



April 5th, 2022

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 6th April 2022** at **10:00 am** in **Boardroom Monaghan Row Newry** and via **Microsoft Teams**.

**Committee Membership 2021-2022**

- Cllr. D McAteer (Chair)
- Cllr. C Enright (Deputy Chair)
- Cllr. R Burgess
- Cllr. L Devlin
- Cllr. G Hanna
- Cllr. V Harte
- Cllr. M Larkin
- Cllr. D Murphy
- Cllr. L McEvoy
- Cllr. H McKee
- Cllr. G O'Hare
- Cllr. J Trainor

# Agenda

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

**2.0 Declarations of Interest.**

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

**4.0 Minutes of Planning Committee Meeting held on Wednesday 9 March 2022. (Attached)**

 *Planning Committee Minutes 09.03.2022.pdf*

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

 *Addendum list - 06-03-2022.pdf*

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## ***Development Management - Planning Applications for determination (in closed session)***


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**6.0 LA07/2021/0758/O - Dwelling and garage - Lands immediately south of No. 40 Quarter Road Annalong BT34 4QZ. (Case Officer report attached - addendum report to follow under separate cover).**

### **REFUSAL**

- In line with the updated Operating Protocol no further speaking rights are permitted on this application (Brendan Starkey, agent, and Lynn Edgar, applicant, will be available to answer any queries Members might have)
- A site meeting was held on 7 January 2022 - Councillors Enright, Hanna, Harte, Larkin, Murphy, McAteer and O'Hare attended

This item is deemed to be exempt under paragraph 1 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 - information relating to an individual and the public may, by resolution, be excluded during this item of business.

 *LA07-2021-0758-O.pdf*

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

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**7.0 LA07/2019/1134/O - Replacement Dwelling - 90 Manse Road**

## **Darraghcross Crossgar. (Case Officer report attached).**

### REFUSAL

- A site meeting was held on 7 August 2020 - Councillors Burgess, Hanna, Harte, Larkin, Murphy, and O'Hare attended
- Further speaking rights/clarification will be granted on the application if requested, as new information is being tabled.

📄 *LA07-2021-1134-0.pdf*

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📄 *LA07-2019-1134-O 90 Manse Road Addendum for committee.pdf*

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📄 *Review of Structural Report on 2019\_1134\_O.pdf*

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### ***Development Management - Planning Applications for determination***

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#### **8.0 LA07/2021/0461/F - Single dwelling using existing foundations from previously approved (R/2012/0301/F) Adjacent to and east of 10 Meadow View Close Kilcoo. (Case Officer report attached).**

##### REFUSAL

- Removed from the schedule at the request of Councillor McEvoy as the agent is unable to attend due to personal reasons, and re-presented at the May Committee Meeting.

📄 *LA07\_2021\_0461\_F\_CO\_Report (003).pdf*

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#### **9.0 LA07/2021/1440/F - Retrospective Planning Application for Detached Garage - 4 Fair Green Lane Saintfield. (Case Officer report attached).**

##### APPROVAL

- Addendum list

📄 *LA07 2021 1440 F - 4 Fair Green Lane.pdf*

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#### **10.0 LA07/2021/1824/F - Replacement Dwelling House - 34 Ringdufferin Road Downpatrick. (Case Officer report attached).**

##### APPROVAL

- This application is being removed from the schedule at the request of Planners

**11.0 LA07/2016/0399/F - Agricultural land drainage improvement scheme comprising infilling with imported inert wastes and clay - Lands to the West and North of 218 Belfast Road Ballynahinch. (Case Officer report attached).**

APPROVAL

- Addendum list

LA07\_2016\_0399\_F\_Belfast\_Rd updated.pdf

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**12.0 LA07/2020/0142/F - Proposed erection of 13 no. units comprising 6 no. semi-detached and 7no. detached, landscaping, car parking and other ancillary works - Lands to the rear of Littleton House 18 Windsor Avenue Newry. (Case Officer report attached).**

APPROVAL

- Addendum list

LA07\_2020\_0142\_F.pdf

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**13.0 LA07/2021/0911/F Conversion of existing agricultural barn to self-contained holiday accommodation 6 Clonduff Road Ballyaughian Hilltown Co. Down BT34 5XF. (Case Officer report attached).**

APPROVAL

- Addendum list

LA07-2021-0911-F.pdf

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LA07-2021-0911-F Addendum Report.pdf


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**14.0 LA07/2021/2066/F - Proposed gym extension to front of existing leisure centre, proposed play area and proposed MUGA pitch on the leisure centre grounds - Kilkeel Leisure Centre Mourne Esplanade Kilkeel. (Case Officer report attached).**

APPROVAL



- Addendum list

 [LA07-2021-2066-F.pdf](#)

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## **15.0 LA07/2021/0769/F - Slieve Gullion car park lighting - Slieve Gullion Forest Park 89 Drumintee Road Killeavy BT35 8SW. (Case Officer report attached).**

APPROVAL

- Addendum list

 [LA07.2021.0769.F - Final COR signed 14.03.2022.pdf](#)

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### ***For Noting***

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## **16.0 Correspondence re: end of the emergency period. (Attached)**

 [Letter to HoPs \(Councils\) re End of the Emergency Period - 15.03.22.pdf](#)

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## **17.0 Historic Actions Tracking Sheet. (Attached).**

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

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## **18.0 Planning Committee Performance Report for March 2022. (Attached).**

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

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## **19.0 Current appeals and decisions. (Attached)**

 [Current Appeals and Decisions - March 2022 \(002\).pdf](#)

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**NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

**Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 9 March 2022 at 10.00am in Boardroom, Monaghan Row, Newry and via Microsoft Teams.**

**Chairperson:** Councillor D McAteer

**In attendance:** **(Committee Members)**

Councillor R Burgess (via Teams)  
Councillor L Devlin (via Teams)  
Councillor C Enright (via Teams)  
Councillor G Hanna  
Councillor M Larkin  
Councillor D Murphy  
Councillor L McEvoy  
Councillor H McKee (Via Teams)  
Councillor G O'Hare

**(Officials)**

Mr A McKay	Chief Planning Officer
Mr A Hay	Principal Planning Officer (via Teams)
Mr M McQuiston	Senior Planning Officer (via Teams)
Ms A McAlarney	Senior Planning Officer
Mr M Keane	Senior Planning Officer
Mr A Davidson	Senior Planning Officer (via Teams)
Ms P Manley	Senior Planning Officer (via Teams)
Ms M Fitzpatrick	Senior Planning Officer (via Teams)
Ms L O'Connor	Senior Planning Officer (via Teams)
Ms A McBeth	Planning Assistant (via Teams)
Mr F O'Connor	Head of Legal Administration
Ms N Largey	Legal Advisor
Ms S Taggart	Democratic Services Manager (Acting) (via Teams)
Ms L O'Hare	Democratic Services Officer (via Teams)
Ms C McAteer	Democratic Services Officer
Ms L Dillon	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

**P/022/2022: APOLOGIES AND CHAIRPERSON'S REMARKS**

Apologies were received from Councillors Harte and Trainor. Councillor Burgess advised he may have to leave the meeting early.

**P/023/2022: DECLARATIONS OF INTEREST**

Councillor Devlin declared an interest in Planning Applications LA07/2020/1689/F and LA07/2021/1752/LBC both of which were on the Addendum list.

**P/024/2022:            DECLARATIONS OF INTEREST IN ACCORDANCE WITH  
PLANNING COMMITTEE PROTOCOL- PARAGRAPH 25**

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

- **Item 7** – LA07/2021/0329/0 – Grove Road, Annalong – Councillors Hanna, Harte, Larkin, Murphy, McAteer, McEvoy, McKee and O'Hare attended the site visit on 24-02-2022
- **Item 8** – LA07/2021/0755/0 -Saval Lane - Councillors Hanna, Harte, Larkin, Murphy, McAteer, McEvoy, McKee and O'Hare attended the site visit on 24-02-2022
- **Item 9** – LA07/2021/0953/F – Leitrim Road, Hilltown - Councillors Hanna, Harte, Larkin, Murphy, McAteer, McEvoy, McKee and O'Hare attended the site visit on 24-02-2022
- **Item 14** – LA07/2019/1134/0 – Manse Road – Councillors Burgess, Hanna, Harte, Larkin, Murphy and O'Hare attended the site visit on 07-08-2020

**MINUTES FOR CONFIRMATION**

**P/025/2022:            MINUTES OF PLANNING COMMITTEE MEETING HELD ON  
WEDNESDAY 9 FEBRUARY 2022**

Read:                      Minutes of Planning Committee Meeting held on Wednesday 9 February 2022. (Copy circulated)

Councillor McAteer advised Members the recorded vote sheets had been omitted from the Minutes in error and this would be corrected.

**AGREED:                On the proposal of Councillor Murphy, seconded by Councillor Hanna, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 9 February 2022 as a true and accurate record subject to the addition of the recorded vote sheets.**

**FOR DISCUSSION/DECISION**

**P/026/2022:            ADDENDUM LIST**

Read:                      Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 9 March 2022. **(Copy circulated).**

**AGREED:                On the proposal of Councillor Burgess, seconded by Councillor O'Hare, it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 9 March 2022:**

- **LA07/2020/0803/O** - Housing Development including demolition of dwelling and outbuilding 4 Daisy Hill Newry BT35 8PN **APPROVAL**
- **LA07/2020/1689/F** - Overflow asphalt car park (163 car parking space & 13 disabled car parking spaces) accessed via existing Donard Park, car park, erection of 6m high ball stop & 1.8m paladin fence, new footpaths and associated lighting, landscaping and drainage - Land 120m NW of 5 Donard Park & west of the existing Donard Park car park Newcastle **APPROVAL**
- **LA07/2021/1752/LBC** - Demolition of extension building adjoined to original B2 listed building and all associated remedial works - 14 Central Promenade Newcastle **APPROVAL**
- **LA07/2021/2087/F** - Reinstatement of 2 sash windows to rear elevation of building - 10-14 Central Promenade Newcastle **APPROVAL**

Councillor Devlin expressed her thanks to all involved in Planning Applications LA07/2020/1689/F and LA07/2021/1752/LBC.

Mr McKay updated Members on the running order:

Item 10 - LA07/2020/1567/F removed from the Agenda as one of the consultees had advised Planning that some aspects needed to be reviewed; to come back to Committee as soon as possible.

Item 24 - LA07/2020/0485/F, Item 25 - LA07/2020/0487/LBC and Item 26 - LA07/2020/0486/DCA would not be discussed at the meeting today as the applicant had expressed a desire to carry out some further work in relation to these applications.

(Councillor Hanna joined the Meeting at this stage)

### **LOCAL DEVELOPMENT PLAN (CLOSED SESSION)**

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

On the proposal of Councillor Burgess, seconded by Councillor O'Hare, it was agreed to come out of closed session.

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

**P/027/2022:** **LDP: Planning Policy Review – Coastal Development**

**Read:** Report dated 9 March 2022 by Mr A McKay, Chief Planning Officer regarding the Local Development Plan: Planning Policy Review – Coastal Development

**AGREED:** On the proposal of Councillor Hanna, seconded by Councillor Burgess, it was agreed a special workshop be arranged to inform Members better on the complex issues surrounding the proposals in the Coastal Development Report. Report to come back to Committee for perusal after workshop has taken place.

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

### **P/028/2022: PLANNING APPLICATIONS FOR DETERMINATION**

#### **(1) LA07/2021/0329/O**

Councillors Burgess and Devlin, withdrew for the discussion/decision on this application. Councillor Enright was not present at the meeting at this stage.

#### **Location:**

To the rear of No. 30 Grove Road, and improvement accesses to Nos 28, 30 & 30A Grove Road Annalong.

#### **Proposal:**

Proposed replacement of redundant non- residential building with new storey and half dwelling on former industrial ground

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

Refusal

#### **Power-point presentation:**

Mr M Keane, Senior Planning Officer provided Members with a short recap on the power point presentation previously presented to Committee.

#### **Speaking rights:**

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

Mr J Cole, agent and Mr R Newell, applicant were in attendance to answer any questions from Members.

#### **Issues Raised:**

- Mr Keane said a Planning assessment had concluded the land had previously been used as a mushroom facility and supplementary evidence received supported this.
- Mr Cole said an agricultural building was one that was designed and used for agricultural purposes and he said the legal definition of an agricultural building was to house livestock or store agricultural products.
- Ms Largey said the applicant had fallen into error in interpreting the policy in that the test was not if a building was an agricultural building but rather if a building was used for agricultural purposes, which, she said she considered it was and which was supported by the PAC decision referred to by Mr Keane.
- Councillor Hanna said he considered, having been to the site visit, the whole area was industrial and possibly a brown field site.
- Mr Keane said the subject building had very similar facilities to the building referenced in the PAC decision.
- Mr Cole said the main purpose for the building in the PAC decision was to house specialist wood pellets, boilers and tanks connected with the poultry business, whereas the subject building had no agricultural use at all, just changing rooms and toilets and the business could have functioned without it, unlike the PAC example cited.
- Mr Keane said the information submitted in respect of the application fell within Section 250 of the Planning Act, which was agricultural use.
- Mr Keane said there was no policy to support the removal of hardstanding to allow for the building of a dwelling.



- Mr Newell said the building had been erected at the same time as the mushroom business had commenced but said it was not directly linked to the mushroom business.
- Mr Newell said the building had been built to facilitate the employees who worked in the mushroom business.
- Ms Largey said having listened to the discussions, she was more convinced the application did not meet policy and said it would be difficult to sustain if Members were to approve it.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2021/0329/O on the basis that he considered it would have significant environmental benefit, changing it from industrial ground into domestic use. He said a condition could be attached to ensure all concrete be removed and it could not be used for that purpose again. He said he believed it was sustainable development in the countryside, it would be a planning gain, the ground was wasteland and very industrial in appearance and whilst he agreed it may have been associated with agriculture, he said ultimately it was for human use. Councillor Larkin seconded the proposal saying he agreed the proposed application would be an environmental improvement and a planning gain.

Mr McKay urged Members to take the legal advice on board and said there was an acknowledgement from the applicant that the buildings were used for the purposes of the mushroom business. He said Members should resist moving away from the facts and evidence before them, references that it was industrial ground and the buildings were used for human use was veering off the recognised and lawful planning track. Mr McKay said to grant approval would be totally unlawful and he urged Members to reconsider.

Councillor Larkin said he accepted the buildings weren't eligible to be replaced under the policy and he had seconded the proposal because of the environmental benefit and planning gain and he asked if Councillor Hanna would agree to removing the reference to human use and industrial ground in his proposal. Councillor Hanna agreed to this.

Mr McKay said the proposal absolutely failed the policy test and the policy could not be just set aside and he asked Councillor Hanna to outline exactly what he considered the environmental benefit and planning gain to be.

Councillor Hanna said on attending the site visit he considered the site to be a concrete wasteland and could not see how the proposal would not be an environmental benefit.

Ms Largey said the proposal would be replacing like for like, so there would not be an environmental benefit.

Mr Keane read out the wording of the policy highlighting the policy did not include the removal of hard standing to gain significant environmental benefits and the hard standing in question was tucked behind an existing building and didn't have any visual impact from a public perspective.

The proposal was put to a recorded vote, the result of which was as follows: (copy attached)

FOR:	6
AGAINST:	1
ABSTENTIONS:	0

The proposal was carried.

**AGREED:**

**On the proposal of Councillor Hanna, seconded by Councillor Larkin it was agreed to issue an approval in respect of Planning Application LA07/2021/0329/O contrary to officer recommendation on the basis that it would result in an environmental benefit and planning gain.**

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

**(2) LA07/2021/0755/O**

Councillors Burgess and Devlin, withdrew for the discussion/decision on this application. Councillor Enright was not present at the meeting at this stage.

**Location:**

50m SW of 11 Saval Lane, Saval

**Proposal:**

Site for dwelling and garage (gap site)

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

Mr M Keane Senior Planning Officer provided Members with a short recap on the power point presentation previously presented to Committee.

**Speaking rights:**

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

Ms C O'Callaghan, agent was in attendance to answer any questions from Members.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2021/0755/O on the basis that as the application was only at the outline stage, details could be thrashed out and the agent had said a design could be agreed that would not involve cutting into the landscape. Councillor Hanna seconded the proposal.

