number of criteria are met. The policy goes on to state that the guidance set out in Annex A will be taken into account when assessing proposals against the listed criteria. The objection from the Council fell under criterion (a) which requires that the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area. Detailed guidance on how to extend a dwelling in a manner that is sympathetic with the original property while respecting the character and appearance of the surrounding area is set out in Annex A.

6. The appeal site is a roadside plot which comprises the curtilage of a modest single storey dwelling. The roadside and side boundaries are defined by metal railings with the rear boundary defined by mature vegetation. The wider area is characterised by both roadside dwellings and dwellings setback from the road with a variety of designs and finishes and many accompanied by garages and ancillary outbuildings. Many of the dwellings are angled to the road and have front projections. The appeal proposal entails two distinct elements which I deal with separately below.
7. Extensions that impact the front elevation of a property require great care as it is often the most visible to public view. The proposed extension which would project diagonally from one of the corners of the front elevation, would be subordinate in height and scale and match the finishes of the existing dwelling. The addition of the extension to the dwelling would be open to views when travelling in both directions along Drumnaconagher Road. Though the extension would be angled and closer to the road, it would read as an integral part of the dwelling and its overall design would complement the existing built form. In the context of the broad range of house types in the wider area and the varied disposition of the dwellings within their plots as referenced by the appellant, I consider that the angled design of the extension would not detract from the appearance and character of the surrounding area. This element of the appeal development therefore does not offend criterion (a) of Policy EXT1.
8. Though the Council's expressed objection in its reason for refusal referred to a 'shed', the other proposed building works as set out in the planning application form was for a 'detached domestic garage/store' and this description was replicated on the accompanying drawings. This is therefore the basis for my assessment. The proposed detached domestic garage/store is to be erected within the curtilage of the dwelling. Paragraph A11 of Annex A states that buildings within residential curtilage such as garages can often require as much care in siting and design as works to the existing residential property. It goes on to say that they should be subordinate in scale and similar in style to the existing property, taking account of materials, the local character and the level of visibility of the building from the surrounding area.
9. The proposed domestic garage/store would have a footprint of 15.3m by 8m and a ridge height of 5.85m. It is to be positioned approximately 5m from and parallel with the alignment of the dwelling though set back further from the road. Whilst the proposed building would be subordinate to the height and scale of the dwelling, its powder coated corrugated metal clad walls and roof would be at odds with that of the dwelling and would be incongruous. The appellant argued that the finish is traditional and complements the materials of buildings in the immediate and surrounding area with particular reference to two identified properties. The identified neighbouring building associated with No.96 Drumaghlis Road is nestled behind a bund and mature roadside vegetation. Whilst that building is visible from Drumnaconagher Road, it is positioned outwith the residential curtilage of the associated dwelling and is not intervisible with it. Albeit that that building has corrugated metal cladding, it does not appear incongruous within its setting. The identified buildings at No.29 Drumnaconagher Road are agricultural sheds within a farm complex and thus are not comparable to the appeal proposal.
10. Notwithstanding that the finishes of the proposed domestic garage/store would complement these identified buildings and other buildings in this rural area, I must judge the proposal within its own context. The appeal site is open to views from the

public road and the proposed building would clearly be visible in close juxtaposition with the dwelling. It would look out of place within this residential curtilage and consequently would detract from the appearance and character of the surrounding area. I find that, in this regard, the proposal would be contrary to criterion (a) of Policy EXT1. The Council's objection to the second element of the appeal proposal is thus sustained.

11. The appeal however succeeds in part as specified above for the proposed extension subject to the following condition.

Condition

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

This decision is based on the following drawings:-

- 01 - 1:1:2500 scale Site location plan, 1:500 scale Site plan, 1:100 scale Existing & proposed floor plans and elevation of dwelling;
- 02 - 1:100 scale Proposed floor plan and elevations for domestic garage/store.

COMMISSIONER BRIGID McGLINCHEY

List of Documents

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| Planning Authority:- | C1 | Statement of case + Appendices |
| | C2 | Comments |
| Appellant:- | A1 | Statement of case + Appendices |
| | A2 | Comments |