The proposal was put to a recorded vote, the result of which was as follows: (copy attached)

FOR:	7
AGAINST:	0
ABSTENTIONS:	0

The proposal was carried.

**AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/0755/O contrary to officer recommendation on the basis that a design that would satisfy Planning and that would not involve cutting into the landscape be agreed.**

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

**(3) LA07/2021/0953/F**

Councillors Burgess and Devlin, withdrew for the discussion/decision on this application. Councillor Enright was not present at the meeting at this stage.

**Location:**

Lands approx. 55m north west of 108 Leitrim Road Hilltown

**Proposal:**

Erection of 3 no. glamping pods as part of an agri-tourist/farm-diversification scheme

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

Mr M Keane, Senior Planning Officer provided Members with a short recap on the power point presentation previously presented to Committee.

**Speaking rights:**

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

Ms C O'Callaghan, agent was in attendance to answer any questions from Members.

Councillor O'Hare proposed to issue an approval in respect of Planning Application LA07/2021/0953/F on the basis that CTY 11, 5.47 supported diversification and suitability in the countryside and having attended the site visit he was satisfied the proposed site was not visible from the Sandbag Road, there was a need to provide accommodation in the area as the local hotel in Hilltown was currently being used for emergency accommodation and there were glamping pods approximately half a mile from the proposed location.

Councillor Murphy seconded the proposal saying visibility from the Sandbag Road was minimal and any concerns he had previously had been allayed on learning that the proposal would involve cutting slightly into the land which would further limit visibility.

The proposal was put to a recorded vote, the result of which was as follows: (copy attached)

FOR:	7
AGAINST:	0
ABSTENTIONS:	0

The proposal was carried.

**AGREED:**

**On the proposal of Councillor O'Hare, seconded by Councillor Murphy it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/0953/F contrary to officer recommendation on the basis that it complied with CTY 11, 5.47 and would integrate into the surrounding landscape.**



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

(Councillors Burgess and Devlin re-joined the meeting).

**(4) LA07/2017/0978/F**

**Location:**

50 Hilltown Road Bryansford Newcastle

**Proposal:**

Demolition of side and rear extension. New rear and side extensions and rear dormer

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

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

**Speaking rights:**

In Objection

Ms Nicola Golden and Ms Eva McDermott, Historic Environment Division (Historic Buildings) presented in objection to the application detailing and expanding upon a written statement that had been circulated to Committee Members.

In Support

Mr Jason Martin, agent and Mr Stuart Douglas (via Teams) presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

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

**(5) LA07/2017/0983/LBC**

**Location:**

50 Bryansford Village Ballyhafry Bryansford Newcastle

**Proposal:**

Demolition of side and rear extensions

**Conclusion and Recommendation from Planning Official**

Refusal

**Power-point presentation:**

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

## Speaking rights:

### In Objection

Ms Nicola Golden and Ms Eva McDermott, Historic Environment Division (Historic Buildings) presented in objection to the application detailing and expanding upon a written statement that had been circulated to Committee Members.

### In Support

Mr Jason Martin, agent and Mr Stuart Douglas (via Teams) presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

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

It was agreed that Planning Applications LA07/2017/0978/F and LA07/2017/0983/LBC would be heard together.

### **Issues raised:-**

- Mr Martin advised Transport NI requirements included 2metres of the mature vegetation be removed to instate a footpath and he said it was intended to retain as much of the vegetation as possible to screen the proposed extension.
- Mr Martin said the proposed extension was 2.8m high and would be situated 1.4m below the road. There would be a 1m high stone wall and the roof of the house would sit 400ml above the stone wall. He said he did not consider it would be dominant.
- Ms McAlarney said according to the drawings, much of the vegetation at the front would have to be removed to allow for a turning point and parking which would reveal the new proposed linear extension.
- A site visit that had taken place with the Planning Officer, HED and Agent had not resulted in a satisfactory compromise being reached.
- Ms Golden said she believed a workable scheme was attainable, however she considered the footprint of the current proposal would need to be reduced and there was no guarantee any vegetation would remain.
- Mr Martin said he considered his interpretation of the policy supported the current application.
- The house was currently uninhabited.
- Ms Golden said the existing house had Grade B2 listing status but it was part of a terrace of 4 houses and from a listed building perspective the rear elevation was as important as the front as well as the interior.
- Ms Golden said the buildings were 200 years old, small rubble stone dwellings and in terms of their style, scale and materials they were read along with other core buildings within the area of townscape character.
- Mr Martin said he did not believe it could be reduced very much in size or it would not be feasible as a family home.

Councillor Devlin said she considered the extension was very dominant and proposed that it be deferred back to Planning one more time in an effort to reach a satisfactory compromise. Councillor Larkin seconded the proposal saying he believed a compromise could be reached and it should be ensured that this application was expedited.

The proposal was vote by way of a roll call and voting was as follows:

FOR:	8
AGAINST:	0
ABSTENTIONS:	1

The proposal was carried.

**AGREED:** On the proposal of Councillor Devlin seconded by Councillor Larkin it was agreed to issue defer Planning Application back to Planners in an effort to reach a satisfactory compromise.

Planning officers be granted authority to impose any relevant conditions.

(Cllr. Burgess left the meeting).

**(6) LA07/2017/1779/F**

**Location:**

Lands approx. 370m North East Of 32 Ballykilbeg Road Downpatrick

**Proposal:**

Amendment to planning approval LA07/2015/0782/F. Change from Vestas 27 225kw wind turbine with rotor diameter of 27m to Vestas 52 250kw with rotor diameter of 52m

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point presentation:**

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

**Speaking rights:**

No speaking rights were requested in respect of Planning Application LA07/2017/1779/F

**AGREED:** On the proposal of Councillor Murphy seconded by Councillor Larkin it was unanimously agreed to issue an approval in respect of Planning Application LA07/2017/1779/F as per the information and recommendation contained in the Case Officer report presented to Committee.

**(7) LA07/2019/1134/F**

**Location:**

90 Manse Road Darraghcross Crossgar

**Proposal:**

Replacement Dwelling

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking Rights:**

Mr Gerry Tumelty agent and Mr Mageean and daughter Nora, applicants had secured speaking rights and were present at the meeting.

Ms Largey said legal advice was that Councillors be present for all discussions on Planning Applications and as there were only 4 Councillors present who had attended previous discussions/site visit, a quorum would not be present and as per Standing Orders, the Planning Application could not be heard. However, Ms Largey said it was a judgement call for the Members who had not taken part in previous discussions to decide if they wished to take part today.

Councillor McAteer and Councillor Murphy both said they would be willing to take part in the discussion today, thereby fulfilling the quorum criteria of 6 Members.

Councillor Hanna said the site visit had been pivotal and as Councillors Murphy and McAteer had not attended the site visit, he said he would withdraw from discussions.

In the absence of a quorum, Planning Application LA07/2020/1161/F was not heard.

**AGREED:** **It was agreed, in the absence of a quorum, that Planning Application LA07/2020/1161/F be deferred and brought back to Committee at a future date.**

(Lunch 1.20pm – 2.00pm)

# **(8) LA07/2021/1370/O**

## **Location:**

Land located between No.22 and No.22B Lurgan Road Silverbridge Newry

## **Proposal:**

Infill development of 2 no. dwellings

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

Refusal

## **Power-point presentation:**

Mr Andrew Davidson, Senior Planning Officer gave a power point presentation via Teams 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:**

Ms Colleen Savage, agent and Mr Michael McLoughlin, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Mr Davidson advised Refusal Reason No. 5 was to be removed from the Officer's report as PPS 2 did not apply to Planning Application LA07/2021/1370/O.

**AGREED:** **On the proposal of Councillor Larkin seconded by Councillor Hanna it was unanimously agreed to issue to defer Planning Application LA07/2021/1370/O for a site visit to take place, so Members could assess the site in more detail.**

**(9) LA07/2020/1161/F**

**Location:**

Adjacent to No.11 Altnadue Road Castlewellan

**Proposal:**

Change of use from rough grazing to motorhome park

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

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

**Speaking rights:**

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

**Issues raised:**

- Mr McKay said the key issue was integration into the landscape and although he acknowledged the application was modest in scale, it was located within an AONB and in its current format did not comply with policy.
- Mr O'Hare said it was important to note the application was for change of use and not building development.
- Mr O'Hare said there would be no physical change to the site other than minor modifications to levels and with screening it would not be visible in a few years.
- Mr O'Hare said he would be happy to work alongside Planners to make the site more acceptable in planning terms.

**AGREED:**

**On the proposal of Councillor Devlin seconded by Councillor McEvoy it was unanimously agreed to defer Planning Application LA07/2020/1161/F for a site visit to take place, so Members could assess the site in more detail.**

**(10) LA07/2021/0787/F**

(Councillor Enright joined the meeting)

**Location:**

26 Bryansford Avenue Newcastle

**Proposal:**

Demolition of existing bungalow dwelling and integrated garage to provide new build detached two storey modernist style dwelling with a new finished floor level raised above the flood plain level. Existing rear terrace to be raised to provide level access with new dwelling. Alteration to front landscaping to provide additional hard standing. Existing stone clad front perimeter wall and pillars to be rendered smooth and painted

**Conclusion and Recommendation from Planning Official:**

Refusal



### **Power-point presentation:**

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

### **Speaking rights:**

Mr Declan Rooney, agent, Ms Karen Roulston, Architect and Ms Stephanie Sloan, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

### **Issues raised:**

- Mr McKay said when considering the character of an area, Planning draw the boundaries at a limit deemed appropriate and do not just consider the adjacent properties of an application site.
- Mr Rooney said the mature vegetation would remain and the house would sit 25m from the road.
- Mr McKay did not consider the character of the area was already compromised and said there could be a limited lifespan to the vegetation.
- Mr McKay said the two storey extension approved in 2018 differed from the current application in that there would have been a significant portion of the original house remaining, however he said it was a matter of opinion and a judgement call for the Committee.
- Ms Sloan said due to previous flood damage, her family wished to rebuild their family home above the flood plain.

Councillor Murphy proposed to issue an approval in respect of Planning Application LA07/2021/0787/F on the basis that previous approval had already been granted in 2018 for an extension with a flat roof, the dwelling was 25m from the road and could be screened. Additionally, Councillor Murphy said the advice from Planning was that it was a judgement call for the Committee and they were not restricted to the immediate adjacent properties when determining the character of the area. Councillor Larkin seconded the proposal saying he was content there were properties of similar design in the area and through time, streetscapes and house designs changed.

The proposal was put to a vote by means of a roll call, with voting as follows:

FOR:	9
AGAINST:	0
ABSTENTIONS:	0

The proposal was carried.

### **AGREED:**

**On the proposal of Councillor Murphy seconded by Councillor Larkin it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/0787/F contrary to Officer recommendation on the basis that previous approval for a flat roof extension had been granted in 2018, the property was 25m from the road, could be suitably screened and it was not out of character with the area.**

**(11) LA07/2021/1023/0**

**Location:**

Immediately south of 21 Whiterock Road, Newtownhamilton

**Proposal:**

Private dwelling with domestic garage on gap/infill site

**Conclusion and Recommendation from Planning Official:**

Refusal

**Speaking rights:**

Mr John Young, Collins and Collins agent had secured speaking rights.

The Chair advised that Planning Application LA07/2021/1023/0 had been withdrawn from the planning process by the Agent.

(Councillor Devlin left the meeting)

**(12) LA07/2021/1102/F**

**Location:**

Lands located within the Invest NI Business Park 215 metres south west of No. 63 Cloghanramer Road Newry

**Proposal:**

Erection of sheds for the manufacture of solid recovered fuel from residual waste, the manufacture of products from dry recyclables, and vehicle maintenance; erection of 4-storey office block; external storage bays; carparking and associated site works including boundary fencing and ancillary plant

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point presentation:**

Ms Patricia Manley, Chief Planning Officer gave a power point presentation via Teams 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.

**AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor O'Hare it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/1102/F as per the information and recommendation contained in the Case Officer report presented to Committee.**

**FOR AGREEMENT**

**P/029/2022:**

**REVISED DATE FOR MAY 2022 PLANNING COMMITTEE MEETING**

**AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor O'Hare it was agreed that the May 2022 Planning Committee Meeting be held on Wednesday 11 May as opposed to**

**Wednesday 4 May due to Assembly elections taking place on 5 May.**

**FOR NOTING**

**P/030/2022: HISTORIC ACTION SHEET**

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

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

**P/031/2022: PLANNING COMMITTEE PERFORMANCE REPORT - February 2022**

Read: Planning Committee Performance Report for February 2022.  
**(Copy circulated)**

**AGREED: It was unanimously agreed to note the Planning Committee Performance Report February 2022.**

**P/032/2022: CURRENT APPEALS AND DECISIONS**

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

**AGREED: It was unanimously agreed to note the Report on Planning Appeals and Decisions.**

The meeting concluded at 15.26.

For confirmation at the Planning Committee Meeting to be held on Wednesday 6 April 2022.

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

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



## Item 5 – Addendum List

### **Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 06 April 2022**

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

- LA07/2021/1440/F - Retrospective Planning Application for Detached Garage - 4 Fair Green Lane Saintfield **APPROVAL**
- LA07/2016/0399/F - Agricultural land drainage improvement scheme comprising infilling with imported inert wastes and clay - Lands to the West and North of 218 Belfast Road Ballynahinch **APPROVAL**
- LA07/2020/0142/F - Proposed erection of 13 no. units comprising 6 no. semi-detached and 7no. detached, landscaping, car parking and other ancillary works - Lands to the rear of Littleton House 18 Windsor Avenue Newry **APPROVAL**
- LA07/2021/0911/F Conversion of existing agricultural barn to self-contained holiday accommodation 6 Clonduff Road Ballyaughian Hilltown **APPROVAL**
- LA07/2021/2066/F - Proposed gym extension to front of existing leisure centre, proposed play area and proposed MUGA pitch on the leisure centre grounds - Kilkeel Leisure Centre Mourne Esplanade Kilkeel **APPROVAL**
- LA07/2021/0769/F - Slieve Gullion car park lighting - Slieve Gullion Forest Park 89 Drumintee Road Killeavy **APPROVAL**

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**Newry, Mourne  
and Down**  
District Council

**Application Reference:**

LA07/2021/0758/O

**Date Received:**

20.04.2021

**Proposal:**

Proposed site for dwelling and domestic garage

**Location:**

Lands immediately south of No. 40 Quarter Road Annalong BT34 4QZ

**Site Characteristics & Area Characteristics:**

The application site is located outside any settlement development limits as designated with Banbridge/Newry and Mourne Area Plan 2015. The site is within an Area of Outstanding Beauty and adjacent a Site of Local Nature Conservation Importance (NC03/155).

The lands outlined in red form a square shaped agricultural plot located directly SE of Nos. 40 and 42 Quarter Road. The adjacent dwellings are single storey. The application site is flat and bounded by dry stone walls along all boundaries. The area is of typical rural character.

*Application site*



*Nos. 40 and 42 Quarter Road directly adjacent the site*



**Planning Policies & Material Considerations:**

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 2: Natural Heritage
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- DCAN 15: Parking Requirements

**Site History:**

No planning history for application site.

**Consultations:**

DfI Roads - Please ask the applicant to submit an amended 1/2500 scale plan clearly extending the red line to include the required sight visibility splays of 2.4m x 70m in both directions.

An email was sent to the agent 18<sup>th</sup> June requesting this information with a deadline of 25<sup>th</sup> June. An amended drawing was received 9<sup>th</sup> August and Roads were reconsulted and issued a response 8<sup>th</sup> September with no objections subject to conditions being attached.

Water – Generic response

**Objections & Representations:**

Neighbour notifications: 24.05.2021

Advertisement: 12.05.2021

Two letters of objections were received from the residents of Nos 40 and 42 Quarter Road. The main points within the letters include the following:

- The development is outside a zoned development area.
- It is in an area of outstanding natural beauty - Mourne AONB.
- Permission for this would set up a ribbon development along Quarter Road.
- This would also greatly affect the amenity of the scenic panorama of the outstanding vista travelling north along Quarter Road.
- Such a scenic area as this should be preserved, to add a modern dwelling would set a precedence.

**Assessment****Proposal**

The proposal is an outline application for the erection of a dwelling under CTY 6 of PPS 21 as outlined in the Design and Access Statement. No floorplans or elevations

have been submitted with this application, these would be required at reserved matters stage.

### Principle of Development

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

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

As mentioned above, the relevant policy is Policy CTY 6 of PPS 21.

***Planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:***

***(a) the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and***  
***(b) there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.***

***All permissions granted under this policy will be subject to a condition restricting the occupation of the dwelling to a named individual and their dependents.***

One of the applicants listed on the P1 form Mr David Edgar currently resides at No. 8 Quarter Road, Annalong. The other two applicants (Mr David Edgar's son and wife) Mr William Edgar and Mrs Lynn Edgar currently reside at No. 7 Victoria Court which is 3.9 miles away from the father's dwelling. A Google Maps search shows that this would be an 8-minute journey by car. The proposed site is adjacent to 40 Quarter Road, Annalong which is 1 mile from Mr David Edgar's property which would take 2 minutes to travel to by car.

Medical records have been provided in letters dated 2012 as well as a complete medical history. A care log has also been submitted which appears to have been compiled informally by the applicant.

The Planning Department have no reason to dispute the evidence submitted however it falls to consider criterion (a) above as to whether a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused. From the evidence submitted it would appear that there are no formal care arrangements in place. Moreover, the proposed site is only 2.9miles (6 minutes) closer than the existing residence of Mr William Edgar and his wife. The proposed site is not located beside William's father's residence.

In relation to criterion (b) of Policy CTY 6, within the Design and Access Statement it has been stated that the curtilages of the existing dwellings are so restricted for the dwellings to be reasonably extended to facilitate appropriate living accommodation.

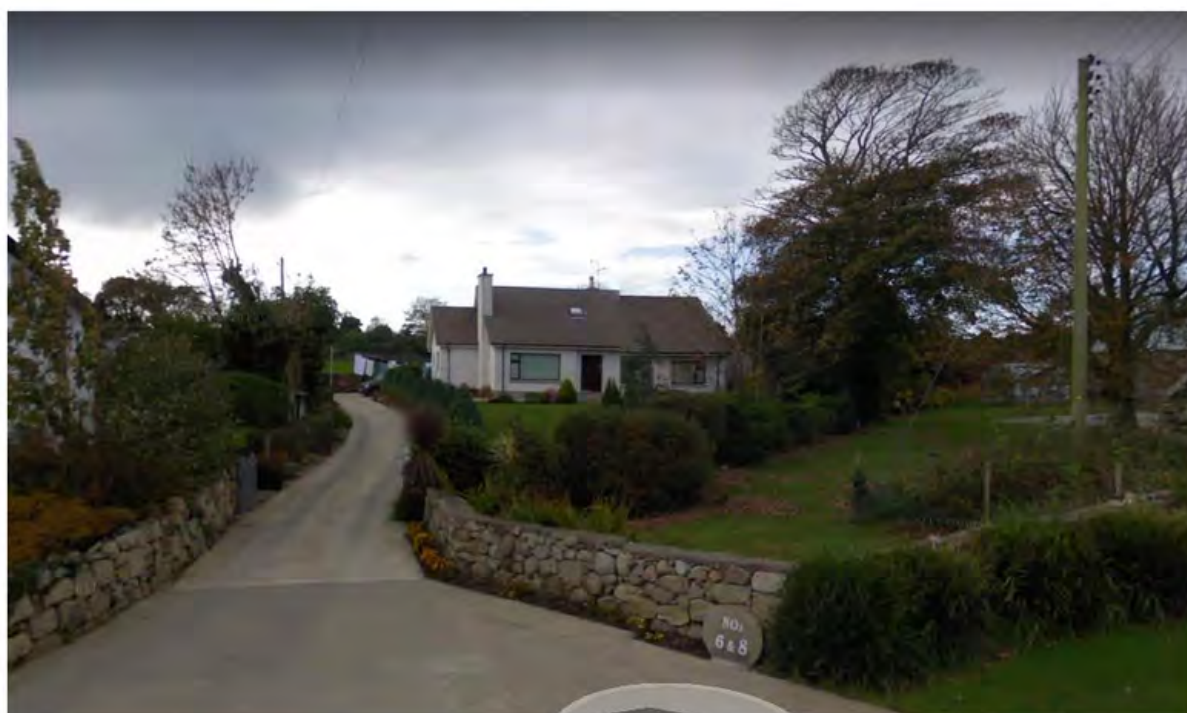


*No. 7 Victoria Court*





*No. 7 Victoria Court*



*No. 8 Quarter Road*



*Curtilage of No. 8 Quarter Road*

From the images above, I am NOT satisfied that the curtilages of the properties are so restricted for the dwellings to be reasonably extended to facilitate appropriate living accommodation.

An email was sent to the agent 18<sup>th</sup> June 2021 stating that "it is considered that there are no compelling site-specific reasons to establish the principle of development at the site proposed and therefore the proposal is contrary to CTY 6." However the agent was afforded an opportunity to submit further information. No information was initially received before the deadline stipulated (25<sup>th</sup> June 2021), however the application could not be moved on as a response from DfI Roads was outstanding.

I received a phone call from Mrs Lynn Edgar (applicants' wife/daughter in law) 9<sup>th</sup> August who requested an update on the application. I advised that an email was sent to the agent (outlined above) and that no further information has been received before the deadline and when DfI Roads issue a response, it is likely that the application will be moved forward with a recommendation of refusal. The applicant queried why the application was to be recommended for refusal and I advised that it was considered that there were no compelling site-specific reasons to allow a dwelling at this site. I also advised that the proposed site was not directly beside her father in law's home and that it was considered the proposal did not meet the requirements of the policy.

Following the phone call, I received an email from the agent on the same day to advise that they have nothing to add and that all the information was outlined in the



Design and Access Statement. The agent queried if this information had been acknowledged as the Statement was not uploaded onto the Portal. I advised that due to the sensitive information within the DAS, it was not uploaded onto the Portal, but a hard copy was kept on file and all information had been considered.

I received an email from the agent the following day 10<sup>th</sup> August 2021 with an attached letter from the applicants. The main points within the letter are as follows:

- There is no legitimate argument between 1 minute (distance from proposed site to Mr David Edgar's home) and 7 minutes (distance from current home to Mr David Edgar's home) as the extra 6 minutes could be vital;
- Mr and Mrs Edgar are both trained in first aid;
- Mr William Edgar has had to leave the family home since the application has been submitted to live with his father to provide care;
- Several trips are required a day which adds up.

Paragraph 5.29 of the Policy says that applicants will be expected to provide sufficient information to allow a proper assessment of each specific case. The paragraph requires that supporting information should be submitted and includes such information as a statement detailing the special personal or domestic circumstances supported if appropriate by medical evidence from a medical or health professional ; details of the level of care required in relation to any medical condition again supported by the appropriate health professional, the identity of the main carer, their current address and occupation, an explanation of why care can only be provided at the specific location and how genuine hardship would be caused if planning permission were refused.

From the information submitted to date (15<sup>th</sup> September 2021), I note that the principal carer is his wife, however she also requires help to care for Mr David Edgar.

I note that the care is also being provided by the applicant's son (Mr William Edgar (applicant) and daughter in law (Mrs Lynn Edgar). Both Mr William and Lynn Edgar have full time jobs and a young family and have outlined that if the current situation is to endure they may need to request to reduce their work hours or resign. In the most recent letter submitted, it was outlined that Mr David Edgar's health has deteriorated which has led to his son living there to provide care.

Medical records were submitted alongside this application. An informal care log was also submitted that appears to have been compiled by the applicants and outlines daily tasks dating from 21<sup>st</sup> December to 14<sup>th</sup> February such as making and delivering dinner, washing, tidying house, doing groceries and sorting out medication. No details of the level of care required in relation to the medical condition supported by the appropriate health professional has been submitted. No details on why care can only be provided at the specific location has been submitted. No formal details on existing care arrangements have been submitted.

While the Planning Dept accept that the applicant has a health condition that requires care from his wife, son and daughter in law, the information submitted to date does not outline the extent and implications on the applicant's future health or

any hardship both applicants and family may currently be experiencing due to their current living arrangements.

In this evidential context, I am not persuaded that the applicants have demonstrated that there are compelling and site-specific reasons to grant planning permission for a new dwelling on the application site 2.9miles (6 minutes) closer than the existing residence of Mr William Edgar and his wife and that hardship would be caused if planning permission were refused.

#### CTY 8: Ribbon Development

Policy CTY 8 states that "Planning permission will be refused for a building which creates or adds to a ribbon of development."

It is considered that the development of this site would result in Ribbon Development along Quarter Road. The development of a dwelling on this site would be detrimental to the character, appearance and amenity of the countryside and would create and reinforce a built-up appearance along Quarter Road.

#### Design, Scale, Size and Massing

Policy CTY13 -*Integration and Design of Buildings in the Countryside* outlines that a dwelling will be acceptable where it is visually integrated into the landscape and is of an appropriate design. CTY 14 – *Rural Character* outlines that a dwelling will be acceptable where it does not cause a detrimental change to, or further erode the rural character of an area.

The site is located on a flat roadside field. The application boundary follows the natural boundaries of the field however this would be considered too large for a dwelling's curtilage. Therefore, the site would require at least 2 new boundaries to provide an appropriately sized site. Nonetheless, the existing boundaries are defined by a dry natural stone wall which appears to be the same as other adjacent dwellings. A condition could be attached to any approval to ensure all boundaries are defined prior to the occupation of the dwelling. The adjacent dwellings are single storey in nature. A ridge height condition could be attached to ensure the proposed dwelling does not appear prominent and would integrate alongside the adjacent dwellings. As this is an outline application, no floor plans or elevations have been submitted, therefore all design aspects would be assessed at Reserved Matters stage and controlled by conditions attached to the outline approval. I am satisfied the proposal complies with Policy CTY 13 subject to conditions restricting the ridge height, appropriate design in accordance with Building on Tradition, landscaping proposals and boundaries.

However, as per Policy CTY 14 it is considered that the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings and would add to a ribbon of development along Quarter Road. The proposal fails to comply with Policy CTY 14.

#### Impact on Amenity

The proposed dwelling is to be sited directly SE of No. 40 Quarter Road. The application site is flat and appears to be on the same level as the adjacent dwellings.

Appropriate design and ridge height conditions could ensure that a dwelling at this site would not impact the amenity of adjacent dwellings to an unacceptable level.

#### PPS 2: Natural Heritage

As the site is within an Area of Outstanding Natural Beauty, Policy NH 6 of PPS 2 applies. This policy 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 all the following criteria are met:*

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

It is considered that the development of this site is not sympathetic to the special character of the AONB as a dwelling at this site would add to Ribbon Development along Quarter Road and would create and reinforce a built-up appearance along Quarter Road.

#### Access and Transportation

Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. Paragraph 5.16 of Policy AMP2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road. DfI Roads have been consulted and following the submission of an amended plan, offer no objections in principle subject to condition.

#### **Recommendation:**

Refusal

#### **Reasons for refusal:**

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long-term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted add to

a ribbon of development along Quarter Road; and would therefore result in a detrimental change to further erode the rural character of the countryside.

4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted add to a ribbon of development along Quarter Road; and would therefore result in a detrimental change to further erode the rural character of the countryside.
5. The proposal is contrary to the Strategic Planning Policy Strategy for Northern Ireland and to Planning Policy Statement 2: Natural Heritage in that it is contrary to Policy NH 6 in that (a) the proposal is not sympathetic to the special character of the Area of Outstanding Natural Beauty of the particular locality.

#### **Informatives:**

1. This refusal notice relates to the following plans: 01RevA.

<b>Case Officer Signature: Eadaoin Farrell</b>
--

<b>Date:15.09.2021</b>
------------------------

<b>Appointed Officer Signature: M Keane</b>
---

<b>Date: 15-09-21</b>
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Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin  
**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1134/O

**Date Received:** 23<sup>rd</sup> July 2019

**Proposal:** Replacement dwelling and garage

**Location:** 90 Manse Road, Darraghcross, Crossgar

### **Addendum Post Deferral**

This planning application initially appeared at committee on 11<sup>th</sup> March 2020 however was deferred for a site visit which took place on 7<sup>th</sup> August 2020. Before returning to committee it was necessary to satisfy the request for a full emergence/re-entry bat survey by NIEA.

The agent has provided the required ecological information which NIEA were consulted on. NIEA have since come back raising no ecological concerns to the proposal. As such, the second reason for refusal can be removed from the recommendation. However, officer's recommendation to refuse still stands on the basis that the building to be replaced is considered to be a vernacular rural building which should be retained.

### **Recommendation:**

Refusal is recommended

**Refusal Reason:**

1. The proposal is contrary to the SPPS and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building to be replaced constitutes a vernacular rural building, the loss of which would be detrimental to the heritage, appearance and character of the locality.

<b>Case officer:</b>	<b>Jane McMullan</b>
<b>Authorised by:</b>	<b>A.McAlarney</b>
<b>Date:</b>	<b>27 September 2021</b>



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

**Application Reference: LA07/2019/1134/O**

**Date Received: 23<sup>rd</sup> July 2019**

**Proposal: Replacement dwelling and garage**

**Location: 90 Manse Road, Darraghcross, Crossgar**

### **Addendum Post Deferral**

This planning application initially appeared at committee on 11<sup>th</sup> March 2020 however was deferred for a site visit which took place on 7<sup>th</sup> August 2020. Before returning to committee it was necessary to satisfy the request for a full emergence/re-entry bat survey by NIEA.

The agent has provided the required ecological information which NIEA were consulted on. NIEA have since come back raising no ecological concerns to the proposal. As such, the second reason for refusal can be removed from the recommendation. However, officer's recommendation to refuse still stands on the basis that the building to be replaced is considered to be a vernacular rural building which should be retained.

### **Recommendation:**

Refusal is recommended

**Refusal Reason:**

1. The proposal is contrary to the SPPS and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building to be replaced constitutes a vernacular rural building, the loss of which would be detrimental to the heritage, appearance and character of the locality.

<b>Case officer:</b>	<b>Jane McMullan</b>
<b>Authorised by:</b>	<b>A.McAlarney</b>
<b>Date:</b>	<b>27 September 2021</b>



Our Ref: MSW/10514.L01/JK/JS

4<sup>th</sup> January 2022

Ms. Annette McAlarney  
Senior Planning Officer  
Newry, Mourne and Down District Council  
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Dear Madam,

**Ref: LA07/2019/1134/O – 90 Manse Road, Crossgar - Review of Structural Report**

Further to instruction to provide a review and critique of a structural report submitted in support of the above application, prepared by Savage Associates (Ref 21/2013) and Dated November 2021, a visual inspection of the building was undertaken on 21<sup>st</sup> December 2021; the findings of this inspection and our review of the report are set out below.

We understand that the purpose of the review is to provide an opinion, to facilitate assessment of the application under Policy PPS 21 CTY 3. In particular, to allow a decision to be made on whether the submitted structural report demonstrates that the building 'is not reasonably capable of being made structurally sound or otherwise improved'.

The building stands, facing nominally east, on a platform cut into a sloping field accessed directly off Manse Road, south of Darragh Cross. It is a single storey linear arrangement (Fig 1.0) accommodating two attached houses (herein referred to as north house and south house) with an extension (a byre) on the south gable which once provided livestock accommodation (Fig 2.0).



**Figure 1.0 Front (nominally east) elevation**

Page 1 of 9

10514220104 – 90 Manse Road – Review of Structural Report - JK



directors:

J P Kerr B.Sc. (Hon), M.B.A., C.Eng., M.I.C.E., F.I.Struct.E., M.C.M.I.

J J Curran M.Eng., C.Eng., M.I.C.E., M.I.E.I., M.I.Struct.E.

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co. reg. no. n.i. 20489

v.a.t. reg. no. 497 1110 45

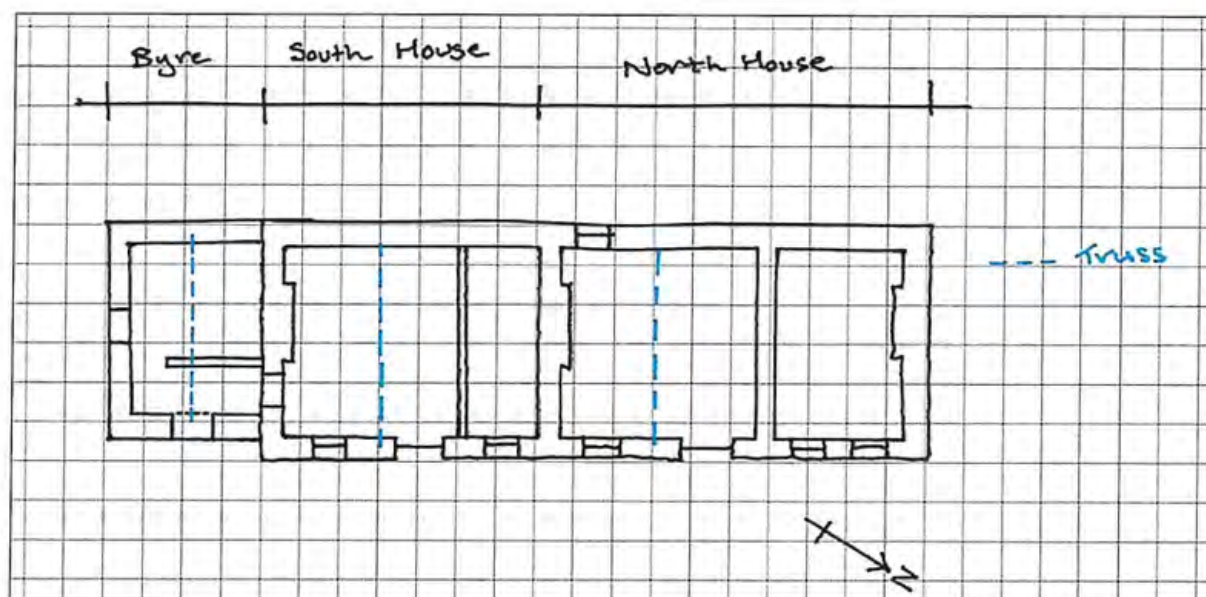


Figure 2.0 Plan

A review of historical OSNI maps shows the attached houses on the (1832 – 1846) First Edition Map and indicates that the byre was added between 1900 and 1907.

The structure of the building comprises a timber roof, natural-slate clad on battens on rafters, with mid-rafter purlins spanning over raised-collar trusses and onto gable/cross walls (Fig 3.0). Apart from one narrow internal cross-wall, the walls are of rubble stonework (approximately 500mm thick) set in lime mortar. The narrow cross-wall is unlikely to be original construction. There are three brickwork-topped rubble masonry chimneys over the houses, one on each gable and one on the party wall between the houses.



Figure 3.0 Timber roof over byre

With respect to structural condition, the roof ridge was found to be reasonably-well aligned over the attached houses but with a depression just north of the central chimney.

The slate covering was found to be generally intact on the front slope over the houses. A significant but localised loss of slates was found on the rear slope over the north house (Fig 4.0). The ridge tiles and upper courses of slates were found to be missing along most of the byre roof (Fig 3.0 and 5.0).





**Figure 4.0 Localised loss of slates on rear slope**

All three chimneys retain some of their rendered coating, to varying extents, and where absent significant weathering of the underlying masonry mortar was observed. The central and north chimney were found to be reasonably intact but the south chimney is partially disintegrated; with a visible lean towards the byre (Fig 5.0).



**Figure 5.0 Central and south chimneys**

The external walls were found to be generally free from evidence of distortion and settlement. A run of near-vertical cracking was observed at the north end of the front elevation (Fig 6.0).



Figure 6.0 Run of near-vertical cracking (to right of window)

Two, out of six number, brick flat-arches on the front elevation and the rubble masonry they support were found to have been rebuilt relatively recently (Fig 7.0). The remaining four number flat arches were found to remain intact.



Figure 7.0



The stonework over the byre door was found to be functioning adequately by corbel action, despite loss of stonework, perhaps with some support from the timber door frame (Fig 8.0). A significant growth of ivy was observed on the south elevation of the byre. The ivy appeared to have been previously cut at ground level but re-established from aerial roots within the masonry at approximately mid height of the gable (Fig 9.0).



**Figure 8.0 Byre door opening**



**Figure 9.0 Ivy growth on byre gable**

This growth will have adversely affected the integrity of the masonry locally and will progressively impact on the condition of this wall if left unattended.



The rear elevations was found to be free from evidence of significant distortion and settlement but cracking observed at the north end (Fig 10.0) may indicate detachment between the gable and the rear wall.



**Figure 10.0 Cracking at north end of rear elevation**

The masonry above the single opening on the rear elevation (Fig 4.0) was found to be adequately supported.

The north gable masonry wall was found to be free from evidence of significant distortion and settlement and much of its roughcast render was found to be intact (Fig 11.0).

Ivy growth on the rear elevation was found to be rooted within the ground and had not significantly affected integrity of the masonry (Fig 5.0).



**Figure 11.0 North gable**

Internally, both houses were found to be in similar condition. The walls showed no evidence of significant distortion or settlement but exhibit cracking associated with decay of embedded timber lintels over external and internal openings (Fig 12.0). Apart from the localised area in the north house where water ingress was evident through the locally missing roof covering, the timber boarded ceilings and visible ends of timber roof trusses were found to be reasonably dry, free from distortion and free from visible evidence of decay (Fig 13.0).



**Figure 12.0 Cracks associated with timber lintels**



**Figure 13.0 Visually sound truss end and ceiling**



The water ingress at the area of missing roof covering was found to have led to localised failure of a truss end and a number of rafter tails (Fig 14.0). This truss end failure accounts for the depression visible in the ridge line above this area.



**Figure 14.0 Failed truss end and rafter tails**

An intrusive timber condition survey would be required to assess the extent of roof timber decay throughout the building.

Given the condition of the roof and ceilings we consider the roof structure over the housed to be amenable to retention in-situ with a moderate extent of spiced repairs and some replacement of timber elements. Removal of slates, insertion of breathable felt and re-slating would be necessary to restore weathertightness.

Extensive water ingress observed along the length of the byre at ridge level has led to decay of the central truss, the top of the rafters, the upper battens and the purlin ends at the south house gable (Fig 15.0). We consider the extent of damage to warrant replacement of the byre roof.



**Figure 15.0 Byre roof damage**



The verticality of the front and rear external walls supporting the roof was measured using a 1.2m long digital-inclinometer. The measurement ranged from 87.0° to 89.8°, indicating a slight outward lean. The verticality of these walls remains acceptable i.e. steeper than 84.0° which we deem to be the critical limit for the height and thickness of the relevant walls of this building.

We consider the nature and extent of the defects observed and the current structural condition of the remaining fabric as sufficient to warrant adaption and incorporation of the fabric into a refurbished/extended new build using tried and tested structural repair and improvement techniques.

With respect to the structural report submitted in support of the planning application we summarise our opinion as follows.

The visual observations set out in the report are generally similar to our observations however with respect to the recommendations therein our opinions are as follows.

- Decay of timber lintels could be addressed structurally by replacement (using precast concrete lintels) and localised re-building of supported masonry.
- The suitability of door sizes is debatable; however, alterations could be accommodated structurally without compromising overall structural stability of the masonry walls.
- The recent rendered repairs are not evidence of defects greater than those identified by our visual inspection.
- The measured verticality of the walls indicates that the 'out-of-plumb' walls remain within an acceptable limit. The cracking on the gable wall could be addressed with tried and tested crack stitching methods.
- We consider localised repair and localised replacement of roof timbers over the attached houses to be practical based on our observations. We consider the roof over the byre, however, to be beyond practical repair.
- The configuration of the building does not preclude its adaption and extension.
- Adaptation of the building need not be confined to any particular arrangement.
- The appropriate sizing of the windows is debatable; however, forming openings on the rear elevation need not compromise overall stability of the masonry walls.

We deem the building to be amenable to structural improvement and we deem incorporation of the remaining fabric into a sensitively arranged larger dwelling arrangement to be structurally feasible.

Please note that this report relates to specific purpose noted and that no opinion is offered or is to be inferred with respect to other matters (such as damp, building services, pollution, wildlife etc) which we assume are subject to a separate assessment, if required by other specialists.

Should you require any clarification or further information please contact the undersigned.

Yours faithfully  
for ALBERT FRY ASSOCIATES LTD

**James P Kerr**  
B.Sc. (Hon), M.B.A., C.Eng., M.I.C.E., F.I.Struct.E., M.C.M.I.  
CARE Accredited Conservation Engineer





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/0461/F

**Date Received:** 08/03/2021

**Proposal:** Single dwelling and attached garage using existing foundations from previously approved (R/2012/0301/F)

**Location:** Adjacent to and east of 10 Meadow View Close, Kilcoo



#### **Site Characteristics & Area Characteristics:**

The lands outlined in red form a square shaped plot, located to the entrance road which serves Meadow View Close. The site is a roadside plot which is accessed from the Ballymoney Road through Meadow View Close. The site rises from the western boundary shared with detached storey and a half dwelling, no. 10 Meadow View Close, to the eastern boundary shared with the Ballymoney Road. The northern boundary includes the access to Meadow View Close and the front roadside of No 5. The southern boundary is shared with a Primary School and is defined by a 1.5m high palisade metal fence which has been painted green.

Foundations are in situ on site, with an informal access to the north. The north and east if the site is enclosed by security type mesh fencing.

The site is set within Kilcoo, a small settlement as defined in the Ards and Down Area Plan 2015. The subject is within un-zoned white lands and within a designated Area of Outstanding Natural Beauty (AoNB). The site neighbours a Primary School to the south and is within a residential area defined by new and mature housing. The housing can be defined as a medium-density mixture of detached and semi-detached dwellings of single and storey and a half height.



Subject lands





### **Site History:**

R/2012/0301/F - Proposed residential development of 3 no dwellings, one garage and associated site works (amended proposal). Land adjacent to and east of 10 Meadow View Close, Ballymoney Road, Kilcoo, Co Down. Permission granted.

R/2006/0611/F - 2 Small shop units with 3 apartments over (amended plans). Adjacent to St Malachy's P.S. Ballymoney Road, Kilcoo, Co Down. Permission granted.

R/2004/1970/O - Corner shop, storage with 2 apartments over, Rear of St. Malachy's Primary School, Ballymoney Road, Kilcoo, Co. Down. Application withdrawn.

R/2003/0714/F - 19 No Dwellings and 4 No Apartments. Rear of St Malachys Primary School, Ballymoney Road, Kilcoo. Permission granted.

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

Ards and Down Area Plan 2015

SPPS – Strategic Planning Policy Statement for Northern Ireland

PPS 2 – Natural Heritage

PPS 3 – Access, Movement and Parking

PPS 7 – Quality Residential Environments

Addendum to PPS 7 – Safeguarding the Character of Established Residential Areas

PPS 12 – Housing in Settlements

Creating Places

Development Control Advice Note (DCAN) 8 - Housing in Existing Urban Areas

Development Control Advice Note (DCAN) 15 – Vehicular Access Standards

Parking Standards

### **Consultations:**

NI Water – Available capacity to serve this proposal. However, site is located within a development consultation zone in proximity to a Wastewater Treatment Works (WWTW) and there is a possibility of nuisance from WWTW odours. Noise may also be a problem.

DfI Roads - No objections

Environmental Health Office -No objection in principle subject to connection to main sewer with NI Water approval.

### **Objections & Representations:**

9 Neighbours within close proximity of the site were notified on 29/03/2021. This application was advertised in the local press on 23/03/2021 and 24/03/2021. At the time of writing one letter of support have been received from a MLA.

### **Consideration and Assessment:**

The application submitted is seeking full planning permission for a single dwelling and attached garage using existing foundations from previously approved (R/2012/0301/F).

Having carried out an initial assessment of the application, the Council had concerns regarding the size, scale and massing and general design of the house type proposed, making the Agent aware that the proposal in its current form as it fails to respect the surrounding residential context. The agent submitted a revised scheme which will now be formally assessed.

The proposed dwelling will have a rectangular shaped footprint, with an orientation along a north-west and south-east axis with the principal elevation facing north-east and rear elevation facing south-west. The dwelling will have a pitched roof construction, with maximum ridge height of approx. 7.5m above finished floor level. A chimney stack will project from the ridge, elevating 950mm above the ridge. The dwelling will have a frontage of approx. 18.0m with a gable depth of approx. 8.9m. A single storey return with rear return will extend approx. 5.3m beyond the rear elevation and will have a flat roof construction. The dwelling proposed will have a unique design, with use of a mixture of materials, different sized windows, with irregular positioning at various points in the elevations. The proposal will feature a mixture of contemporary and traditional construction with aspects of box projections and pitched roof dormers.

The proposed materials and finishes will consist of blue-black natural slates/flat non-profiled roof tiles, black seamless aluminium guttering and RW goods, smooth plaster rendered walls, portions of natural stone (where indicated). No details regarding the windows and exterior door have been provided.

Article 45 of the Planning Act (NI) 2011 states that subject to this Part and section 91(2), where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with application, must have regard to the local development plan, so far as material to the application, and to any other material considerations. As per the current development plan – The Ards and Down Area Plan 2015, the site lies within the defined settlement of Kilcoo.



### Ards and Down Area Plan 2015

The site is located within the settlement limit of Kilcoo on the above Plan and is unzoned. There are no specific policies in the Plan that are relevant to the determination of the application. It will be assessed against regional operational policy.

### PPS 7 – Quality Residential Environments

PPS 7 asserts that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment.

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

The application is seeking the erection of a large detached dwelling on a dual frontage plot, which abuts both Meadow View Close and Ballymoney Road. It is acknowledged by the planning department, that the immediate vicinity is characterised by a mixture of detached and semi-detached chalet type 1.5 storey dwellings, with first floor accommodation provided by a mixture of dormers and roof lights. It is also noted that the dwellings are of a moderate size footprint ranging from 77m<sup>2</sup> – 104m<sup>2</sup> (semi-detached dwellings in Meadow View Close – 77m<sup>2</sup>, detached dwellings in Meadow View Close 104m<sup>2</sup> and detached dwellings in Blackthorn Close 95m<sup>2</sup>). This equates to an average footprint of approx. 92m<sup>2</sup>.

The subject dwelling will have an approx. footprint of 192m<sup>2</sup> which is more than double the average dwelling footprint in the vicinity. The proposed dwelling, whilst not a full 2 storey construction, does however have eaves at a height of 4.9m which is noticeably higher than the surrounding house types. The planning department note the agent scaled back the size, scale and massing of the proposal, however the planning department are still of the view that the proposal fails to respect the surrounding context as it is inappropriate to the character of the surrounding area in terms of layout, scale, proportions, massing and appearance of the dwelling. The planning department have taken into account the site history, however, the previous application on site was for 3 residential units, each with a much smaller footprint which is considered more appropriate for the subject site. Given that this permission has since lapsed, and in the absence of a CLUED to determine commencement, the planning department can only give limited weight to this history. As such, the proposal is considered contrary to this criterion. The current submission is considered to represent an overly complicated house type design wise, as such a more simplified house type was requested which would be more in keeping with its immediate context.

2. *features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;*

There are no features of archaeological and built heritage.

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

Given the nature, scale and location of the development, there is no requirement to provide public open space. The dwelling proposed will provide some private amenity space to both the south and west. Given the constrained nature of the site, on balance the proposal is considered to comply with this criterion.

4. *adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development;*

Given the nature, scale and location of the development, there is no requirement to provide local neighbourhood facilities.

5. *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 proposal will not impact on any Public Rights of Way, meeting the requirements of this criterion.

6. *adequate and appropriate provision is made for parking;*

It is considered that adequate and appropriate provision has been made for in-curtilage parking, and no objections have been received from DfI Roads regarding access arrangements.

7. *the design of the development draws upon the best local traditions of form, materials and detailing;*

As pointed out above, the submission is considered over elaborate, as such a more simplified house type design would be considered more appropriate for his context.

8. *the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance;*

Consideration must be given to any potential issues on amenity of existing neighbours, in this case no.10 Meadow View Close. The rear elevation of the

proposed development is approx. 10m for single storey element and a distance in the region of 16m for the two-storey element. Given the separation distance between the dwellings together with the orientation, the proposal is not expected to result in the loss of light or overshadowing onto neighbouring properties. Upper floor windows have been noted, however given that the window in question serves as an ensuite, the proposal is not expected to cause any direct overlooking. There are no concerns regarding the proposed relationship with the adjacent Primary School. Environmental Health having reviewed the application have no objections to this application, subject to connection to the main sewer.

*9. the development is designed to deter crime and promote personal safety.*

Open spaces are easily monitored ensuring, thus meets the requirements of this criterion.

It is concluded that this proposal fails to meet criteria (a) and (g) of this policy.

#### Policy LC 1 of the Addendum to PPS 7

In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

*(a) the proposed density is not significantly higher than that found in the established residential area;*

As discussed above, the proposal is for a single dwelling as such density is not affected.

*(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area;*

The pattern of development within the immediate vicinity is characterised by detached and semi-detached chalet type dwellings, with modest sized footprints. The planning department are of the view that the proposal fails to respect the surrounding context, as it is inappropriate appropriate to the character in terms of scale, proportions, massing and appearance of the dwelling. The proposal fails to meet the requirements of this criterion.

*(c) all dwelling units and apartments are built to a size not less than those set out in Annex A*

The floor space of the proposed dwelling is compliant with the floor space requirements within this criterion.

### PPS 2 - Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AoNB) policy NH 6- requires that new development within a designated AoNB must be of an appropriate design, size and scale for the locality. As discussed above, the design of the dwelling is inappropriate for this site, as such is considered unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

### PPS 3 Access, Movement and Parking

The proposal must accord with AMP2 of PPS3, DfI Roads were formally consulted, in a response, dated 21/05/2021 have no objections to the scheme, subject to the access being constructed in accordance with the proposed site layout.

### PPS 11 – Planning and Waste Management

The site is located within a development consultation zone in proximity to a Wastewater Treatment Works (WWTW) and there is a possibility of nuisance from WWTW odours.

NI Water requested that the developer must provide confirmation that the conditions of Planning Policy Strategy PPS11 can be satisfied, and where directed agree to cover the capital and operating costs of installing the appropriate abatement equipment. The planning department on two occasions requested the agent provide comment on this matter. To date no information/comments have been submitted to address the concerns raised by NI Water.

In the absence of any additional information, the planning department consider that the proposal if approved is contrary to PPS 11 'WM 5 Development in the vicinity of Waste Management Facilities' in that there is potential loss of amenity from odour nuisance, causing unacceptable adverse impacts.

### **Recommendation:**

Refusal

### **Refusal Reasons:**

1. The proposal is contrary to the SPPS and PPS 7: Quality Residential Environments Policy QD 1 and its addendum Safeguarding the Character of Established Residential Areas Policy LC1 in that it fails to respect the surrounding context and is inappropriate to the character of the area in terms of scale, proportions, massing and appearance of building and the design of



the development fails draws upon the best local traditions of form, materials and detailing.

2. The proposal is contrary to the SPPS and PPS 11: Planning and Waste Management in that it is contrary to Policy WM5 in that the proposal is located within close proximity to a Wastewater Treatment Works (WWTW) and it has not been demonstrated by the agent that there will be no unacceptable adverse impacts to the potential occupants from WWTW odours.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2, Natural Heritage in that the design of the proposed dwelling is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

<b>Case Officer:</b>	<b>S. Maguire</b>	<b>Date:</b>	<b>20/01/22</b>
<b>Appointed Officer:</b>	<b>A.McAlarney</b>	<b>Date:</b>	<b>21 February 2022</b>



Comhairle Ceantair  
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agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/1440/F

**Proposal:** Retrospective application for a detached garage.

**Location:** 4 Fair Green Lane, Saintfield.



#### **Site History:**

R/1997/1000- to rear of 80 Main Street, Saintfield – domestic garage and store – granted – 27-03-1998

R/1998/0347- rear of 80 Main Street, Saintfield with access from Fairview – 2 storey dwelling- permission granted – 15.10.1998

#### **Characteristics of site and Constraints:**

The site in question is a long linear plot located within the settlement development limits of Saintfield. On the site contains a two storey dwelling at one end and at the other end is the

garage that is subject to this application. The site is accessed via Fair Green Lane. The site is generally a flat site located to the rear of existing development and largely out of view within Saintfield.

The site is located within the settlement development limits of Saintfield as defined in the Ards and Down Area Plan 2015. The site is within the sphere of influence of an archaeological site and monument and within an area of archaeological potential. The site is not within the Saintfield Conservation Area but is in close proximity to it and the site is in close proximity to a number of listed buildings.

#### **Advertising and Neighbour Notification:**

In line with statutory requirements the application was advertised in the local press on 01.09.2021 which expired on 15.09.2021, Initially 3 neighbour notifications issued in relation to the application on 18.08.2021 which expired on 01.09.2021 however during the processing of the application it became apparent that additional neighbour notifications were required and 3 additional issued on 21.02.2022 and they expired on 07.03.2022 with no representations received to date.

#### **Consultations:**

Historic Environment Division was consulted in relation to the application due to the close proximity of the site to listed buildings and also due to existing monuments in the area.

Historic Buildings responded initially to consultation requesting additional information to include photographs of the surrounding buildings and the garage in order to ascertain whether the materials used in the garage were appropriate within the context of the area. This information was submitted by the agent and HED HB were re consulted and responded stating that they did not have an issue with the garage itself or the positioning of it but that the PVC window and cement slate roof was not appropriate.

Historic Monuments also responded that they had no objections in principle to the application.

Rivers Agency was also consulted in relation to the application and have responded with no objections to the application.

#### **Summary of representations received:**

To date no representations have been received from the public in relation to the application.

#### **RELEVANT PLANNING POLICY**

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

- The Ards and Down Area Plan 2015
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)



- Planning Policy Statement 3: Access Movement and Parking
- PPS 6 Planning, Archaeology and the Built Heritage
- Addendum to PPS 7 Residential Extensions and Alterations.

### Consideration and Assessment

Policy EXT1 of the Addendum to PPS7 – Residential Extensions and Alterations directs that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- (a) 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;
- (b) The proposal does not unduly affect the privacy or amenity of neighbouring residents;
- (c) The proposal will not cause the unacceptable loss of, or damage to trees or other landscape features which contribute significantly to local environmental quality; and
- (d) Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

### Character and Appearance

The application seeks retrospective permission for a single storey garage located in the rear of No 4 Fair Green Lane. The garage is 3.5m in height and 8.4m in length and is finished in materials that match the existing dwelling ie PVC, render and cement tiles. The positioning and orientation of the garage is considered acceptable located to the rear of the garden adjoining Fair Green Lane. The design of the garage is of a typical garage design. Given the location of the garage to the rear of the Listed Buildings at 78, 80, 82 & 84 Main Street, Historic Buildings have been consulted and they find the materials and finishes to be unacceptable in that they affect the setting of the listed buildings. The area in which the garage sits is characterised by the rear returns and yards of the properties which front onto Main Street, including the Listed properties referred to above.



Properties along Fair Green Lane adjacent to development.

Given that the garage sits to the rear of Main Street, an area infrequently used by the public, in an area characterised by rear elevations of decidedly poor design, in the opinion of the planning authority the garage is not considered to affect the setting of the Listed Properties to Main Street. It is not considered that the materials used ie cement tile and uPVC window are so offensive given the range of materials already used on the rear returns to the Listed properties, to detrimentally affect the setting of those listed buildings. To the ordinary member of the public, one would not be aware when standing on Fair Green Lane that they were in close proximity to Listed Buildings.

The site is also located at the edge of the Saintfield CA this area as highlighted above is not a highly visible location or frequently used by the public. Therefore, the garage at this location with the finishes of uPVC and cement tile are not so offensive that they detract from the integrity, character or appearance of the Saintfield CA.

To conclude, given the specific location of the development, the quality and range of designs and finishes on the surrounding development, the lack of public perception or awareness from the site, it is considered that the opinion of HED, in relation to the finishes, on this occasion is not afforded determining weight.

#### **Impact on Adjacent Residents**

Given the positioning of the garage and the adjacent land uses it is not considered that there will be any detrimental impacts on any neighbouring dwellings as a result of the proposal. There are no neighbouring windows etc or areas of private amenity within a close proximity to the garage that would be likely to suffer as a result of the works.

#### **Trees or other Landscape Features**

The development does not impact on any trees or other landscape features.

#### **Private Amenity Space**

An adequate sized private amenity space would be retained within the site to serve the existing dwelling, the garage is set to the bottom of the garden not impacting on the private amenity immediately adjacent to the dwelling house.

#### **Parking and Turning of Vehicles**

The proposal would not affect on-site parking/turning arrangements at the site, the garage is positioned within the site and all turning and parking can be carried out wholly within the site.

#### **Planning Policy Statement 6 Planning, Archaeology and the Built Heritage, Policy BH11 Development Affecting the Setting of a Listed Building**

As the site in question is located adjacent to listed buildings it was necessary to also assess the application under Planning Policy Statement 6 Planning, Archaeology and the Built Heritage, Policy BH11 Development Affecting the Setting of a Listed Building is considered.

BH 11 states that the Authority will not normally permit development which would adversely affect the setting of a listed building. Proposal will normally only be considered where the following criteria is met:

- a) The detailed design respects the listed buildings in terms of scale, height, massing and alignment.**

The design of the garage is a typical single storey garage being a simple rectangular design and having a window and large opening. It is not considered that the design, size or scale of the development will have any detrimental impact on the setting of the adjacent listed buildings. It sits subordinate to the adjacent buildings within this area.

HED have no objection to the garage per se merely the finishes.

- b) The works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the buildings.**

It is considered that the materials and techniques used are adequate and that they sufficiently respect the character and appearance of the listed building. Again, it is noted that HED did not consider the roof covering or use of uPVC door and window acceptable however having considered the materials used and the surrounding context it is not considered that a refusal could be sustained.

- c) The nature of the use proposed respects the character of the setting of the building.**

A domestic garage within the established curtilage of a residential dwelling is considered acceptable.

It is noted that the application site is in close proximity (adjacent to) to but not within the Saintfield Conservation Area, there is no specific policy assessment within PPS 6 for this situation however it is not considered that the existing garage is causing any detrimental impacts on the existing conservation area or detracting from the conservation area.

### **RECOMMENDATION**

Having considered the proposal and having account of consultation responses it is considered that the garage as constructed is acceptable, it is not considered that the objections of HED can be sustained and determining weight is not being afforded to them on this occasion.



Therefore a recommendation of approval is made against the advice of Historic Environment Division.

**The application shall be presented to Planning Committee as the recommendation involves a departure from a statutory consultees' advice.**

**Conditions:**

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

Reason: This is a retrospective application.

2. The development is hereby permitted in accordance with the following approved plans: 18508NE (site location plan), JSFGL01 Issue B.

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

<b>Case officer:</b>	<b>Fionnuala Murray</b>
<b>Authorised by:</b>	<b>A.McAlarney</b>
<b>Date:</b>	<b>16.03.2022</b>



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/1824/F

**Date Received:** 18.10.2021

**Proposal:** Replacement Dwelling House

**Location:** 34 Ringdufferin Road, Downpatrick

**Site Characteristics & Area Characteristics:**



The site is comprised of a two-storey dwelling. The dwelling is currently unoccupied. Adjoining the site to the west is the Ringdufferin Nursing Home, to the west are two dwellings, No. 34b and 34a. Vehicular access into the site is available along the sites frontage to the Ringdufferin Road. This road is quite rural in character with a dispersed settlement pattern of single dwellings and associated out buildings.

The application site is outside development limits. It is also affected by an archaeological site and monument zoning and is included in an Area of Outstanding Natural Beauty as defined by the Ards and Down Area Plan 2015.

#### **Site History:**

- R/1993/0326, ADJ TO 34 RINGDUFFERIN ROAD TOYE KILLYLEAGH, Golf Driving Range and administration block, Permission Granted.
- R/1993/0324, ADJACENT TO NO 34 RINGDUFFERIN ROAD TOYE KILLYLEAGH, Conversion of existing barns to 6 self-catering units, Permission Granted.

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

- Strategic Planning Policy Statement for Northern Ireland (SPPS).
- Ards and Down Area Plan 2015.
- Planning Policy Statement 21 – Sustainable Development in the Countryside.
- Planning Policy Statement 3 – Access, Movement and Parking
- Planning Policy Statement 2- Natural Heritage.
- Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage
- Planning Policy Statement 15 (Revised) – Planning and Flood Risk.
- Building on Tradition Design Guide.

#### **Consultations:**

There were six consultations issued for this proposal. See details below.

- The Department for Infrastructure Rivers (DFI Rivers) Acknowledges this proposal is deemed an exception to FLD 1 and on review of the flood risk assessment DFI Rivers, while not being responsible for the preparation of the Flood Risk Assessment accepts its logic and has no reason to disagree with its conclusions. (08/02/2022).
- The Department for Infrastructure Roads (DFI Roads) – No objections subject to conditions outlined below. (01/11/2021)
- Shared Environment Services (SES) – informal consultation through which SES confirmed in this instance, a formal consultation with SES will not be required. Strangford Lough European sites are located 50+ metres south of the core development area. There are no viable pollution pathways for effects to consider. (21/12/2021).
- Northern Ireland Water (NI Water) – No objection subject to conditions (07/11/2021).
- Northern Ireland Environment Agent (NIEA) – Water Management Unit refer the Planning Authority to DAERA Standing Advice (20/10/2021).
- Historic Environment Division (HED) – on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements. (29/10/2021)

#### **Objections & Representations**

There were 7 neighbour notifications issued for this application. The application was advertised in the local press on 3<sup>rd</sup> November 2021. There were 9 representations received objecting to the proposal. Within the representations the following issues were raised:



- Neighbour Notification was not received (No. 57) .
- Extraordinary increase in size beyond that of the original dwelling.
- Visual impact would be significantly greater than existing dwelling / It would be visually obtrusive.
- The design and scale are unsympathetic to the special character of the AONB / Size of proposed dwelling will be overwhelming and dominating over Simmy Bay / Development out of keeping with dwellings in the adjacent area.
- It does not respect the local architectural styles or material and no regards for the distinctiveness and not appropriate to its rural setting / Highly modern design and not in keeping with rural location and surrounding dwellings
- Would not visually integrate in to the surrounding landscape: and it would be prominent feature. It is inappropriate for the site and locality.
- It would be great detriment to the scenic approach of Ringdufferin Historic Demesne in an AONB.
- Prominent building, dominating the shoreline and does not sympathetically assimilate into its rural settings. / Visual impact on approach from the Lough.
- The location of new building at odds with current position, giving rise to possibility of applicant being able to retain existing house.
- Landscape plan should be included and a conceptual landscape analysis to ensure dwelling not detrimental to AONB.
- The dwelling to be demolished was completely renovated 20 years and is in a good state of repair and so does not need to be replaced / dwelling not in need of replacement but could be refurbished, or potential be subject of an application to reuse.
- The road is prone to flooding.
- Rules and regulations regarding septic tank, distance form dwelling and the drainage due to close proximity to the road and Strangford Lough.
- Positioning of new dwelling will dominate and tower over the road and bay.
- The curtilage of the site has been altered by the removal of hedging / works completed to make a substantial change to layout resulting in eradicating a long-established division on the site between the house area and a connected but separate rectangular area of land.
- More traffic using Ringdufferin Road.
- Different entrances have been made off the Ringdufferin Road into fields to the rear.
- Existing dwelling historically connected to adjacent properties, the proposed building is completely at odds with the nature and visual effect of this grouping.
- Overlooking garden area of 34b and impinged on privacy.
- Proposed tree planting adjacent to boundary with No. 34b is unsympathetic and will overshadow the property.

Full copies of the objection letters received are available to view on the file.

Neighbour notification has been undertaken in line with the requirements of the Planning Act 2011 and Article 8 (1) and (2) of The Planning (General Procedure) Order (Northern Ireland) 2015. Confirmation was sought from the agent / application on the how surface water is to be disposed of and foul sewage. An amended Page 3 of the P1 application form was received which has been uploaded to the NI Planning

Portal. The applicant indicates he/she proposes to connect to the main sewer and surface water will be disposed of via the existing arrangements. An objector has noted that the surrounding dwellings are served by septic tanks and questions the ability of the applicant to connect to the mains. Constraints relating to sewage are outside the remit of the Planning Department and consent should be sought by the applicant from the relevant authorities on this. Should the dwelling require the installation of a septic tank a separate planning application will be required for this. This application has been submitted for a replacement dwelling proposal, any future intentions regarding land to the rear does not form part of the assessment of this current application. The remaining issues are addressed in the Consideration and Assessment sections below.

### **Consideration and Assessment:**

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

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

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

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. PPS21 states that planning permission will be granted for a replacement dwelling in accordance with Policy CTY3.

#### **Principle of Development**

Policy CTY3 states that for planning permission to be granted the building to be replaced must exhibit the essential characteristics of a dwelling and as a minimum all external structural walls are substantial intact. Policy also states that buildings of a temporary construction will not be eligible for replacement under policy CTY3. Having inspected the site the Planning Department is content that the building exhibits the essential characteristics of a dwelling with window and door openings and the appearance of a dwelling.

The principle of development is considered acceptable with the building to be replaced seen as a replacement opportunity. Although the principle of development is acceptable consideration must also be given to the design, appearance and layout of the proposed development to ensure the proposal meets all the other criteria set out in CTY3.

This application has been submitted for a replacement dwelling proposal. On inspection of the building subject of this application there is no requirement for the building to be retained, refurbished or converted in line with comments made in the representations. The building does display vernacular qualities that the Planning

Department would be seeking to retain and in line with policy requirement is suitable for replacement. Proposals for a replacement dwelling will only be permitted all five of the listed criteria are met.

The proposal will see the replacement dwelling positioned forwards of the existing dwelling and only minimally on the existing dwelling footprint. As noted in the objections, hedging has recently been removed to the south west of the existing dwelling which has opened up a small parcel of undeveloped land. In light of this, a letter was issued to the applicant / agent requesting the replacement dwelling be confined to the original curtilage as defined by the hedging prior to its removal. The agent responded with historical PRONI mapping to demonstrate the original curtilage was not defined by this hedging. Further, the agent has also indicated that the former hedging extended from the front and side elevation of the dwelling to the southern boundary of the site but did not extend from the rear of the property which meant that residents could easily walk around the property and access the garden area to the west of the former hedgerow. He further indicated that it was likely the hedgerow was planted to provide a domestic horse paddock for use of the residents of the original house.

On review of aerial imagery available over of the years, it is evident that a number of changes have been made to the dwelling's curtilage, including changes along the eastern and rear boundaries. As noted in the objector's letter, at one time the dwelling subject of this application and the two dwellings to the east formed a connected group of buildings, comprising a farmhouse (No, 34) and associated two outbuildings (34a and 34b). On the granting of permission for the conversion of the outbuilding into dwellings, separate residential curtilages began to form. While the PRONI maps submitted by way of evidence of the original curtilage is very dated, it does indicate that the area in question was associated this replacement dwelling. On the 2008 Google Street View this hedging was in place with a wall to the rear (north), sectioning off this small parcel of land and this remained the arrangement up to May 2021 as demonstrated on the aerials. Sometime between May 2021 and December 2021 this hedging and wall were removed.

Residential curtilage is considered to be an area of land attached to a house and forming one enclosure with it. As noted by the agent, there is another hedgerow with fencing behind, west of that recently removed, which separates the curtilages of No's 34a and 34b from the application site and he considers this to define and enclose the property. There is no evidence to suggest that a change of use of this parcel of land has occurred over the years and on this basis the Planning Department consider it to be land associated with the dwelling at No 34 and therefore forming part of the residential curtilage.

The new dwelling will be not constructed fully on the footprint of the existing dwelling; however, a condition will be attached to any future approval seeking the demolition of the existing dwelling prior to construction of the new dwelling thereby ensuring the dwelling cannot be retained.

The size and scale of the replacement dwelling proposed represents a larger build to that existing. The policy test requires the new dwelling to not have a visual impact *significantly* (my emphasis) than the existing dwelling. The dwelling to be replaced is a two-storey dwelling, with pitched roof covering. There is a small lean-to extension



along the dwellings rear elevation. The dwelling is setback circa. 32m from the road frontage. The new dwelling is modern in design and linear in form, comprising two storeys with built form stepping down to single storey along its western elevation forming an integral garage. The dwelling will have a frontage measuring 29.7m and a gable depth measuring 8m. A two storey building return features along the rear elevation. A flat roof covering is proposed for the building measuring 6.2m in height. The design of the dwelling results in it stepping up in height, with the two-storey element set behind the single storey front projection. The dwellings front elevation will sit approx. 9m forward of the existing dwelling which has increased the separation distance from No. 34b to the north west. While it is accepted that the new dwelling represents an increase in floorspace to that existing, on considering the overall scale and massing of the proposed new development it is not considered to have a visual impact significantly greater than the existing dwelling.

Critical views of the new dwelling will be available on approach to the site from both directions when travelling along the Ringdufferin Road. In addition, views of dwelling will be available from the south, along the shoreline. On approach to the site from the east, when travelling along the Ringdufferin Road, a new dwelling as indicated would only come into view as you turn the corner at the frontage of the adjacent nursing home. Again, when travelling from the west on the Ringdufferin Road, short distance views of the new dwelling will be available when passing the dwelling at No. 23. Views of the proposed dwelling will likely be achievable from the water however the new build will be read in association with the nursing home and the existing properties at 34A & 34B.

The proposal will provide a dwelling of contemporary design. External finishes proposed include natural timber and white render band to the external walls, grey windows frames and a grey membrane flat roof covering which are considered acceptable materials for use in this rural area. As noted above, the first-floor building element will be tiered back from the ground floor element, creating a walk way at first floor level across the front elevation leading to the balcony area along the western end of the building and to a separate first floor sitting out area to the eastern rear corner of the building. Glazing dominates the buildings front elevation. Development adjacent to the west of the site comprises of converted former outbuildings of the former farmhouse - dwelling to be replaced, and these therefore have a more traditional appearance. While at one point in time it is acknowledged these buildings formed a group of rural buildings with an evident relationship, overtime this relationship has broken up through the defined segregation of these buildings through boundary treatment. Adjacent to the east of the site is the Ringdufferin Nursing Home, which is a large two storey building that is reflective of a more contemporary building design. There is no requirement for a new dwelling to replicate those adjacent. The replacement dwelling form is reflective of the linear form currently expressed on the site. On considering the wider development in the context of the application site, there is a mix of dwelling styles, comprising of both single storey and two storey developments, both of traditional and of modern design. There is not considered to be a distinctive housetype design in this area and therefore the new dwelling would not appear incongruous in this setting. Drawing No, PD002 provides elevations of the new dwelling, the proposed front elevation demonstrates how the new dwelling will sit with the dwelling to the north west, No, 34b. The new dwelling will be positioned forwards of the adjacent buildings, however it will be on lower land, with a reduced building height and in the context of adjoining

development is not considered to be a prominent. Further, consultation was carried out with the Historic Environment Division (HED) given the site position within an archaeological site and monument zoning. Their response detailed that HED (Historic Monuments) had assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Access will be provided through the existing cross over from the Ringdufferin Road. The Planning Department considers that the concept and design of the replacement dwelling appears to be of a high quality and appropriate for a prominent waterfront location. While the first-floor balcony and glazed portions along the elevations are a considerable size, the Planning Department appreciate the desire to harness the attractive views of Strangford Lough which this house would benefit from. The fact that the dwelling is set on the lower portions of the site would assist in reducing in impact of the dwelling.

As all necessary services already are provided to the current dwelling, there would not be any significant adverse impact upon the environment or character of the locality in connecting the new replacement dwelling to services.

The final criterion under Policy CTY3 is that access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic. DFI Roads have no objections to this proposal. There is sufficient space within the proposed site layout to both park and turn a number of vehicles.

As such, the Planning Department consider that the application would be in accordance with the guidelines of Policy CTY 3 – Replacement Dwellings.

### **Policy CTY 13 – Integration and Design of buildings in the Countryside**

Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. As noted above, the new dwelling is not considered to be a prominent feature in the landscape due to its scale and massing and is of an appropriate design.

### **Policy CTY 14 - Rural Character**

Planning Permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of the area. As explored above, the proposed development would not impact on the character of the area. Adjacent east of the site is the Ringdufferin Nursing home which represents a much larger development with formalised access and parking arrangement to the front and which is set on higher ground. Regardless of whether the scale and design of the Nursing Home is considered by objectors as appropriate for this area, the new dwelling will read with it as well as smaller scale development to the west. It is considered the dwelling in this context could visually integrate into this existing group of building without impacting on the rural character.

### **Impact on Residential Amenity**

The re-siting of the dwelling within the application has increased its separation distance from the dwelling to the north west, No. 34b. Due to the buildings proposed width, development has extended into the western portion of the application site. An integral garage with first floor balcony above features along the dwellings western

elevation. The separation distance between the balcony area and 34b's front elevation is measured at 24m and 25m to the dwelling at No. 34a. First floor windows positioned closest to No. 34b serve the stairwell and a landing area. Any overlooking resulting from the new dwelling into the front of No. 34b is not considered to be at an adverse level given the setback distance and the orientation of the new dwelling. There is an open relationship between the dwelling at No 34b and 34a and as such the area to the front of No. 34b is currently directly overlooked by No. 34a. The new dwelling is considered sufficiently separated from other properties to ensure no adverse overlooking resulting.

An objection has been raised in regard to proposed tree planting adjacent to boundary with No. 34b that would be unsympathetic and will overshadow the property. The proposed layout plan has identified the sites western boundaries to be planted out with a new native species hedgerow behind an existing post and rail fencing. The planting of three new trees is also indicated adjacent to the shared boundaries. The legend indicates these trees will be planted at heights ranging between 3m-4m and 4.5m-5.5m. On considering these trees will be sparsely planted along the boundaries there is not considered to be adverse overshadowing is resulting on No. 34b.

#### **Access and Parking - Policy AMP 2 of PPS3**

As noted above, DFI Roads in the consultation response has offered no objections to the access arrangements. There is not considered to be a noticeable increase in vehicle movements on the Ringdufferin Road resulting due to the nature of the application which seeks approval for the replacement of one dwelling.

#### **PPS15 (Revised) Planning and Flood Risk**

The Flood Maps (NI) indicates that the southern boundary of the site lies within the 1 in 200 coastal flood plain with a predicted coastal level at this location of 3.235mOD and consultation was therefore undertaken with DFI Rivers. On receipt of a Flood Risk Assessment and following confirmation that the proposal represents an exception as listed in FLD 1, DFI Rivers while not being responsible for the preparation of the Flood Risk Assessment accepts its logic and has no reason to disagree with its conclusions.

DFI Rivers has noted that the private soakaways system have no outlet and drainage is via percolation through the soil strata. Commenting on the efficacy of a soakaways system is outside DFI Rivers area of knowledge and expertise. Further DFI Rivers has advised the effectiveness and function of the attenuation method is reliant on the soakaways system being designed and constructed in accordance with the correct industry specifications and having a long-term maintenance programme in place to ensure its ongoing function. The applicant has indicated on the P1 form that existing drainage measures will be used to dispose of surface water and that for foul sewage this will be to the mains. NI Water, in their consultation response has provided conditions. NIEA Water Management division have referred the applicant to Standing Advice. Informal consultation was undertaken with Shared Environmental Services given the proximity of the site to Strangford Lough, they did not require formal consultation as they consider that the Designated sites are located 50+ metres south of the core development area and that there are no viable pollution pathways for effects to consider.



### **PPS2 – Natural Heritage**

Policy NH6 of PP2 is applicable as the application site is within the designated Strangford and Lecale Area of Outstanding Natural Beauty. This policy requires development proposals in Areas of Outstanding Natural Beauty (AONB) to be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife. It also states that "new buildings should respect local architectural styles and patterns". As noted above, along this section of the Ringdufferin Road, building design and style varies greatly. As presented the new dwelling is not considered to impact on any special character exhibited at this location, the design, materials and finishes of the dwelling are acceptable.

On inspection of the site, there were not any biodiversity issues to address, whilst it is unfortunate, hedging along the sites frontage to the Ringdufferin Road and to the south west had already been removed. The proposed development indicates replacement hedging of native species. The dwelling to be replaced remained intact and on inspection of the surrounds there was not considered to be any indications of bat activity.

Given the sites proximity Strangford Lough an informal consultation was issued to Shared Environmental Services (SES). On assessment of the proposal SES advised that Strangford Lough European sites are located 50+ metres south of the core development area and there are no viable pollution pathways for effects to consider.

Further consultation was carried out with NIEA who offered standing advise in their consultation response. On inspection of the building at the end of 2021, the building was fully intact and there was no indication of any bat activity across the site

On considering the number of representations received and the recommendation for Approval, in line with the Council's Scheme of Delegation this application must be presented before the Planning Committee.

### **Recommendation:**

Approval

<b>Case Officer:</b>	<b>Laura O'Hare</b>	<b>Date:</b>	<b>18.03.2022</b>
<b>Appointed Officer :</b>	<b>A.McAlarney</b>	<b>Date:</b>	<b>21 March 2022</b>

### **Conditions:**

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

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

2. The decision relates to the following approved PD001 and PD002.

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

3. The construction of the dwelling hereby permitted, including the clearing of topsoil, shall not commence until the existing building, coloured green on the approved plan PD001 is demolished and all rubble and foundations have been removed from the site.

Reason: To preserve the amenity of the area and to prevent an accumulation of dwellings on the site.

4. The landscaping scheme, as indicated in Drawing PD001, shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the council gives written consent to any variation.

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

5. No development shall be commenced until a Sewer Adoption Agreement has been authorised by NI Water to permit a connection to the public sewer in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 and Sewerage Services Act (Northern Ireland) 2016

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

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

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

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

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

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

Reason: In the interest of public health.







Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

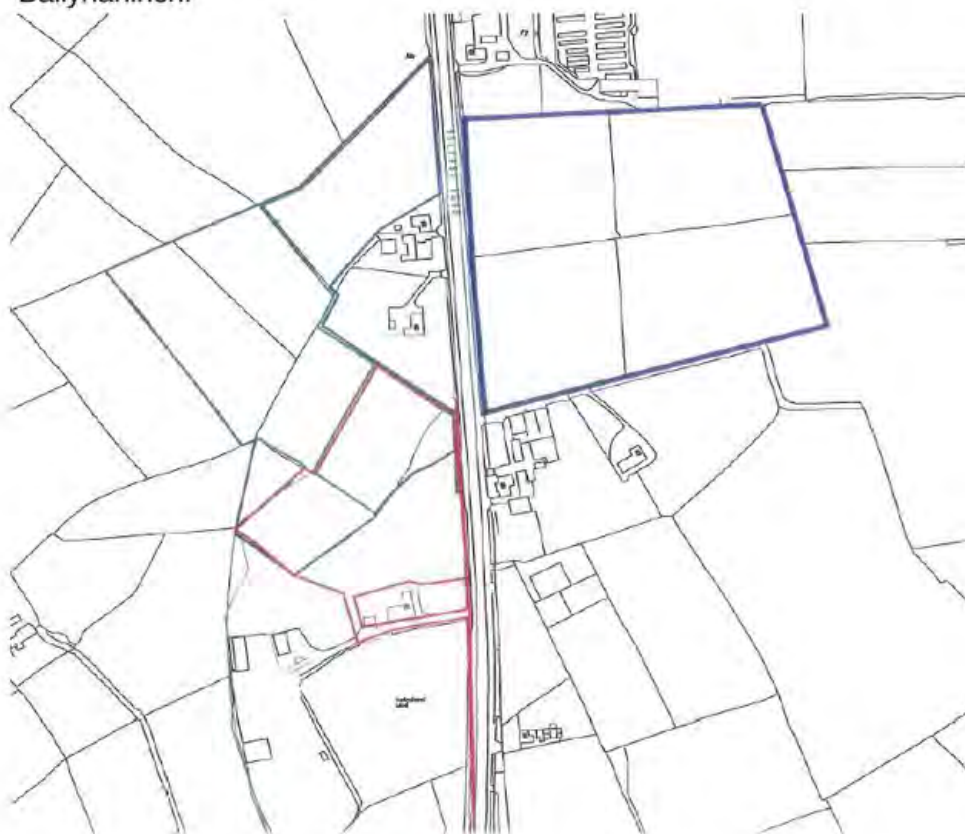
**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2016/0399/F

**Date Received:** 01.04.2016

**Proposal:** The application is for full planning permission for an agricultural land drainage improvement scheme comprising infilling with imported inert wastes and clay.

**Location:** The application site is located at lands to the West and North of 218 Belfast Road Ballynahinch.





#### **Site Characteristics & Area Characteristics:**

The site is located approximately 2 miles north of Ballynahinch and is accessed from the A24 Belfast Road, which is a protected route. The site includes lands located along the roadside which extend westwards into the site. The application site is approximately 1.874ha. No 218 Belfast Road is currently the premises for an existing established waste management facility; manufacturing aggregates and topsoil from waste arising from demolition construction, tunnelling and other excavations. The area is rural in character with a single houses in the countryside situated along the A24 Belfast Road and Brae Road in the vicinity of the site.





Site from A24 Belfast Road

#### Site History:

**LA07/2021/1610/LDE | 218 Belfast Road, Ballynahinch | Waste management facility; manufacturing aggregates and topsoil from waste arising from demolition construction, tunnelling and other excavations | Permitted Development.**

LA07/2015/1223/PAN | Lands to the west and north of 218 Belfast Road, Ballynahinch | Agricultural land drainage improvement scheme comprising raising of marshy and poorly draining lands with imported wastes and clay for the purposes of agricultural improvement. Proposal of Application Notice Is Acceptable.

R/2010/0977/LDE 218 Belfast Road, Ballynahinch | Use of the site for the import, storage and distribution of sand, gravel, topsoil and building materials, and the production of crushed rock using a rock hammer and screening bucket. Permitted Development.

R/2009/0082/LDE | 218 Belfast Road, Ballynahinch | Certificate of Lawful Development for;  
a) Minerals processing and waste transfer (topsoil)/recycling storage station and yard.  
b) Mobile Plant and Machinery Parker mobile crusher/screener, tracked excavator, rubber tyre excavator utilised for the recycling of: sand, gravel, top soil & clay, brick/block & concrete rubble, rock, road metalling. c) Plant and machinery storage/repair shed, topsoil storage shed, weigh bridge and control cubicle all associated with the above. Application Required.

R/1995/0245 | Adjacent to 218 Belfast Road Ballynahinch Dwelling Adjacent to 218 Belfast Road Ballynahinch | Application Withdrawn 14.09.1995

R/1996/0334 Between 212 & 218 Belfast Road and to the rear of 1,3 & 5 Brae Road Ballynahinch | Agricultural Land Improvements PERMISSION GRANTED

#### Enforcement History

R/2007/0151CA 218 Belfast Road, Ballynahinch. \*\*\*\*See R/2005/0165CA\*\*\*\* Non Compliance ENFORCEMENT CASE CLOSED 10.10.2007.

R/2007/0182CA Between 218 & 220 Belfast Road, Ballynahinch. CASE REFERRED TO SPECIAL STUDIES 11/01/08. ENFORCEMENT CASE CLOSED 11.01.2008.

R/2008/0007CA Land to the rear of 31 Brae Road, Ballynahinch | Operational Devt ENFORCEMENT CASE CLOSED 06.02.2009.

R/2008/0101CA 218 Belfast Road, Ballynahinch Operational Devt ENFORCEMENT CASE CLOSED 09/09/2009.

R/2009/0141CA 218 Belfast Road, Ballynahinch | Alleged unauthorised plant machinery (crusher and screener) Seeking Developer Contacts | ongoing

R/2013/0130/CA 218 Belfast Road, Ballynahinch | OPERATIONAL DEVELOPMENT - Unauthorised Winning and working of Minerals | ongoing



R/2014/0059/CA | Lands To The North Of The Junction of, Brae Road And Belfast Road, Creevytenant, Ballynahinch | Alleged unauthorised quarrying of land | Enforcement Case Closed 01.06.2015

### **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.

The following planning policies have been taken into account:

Regional Development Strategy

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Planning Policy Statement 3 Access, Movement and Parking

Planning Policy Statement 11 Planning and Waste Management

Planning policy Statement 15 Planning and Flood Risk

Planning Policy Statement 21 Sustainable Development in the Countryside;

Ards and Down Area Plan (2015)

### **Consultations:**

NI Water – Statutory

DFI Roads – No objections subject to condition

NIEA Water Management – No objections

Environmental Health – No objection subject to a condition

Rivers Agency – No objections

### **Objections & Representations**

In line with statutory requirements 11 neighbours have been notified on 25.04.2016 and again with amended plans on 21.07.2016 and 26.10.2016. The application was advertised in the Mourne Observer and the Down Recorder on 20.04.2016.

four letters of objection were received in relation to the proposal from Mr Norman Jess 2 letters) of 223 Belfast Road. Fast Lane Motors (221a Belfast Road) and Ms Doreen Jess 221 Belfast Road. The letters have all be read in full and the main points of objection relate to :

- Properties and business are opposite site and are liable to flooding (in the past)
- Infilling will exacerbate the issue
- Premises reliant on existing drainage at 218 Belfast Road
- Ongoing flooding and drainage issues
- Large amounts of capital invested and don't want business to be flood damaged
- Dust and dirt in relation to car valet as part of business

## **Proposal**

The application proposal relates to lands to the north and west of No 218 Belfast Road. The proposal includes the raising of low lying land (described by the applicant as low lying marshy and poorly draining farmland for the purposes of agricultural improvement). It is proposed that the lands will be raised using materials including imported inert wastes, comprising primarily of waste soils, clays, brick, concrete and stones which will be restored with a soil layer to be seeded in grass. The intention then is that the resulting lands will be suitable for agricultural purposes. The materials will come from the waste management facility at 218 Belfast Road.

## **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 site is located outside settlement limits on the Ards and Down Area plan 2015 (ADAP) and is unzoned. While the plan does not make any reference to policies for proposals of this nature, it states on p69 that 'It is not the purpose of the Plan to prescribe either the preferred methods of dealing with waste materials or specific sites for new facilities. These matters are determined by the producers or holders of waste in the context of land use policies and the Waste Management Strategy for Northern Ireland'. Thus it directs the decision-maker to the operational policies of the SPPS and PPS11.

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

PPS21 sets out the planning policies for development in the countryside, where Policy CTY 1 sets out the range of types of development both residential and non residential which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. There are a range of other types of non-residential development that may be acceptable in principle in the countryside which are not listed. Proposals for such development will continue to be considered in accordance with existing published planning policies.

## **Principle of Development**

While the proposal is for the infilling of land with inert materials, the proposal is nonetheless covered by planning policies for waste management. The SPPS does not specifically mention land improvement in its waste management section. Therefore, the retained policy of PPS11 will be given substantial weight in determining the principle of the proposal in accordance with paragraph 3.8.

An Environmental Assessment was carried out on 24th October 2016 which determined that the proposal was not EIA development and no environmental statement was required.

## PPS 11 Planning and Waste Management

### Policy WM 4 Land Improvement

The disposal of inert waste by its deposition on land will only be permitted where it is demonstrated that it will result in land improvement and all of the following criteria are met:

- it will not result in an unacceptable adverse environmental impact that cannot be prevented or appropriately controlled by mitigating measures (see Policy WM 1); and
- there is a local need for the development and it can be demonstrated that it is the BPEO;
- only the minimum quantity of fill necessary to achieve the proposed improvement shall be deposited;
- detailed measures are included for the appropriate restoration and aftercare of sites that will help to enhance bio-diversity

Policy WM4 states that the disposal of inert waste by its deposition on land will only be permitted where it is demonstrated that it will result in land improvement. In this case with this proposal it has been stated in accompanying information by the agent that the identified lands are low lying marshy and poorly draining farmland and this will improve the quality of the land for the purposes of agricultural improvement. Four additional criteria are referred to above. In the first criteria, there must be no adverse environmental impact that cannot be controlled or mitigated (e.g. by planning conditions). To assess this, it is necessary to refer back to policy WM1 which will be considered below. The second criterion refers to local need and the Best Practicable Environmental Option (BPEO). The SPPS confirms at paragraph 6.323 that following publication of the revised Waste Management Strategy 'Delivering Resource Efficiency', Best Practicable Environmental Option (BPEO) is no longer a material consideration in the planning process. Therefore, there is no requirement to demonstrate need other than on the site itself (as above) or to compare other options. Thirdly, only the minimum quantity of fill necessary to achieve the proposed improvement shall be deposited. As the proposal is to level out the low lying parts of the existing landscape, it should not be noticeably higher than surrounding ground levels and will not be more than necessary to achieve the land improvement. The fourth criterion relates to restoration and aftercare of the site. The information submitted states that the aftercare will include the re-seeding of the area with grass, the level of aftercare is considered acceptable given the scale and nature of the proposal.

### General Criteria for Environmental Impact of the Scheme - Policy WM1

There shall be no demonstrable effects on human health or the environment. The proposal will be in keeping with the agricultural use of the site and will not prejudice any surrounding land uses. The infilling will not result in an unacceptable visual impact on the landscape from public viewpoints.

The main delay in this application related to the status of the waste facility at 218 Belfast Road, where the inert material is coming from. As the inert material is being transferred directly from the premises at No 218 and as there is now an established waste management facility use at No 218 Belfast Road, confirmed through the submission of a CLUED LA07/2021/1610/LDE



approved 16.12.2021, the infilling will not generate any additional traffic movements. While DfI Roads have accepted that there is no intensification of use they point out that in the interests of road safety they would recommend that the applicant would widen his existing access to a minimum width of 5.0m for a distance of 10m from the public road.

There will be no adverse effect on nature conservation, archaeological or built heritage interests. None of the bodies consulted have identified a significant environmental impact which would require an ES.

The materials to be used are to be inert. DAERA requested a condition that only inert material would be used, a condition stating this can be included on any approval. An informative should also be included to highlight the need for waste authorisation from DAERA. Mr Megoran who lives and works beside the lands to be infilled and is supplying the inert materials to the site has secured a Waste Management Licence in January 2017.

### **PPS 15 (Revised – Flood Risk and Planning**

Paragraph 5.3 of PPS 15 states that all planning applications, including those for the renewal of planning permission, will be determined with reference to the most up to date flood risk information available to the Planning Authority. Paragraph 5.4 states that the planning authority will consult Rivers Agency on planning applications where it appears that flood risk is a material consideration.

Rivers Agency were consulted as part of the proposal and had required the watercourses along the boundary of the site to be modelled to accurately show the impact of the proposed infilling scheme.

*FLD1 - Development in Fluvial and coastal Flood Plains* - The Flood Hazard Map (NI) indicates that the development **does not** lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain.

*FLD2 - Protection of Flood Defence and Drainage Infrastructure* - Under 6.32 of the policy a 5m maintenance strip is required unless the watercourse can be maintained from the opposite bank by agreement with the landowner.

*FLD3 - Development and Surface Water* – DfI Rivers acknowledges the agents letter which was submitted as justification against the need for watercourse modelling.

The watercourse bounding the site does not have an associated Flood Area shown on the DfI Rivers flood maps. This is because the models used for developing the Flood Maps did not include catchments under 3km<sup>2</sup>. In these cases, the applicant should have the watercourse modelled as part of the Drainage Assessment, to ensure that all sources of flood risk have been appropriately assessed, with appropriate flood resilient/resistant measures proposed as and where necessary.

Modelling had initially been requested due to concerns raised by a neighbouring party about the flood risk impact of the proposed infilling on their property. The only way to accurately address these concerns would be through river modelling.

*FLD4 - Artificial Modification of watercourses* – Artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. This is a matter for The Planning Authority. Any culverting approved by the Planning Authority will also be subject to approval from DfI Rivers under Schedule 6 of the Drainage Order 1973.

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

A Drainage Assessment and a Flood Risk Assessment (FRA) by MCL Consulting, dated June 2016 and November 2017 respectively, were submitted. The FRA demonstrated that no Q100 flood plain exists within the site and consequently no floodplain storage is to be lost as a result of the infilling. DfI Rivers, while not being responsible for the preparation of the Assessment accepts its logic and has no reason to disagree with its conclusions.

In relation to the issues raised in the objection letters, Rivers Agency has confirmed that the site is not affected by the 1 in 100 year fluvial or 1 in 200 year coastal flood plain. DfI Rivers Agency has no objections on grounds of flood risk but that it should be brought to the attention of the applicant that the responsibility for justifying the Drainage Assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional advisors (refer to section 5.1 of Revised Planning Policy Statement 15). DfI Rivers have provided informatives.

Environmental Health were also consulted as part of the process and their response indicates that they have taken into account the 3<sup>rd</sup> party objections. They have stated no objections subject to a condition restricting working hours and an informative indicating that dust may be an issue at nearby properties, particularly during dry weather. The applicant should carry out regular checks at the site boundary and implement dust suppression measures if necessary.

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

DfI Roads have now offered no objections to this proposal. While DfI Roads have accepted that there is no intensification of use they point out that in the interests of road safety they would recommend that the applicant would widen his existing access to a minimum width of 5.0m for a distance of 10m from the public road.

### **Conclusion**

Having considered all of the above policies and consultee responses it is considered that the proposal does not conflict with any of the above policies. There will be no significant loss of quality agricultural land as the land is to continue in this use and the means of restoring the site is acceptable. In summary, the relevant requirements of PPS11 are met by the proposal.

Consequently, in the light of all of the above planning considerations, consultee responses and material considerations including the letters of objection that the proposal should be approved subject to conditions.

### **Recommendation: Approval**

The plans to which this approval relate include:

- 01 Site Location Plan
- 02 Site Layout
- 03 Existing Site Elevations
- 04 Existing Levels Contour Map
- 05 Proposed Contour Map
- 06 Existing, Proposed Cross Sections and Profiles
- 07 Restoration Plan

#### Conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission and shall cease within 2 months from the date of commencement.

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: **01, 02, 04, 05, 06, 07.**

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

3. Any materials to be used in the infilling of land as hereby approved shall be inert materials only.

Reason: To protect the rural environment.

4. Within 3 months of infilling reaching the height of the approved levels or upon cessation of infilling operations for a period of 6 months, whichever is the earlier, the deposit shall be graded to an even contour, covered with a minimum of 300mm of top soil and sown with grass.

Reason: In the interests of visual amenity and to ensure the restoration of the site.

5. Working hours for this site (including deliveries) must be restricted to the following:  
**MONDAYS – FRIDAYS: 0800 - 1800**  
**SATURDAYS: 0800 - 1300**  
**SUNDAYS AND BANK HOLIDAYS NO WORK**

Reason: In the interests of residential amenity.

#### Informatives

1. Dust may be an issue at nearby properties, particularly during dry weather. The applicant should carry out regular checks at the site boundary and implement dust suppression measures if necessary.
2. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.



3. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
4. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
5. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
6. Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.
7. Due to the close proximity to a watercourse the applicant must refer and adhere to all the relevant precepts contained in DOE Standing Advice Note No.4 – Pollution Prevention Guidance (April 2015). Water Management Unit recommends the applicant refer and adhere to the precepts contained in DOE Standing Advice Note No. 5 – Sustainable Drainage Systems (April 2015). (The applicant should note that since the publication of this standing advice the SuDS Manual has been updated and is now CIRIA C753 (2015) The SuDS Manual). The applicant should note discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required for site drainage during the construction phase of the proposal. Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications. The applicant should refer to in DOE Standing Advice Note No. 11 – Discharges to the Water Environment (April 2015). The applicant should refer and adhere to the precepts contained in DOE Standing Advice Note No. 22 – Culverting (September 2015). The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment. The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.
8. Should this proposal receive planning permission a waste authorisation for the site will be required from NIEA. Any waste used for infill should be inert. The waste authorisation for the site will place conditions on the site to ensure there are no unacceptable environmental impacts. Should they occur the design of the

authorisation will be that it removes the impact; this may include cessation of the waste activity generating the impacts.

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

**Case Officer**            **C Moane**

**Date**    **21/03/2022**

**Appointed Officer**    **A.McAlarney**

**Date**    **21 March 2022**



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

**Application Reference:** LA07/2020/0142/F

**Date Received:** 23/01/2020

**Proposal:** Proposed erection of 13 no. units comprising 6 no. semi-detached and 7no. detached, landscaping, car parking and other ancillary works

**Location:** Lands to the rear of Littleton House, 18 Windsor Avenue, Newry, BT34 1EG



**Site Characteristics & Area Characteristics:**

Characteristics of site: The lands outlined in red form an irregular shape site located to the immediate northeast of no. Littleton House, 18 Windsor Avenue, and extending to include this property. The south-western portion of the site contains a two storey dwelling and associated outbuildings. The main bulk of the site at present is in an unmaintained condition, and a top layer of soil appears to be scrapped with the clearance of vegetation. The total area of the site is approx. 1.30 hectares. A watercourse known as Downshire stream transverses east to west through the



centre of the site. When observed from Winsor Avenue the site appears quite unassuming, given that it's enclosed by development along the majority of boundaries. In terms of topography the bulk of the site is quite flat, rising quite steep to the northern boundary. The eastern site boundary consists of a retaining structure of considerable height. Access to the site is provided by the existing domestic access which serves no. 18 Windsor Avenue

**Characteristics of area:** The subject site is located within the settlement limits of Newry and is designated as land zoned for housing (NY 61) Windsor Avenue/Downshire Road. The site is surrounded by a mixture of land uses consisting of residential development to the south and east, commercial development to the west and a police station to the north east. A medical clinic is located opposite no. 18 Windsor Avenue. The dwellings along Windsor Avenue are large two storey dwellings with front and rear gardens on low density plots all having an individual design. These dwellings are mature in age including no. 18 which is within the subject site. Windsor Manor to the east is of a higher density consisting of three story (split level) semi-detached dwellings with a red brick finish. The site is within the sphere and influence of an Archaeological Site and Monument (Carnhoney Souterrain).

### **Site History:**

No relevant planning history on this site. The surrounding history is noted.

P/2013/0059/F - New three storey lift extension to inner courtyard area. Ardmore PSNI, 3 Belfast Road, Newry, BT34 1EF. Permission granted.

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

The NI Regional Development Strategy 2035

SPPS – Strategic Planning Policy Statement for Northern Ireland.

Banbridge/Newry and Mourne Area Plan 2015

PPS 2 – Natural Heritage

PPS 3 - Access, Movement and Parking

AMP 2 - Access to Public Roads

AMP 7 - Car Parking and Servicing Arrangements

PPS 6 – Planning, Archaeology and the Built Heritage

PPS 7 – Quality Residential Environments

Addendum to PPS7 – Safeguarding the Character of Established Residential Areas

PPS8 – Open Space, Sport and Outdoor Recreation

PPS 12 – Housing in Settlements

PPS 15 – Planning and Flood Risk

Creating Places

Development Control Advice Note (DCAN) 8 - Housing in Existing Urban Areas

DCAN15 – Vehicular Access Standards

Parking Standards

DCAN8 – Housing in Existing Urban Areas

### **Consultations:**

NI Water – Wastewater Treatment Facilities (Newry WwTW) are presently available to serve this proposal. However, there are Wastewater Network Constraints that are ongoing within parts of the Newry area.

DfI Roads - No objections subject to access being constructed in accordance with approved PSD's and planning conditions

DfI Rivers – No objection subject to recommended planning condition and informatives. The planning condition requires the submission of a final drainage assessment, compliant with FLD 3 & Annex D of PPS 15, and Sewers for Adoption Northern Ireland 1st Edition.

Environmental Health (NM&D) – Considers that the past land use on or in close proximity to this proposed development will not cause potential impact on the health of future occupiers. As a precautionary measure recommend 2 planning informatives referring to land contamination and demolition of buildings.

Northern Ireland Environment Agent (NIEA) –

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

*Land, Soil and Air* - no objections to the development provided conditions and informatives are placed on any Planning Decision Notice, as recommended.

*Drainage and Water* - Water Management Unit is concerned that the sewage loading associated with the above proposal has the potential to cause an environmental impact if transferred to Newry wastewater treatment works (WWTW).

Shared Environmental Services (SES) – Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site. In addition, recommended to planning conditions.

Historic Environment Division (HED) – No objection to the proposal and note Littleton House is pre-1830's dwelling is however not Listed.

### **Objections & Representations:**

Throughout the assessment of this application a total of 31 Neighbours within close proximity of the site were notified at various dates most recently 12/04/2021. Again, due to a number of revisions scheme, this application was advertised in the local press on 03/02/2020, 05/02/2020, 28/07/2020, 01/09/2020 and 12/01/2021.

At the time of writing (28/02/2022) a total of 14 objections were made in respect to the above from 8 different addresses. This includes 6 no. objections submitted by the same two representatives. A number of the objection letters submitted raised the similar concerns.

The planning concerns raised are summarised as follows:

- Size and scale of the proposal
- Directly overlooking
- Congestion and traffic pressures
- Dwelling types
- Road safety
- Security concerns
- Land subsidence
- Flooding
- Loss of open greenspace

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

### **Consideration and Assessment:**

#### Summary of Proposal

The proposal seeks full planning permission for the erection of 13 no. units comprising 6 no. semi-detached and 7no. detached, landscaping, car parking and other ancillary works



The scheme initially sought the erection 17 No. units comprising 6 No. semi-detached and 7 No. detached and 4 No. apartments, landscaping, car parking and other ancillary works. Having carried out an early assessment of the proposal, the planning department were of the opinion that apartments fronting onto Windsor Avenue fail to respect the surrounding context and character of the area. Only a detached dwelling on a spacious plot would be considered acceptable. The scheme was duly amended with the apartments replaced with a detached dwelling.

The latest submission seeks full permission for erection of 13 no. units comprising 6 no. semi-detached and 7no. detached, landscaping, car parking and other ancillary works, which will be formally assessed below.

In terms of design, the existing dwelling no. 18 Windsor Avenue will be demolished and replaced with a detached two storey dwelling (House type E) sited further back from the road and closer to the western boundary. House Type E consists of detached two storey dwelling with a maximum ridge height of approx. 8.35m above GFL. The dwelling will provide 4 bedrooms and will have a gross internal floor area of 236m<sup>2</sup> (2,540 sqft).

The remaining units will be sited along the northern and southern boundaries in two rows running east to west.

The detached units (8-12 House Type C) will be sited to the south of the site. House Type C consists of detached two storey dwellings with a maximum ridge height of approx. 8.7m above GFL. The dwelling will provide 4 bedrooms and will have a gross internal floor area of 178m<sup>2</sup> (1,916 sqft).

The remaining units including semi-detached properties (1-7 House Type B) will be sited to the north of the site.

House Type B consists of semi-detached, split level three storey dwellings, unit 7 to the east will have a similar house type design but will be a detached unit. These dwellings will have a maximum ridge height of approx. 11.6m above GFL to the front and 8.9m above GFL to the rear. The dwelling will provide 3 bedrooms and will have a gross internal floor area of 178m<sup>2</sup> (1,916 sqft).

The proposed materials and finishes will consist of Roof: Concrete Tiles (Colour - Dark Grey), Fascia & Soffit: UPVC (Colour - White), Rainwater Goods: uPVC round profile (Colour - White), Windows: uPVC double glazed (Colour - White), Doors: Hardwood Timber, Walls: Smooth render (Colour - White) and Walls: Raised / lined plaster render (Colour - Cream).



### Banbridge / Newry & Mourne Area Plan 2015

Article 45 of the Planning Act (NI) 2011 states that subject to this Part and section 91(2), where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with application, must have regard to the local development plan, so far as material to the application, and to any other material considerations.

As per the current development plan – The Banbridge Newry and Mourne Area Plan 2015, the site lies within the defined settlement of Newry.

The site is located on land zoned as housing under designation NY 61 Housing Windsor Avenue/Downshire Road 1.27 hectares of land at Windsor Avenue/Downshire Road as identified on Map No. 3/02a – Newry.

The key site requirements for this development include:

- Housing development shall be a minimum gross density of 25 dwellings per hectare;
- Access shall be from Windsor Avenue.

A paragraph below the KSR's states the following;

- i. If a Transport Assessment is required under regional policy, then consideration should be given to improvements at the junction of Downshire Road/ Windsor Avenue.
- ii. A designated watercourse runs through the site. A minimum 5m wide maintenance/buffer strip along each bank is required to facilitate future drainage works and to retain associated vegetation.

The density of the proposal is approximately 10.2 units per hectare. Case officers note that the density of the proposal is just under half of this KSR. The agent (Clyde Shanks) has provided justification for the low density proposed at the request of the Council. In a letter dated 01/07/2020 the agent made the case that there are a number of constraints on this site including, context of part of the site fronting Windsor Avenue, topography, floodplain, culvert and need for two internal access roads with turning heads, that together have meant complying with the KSR very challenging.

The Council is mindful that the centre of the site is constrained by the watercourse and subsequent flood plain which amounts to around 20% (0.21ha) of the site. The extent of this flood plain would not have been apparent at the time of publishing the Area Plan. This constraint is further exacerbated by the sheugh (floodplain source) that traverses the site and sterilises further the developable part of the site save for a culvert for access in line with PPS15 FLD4. In addition, two internal roads are required to serve the proposed dwellings around the floodplain/open space. The internal road and turning heads have been designed to adoptable standards (as set out in Appendix C of Creating Places) which further reduces the developable area;

an additional 10% (0.14ha) of the site comprises undevelopable land along the western and southern boundaries with retaining walls proposed to address the change in levels. As such translating 30% pro rata into the scheme, this impacts the proposed yield as the developable area of the remainder of the site is reduced to 0.69ha. Therefore, a more accurate reflection of the proposed density for this part of the site should be based on a site area of 0.69ha, which results in 17dph.

Case officers accept the agent's justification and acknowledge that a large portion of the site is blighted from development, hindering the ability to achieve a higher density while simultaneously respecting the character of the surrounding area i.e. detached and semi-detached dwellings. Taking a pragmatic approach and on balance the planning department find density proposed acceptable.



Access to the proposed site is from Windsor Avenue and is fully in accordance with PPS 3 and DCAN 15 meeting DfI Roads adorable standards as confirmed by DfI Roads on 04/02/2022.

### The NI Regional Development Strategy 2035

RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide more high quality accessible housing within existing urban areas without causing unacceptable damage to the local character. As this proposal is increasing housing provision within the Newry area in a sustainable manner, it would be in line with the regional housing policy of the RDS.

### SPPS & PPS 12 – Housing in Settlements

The SPPS also addresses housing in settlements. It repeats the planning control principles listed in PPS12. The proposal complies with these as it will increase the housing density in this area without erosion of local character, environmental quality or amenity. The proposal is considered a sustainable form of development as it is within a defined settlement. There are local facilities and services available. No specific need for social housing has been identified.

### PPS 7, Policy QD 1:

*“All proposals for residential development will be expected to conform to all of the following criteria”.*

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

This proposal is considered to respect the surrounding context and is appropriate to the character and topography in terms of its scale, density, layout, proportions, landscaped area and open space. Case officers consider that this proposal is appropriate to the existing character (a mixture of detached and semi-detached dwellings on spacious plots). The semi-detached units are akin to dwellings in Windsor Manor as they also are three storey semi-detached dwellings split over 2 levels.

The density of the proposal is approximately 10.2 units per hectare, as discussed above is acceptable given the constraints on this site and the low density of the immediate area. The proposal will provide soft green spaces to the front of each dwelling. In term of proposed boundary treatments, the principal boundaries which

about the public footpath along Windsor Avenue will consist of 1.3m high rendered block wall, with 1.8m pillars. The common boundaries that run along the fronts will consist of low retaining wall with traditional estate style fencing with a black powder coated finish. This metal fencing will be approx. 950mm in height. The internal rear boundaries will be defined by 1.6m high timber fence boards sited on a concrete plinth which varies in height. A New concrete crib retaining wall will be located to the north eastern site boundary.

The frontage to Windsor Avenue will include 1 detached dwelling, the siting of which better respects the building line than that existing, and which will be sited to front this road. The entrance to the remainder of the development runs along the side of this proposed new dwelling, with road and footpath.

This application seeks to cut land from the north and south boundaries of the site, as such will require the erection of a retaining wall of a similar scale of the existing. This retaining structure will form a continuation of the existing. With respect to creating a quality residential environment the planning department are content that the distance from rear wall to rear boundaries are adequate, meeting policy requirements. The scheme incorporates a ANDACRIB retaining structure forming a continuation along the existing. The retaining structure is necessary to accommodate the necessary ground cut to the north east of the site.

It is considered that the scheme submitted has a suitable layout, and the scale, proportions, massing and appearance of proposed dwellings, fencing, walls as well as the hard and soft landscaping will complement the existing character. Hard surfacing has also been reduced to the necessary standards to secure a safe and accessible road network and parking arrangement. The proposal is therefore considered to be in keeping with the established urban grain, density and the overall surrounding context.

*(b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development;*

The application site is within close proximity to HB16/26/025 - Laurel Lodge, 55 Downshire Road, Newry, Co Down, a Grade B1 listed building of special architectural or historic interest as set out in Section 80 and protected under the Planning Act (NI) 2011. Having carried out consultation with HED, in a response dated 11/03/2020 HED considers the proposal does not represent a demonstrable negative impact on the setting of the listed building.

This proposal seeks to demolish the existing dwelling and ancillary building on site. HED has made reference to the fact the building is of considerable age (pre 1830's). The planning department agree the building is of a vintage, however the building is unlisted and not afforded any special protection. In addition, the Key Site Requirements of the Area Plan made no reference requiring the retention of this

building. In light of these circumstances, the planning department could not sustain a refusal on this basis.

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

Given the nature, scale and location of the development, there is no requirement to provide public open space. In this instance the scheme provides an area of open green space through the centre of the site which is welcomed by Council. In general, the proposal provides generous rear gardens which will provide an adequate standard of private amenity space, exceeding the standards laid down in Creating Places (70m<sup>2</sup>). The provision of rear amenity space is sufficient to allow for future extensions or adaptations if necessary.

Creating places recommends that where the development abuts the private garden areas of existing properties, a separation distance greater than 20m will generally be appropriate to minimise overlooking, with a minimum of around 10m between the rear of new houses and the common boundary. Case officers note that units 8 and 9 are sited 9m from the rear boundary, falling slightly short of this 10m requirement. The separation distance between the proposed dwelling on plot 9 and No. 26 Windsor Avenue is in excess of 25 metres. In addition, a row of planting is proposed to the rear of units 8-12 that is expected to soften boundary treatments.

In term of proposed boundary treatments, the principal boundaries which abut the public footpath along Windsor Avenue will consist of 1.3m high rendered block wall, with 1.8m pillars. The common boundaries that run along the fronts will consists of low retaining wall with traditional estate style fencing with a black powder coated finish. This metal fencing will be approx. 950mm in height. The internal rear boundaries will be defined by 1.6m high timber fence boards sited on a concrete plinth which varies in height. A New concrete crib retaining wall will be located to the north eastern site boundary.

*(d) 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 proposal will not impact on any rights of way and meets the requirements of this criterion. The dwellings proposed will have generally quite level plots, which is considered to meet the needs of with impaired mobility. The split-level house type has been noted, and taking in account the surrounding character is considered acceptable in this urban setting.



Issues were raised by objectors regarding the road safety, issues regarding congestion and cumulative impacts of development in the Area. Dfl Roads are the statutory consultee on planning applications for the Planning Authority with regard to road safety. The proposal has been assessed against current planning policy and design criteria. The existing road network and access from Windsor Avenue would have all been considered, and in terms of what is proposed, Dfl Roads are satisfied with the proposal and that the existing road network can accommodate it.

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

The level of in-curtilage car parking provided for each of the 13 dwellings can accommodate a minimum of at least 2 cars. Dfl Roads have raised no objections to parking arrangements. The proposal meets the requirements of this policy.

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

The dwellings have simple design, with a contemporary front elevation creating diverse and attractive house styles. The materials, finishes and boundary treatments are considered in-keeping. Each dwelling will offer similar boundary treatments, ensuring uniformity throughout the development. This proposal draws upon the positive aspects of the character and appearance of the surrounding area.

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

A number of objections were raised by existing residents regarding impact on privacy, loss of light and other disturbance. The design and layout of the proposed, dwellings windows, the proposed amended topography, separation distances between new properties and the proposed new planting are however all considered acceptable and will not create conflict with existing or proposed residents to any unacceptable degree in this urban environment.

The siting, orientation and levels of the dwellings proposed are considered acceptable and will not negatively impact on existing dwellings. Creating spaces states that on green-field sites and in low-density developments, good practice indicates that a separation distance of around 20m or greater between the opposing rear first floor windows of new houses is generally acceptable.

Case officers note that units 8 and 9 are sited 9m from the rear boundary, falling slightly short of this 10m requirement. The separation distance between the proposed dwelling on plot 9 and No. 26 Windsor Avenue is in excess of 25 metres. In addition, a row of planting is proposed to the rear of units 8-12 that is expected to soften boundary treatments. The respective levels are also noted.

The remaining dwellings meet and exceed the 20m or greater distance between opposing rear first floor windows. For the scheme to be brought up to adoption standard, adequate lighting is required to DfI Road standards to ensure a safe living environment is provided. Street lights will be provided with this new development which is an additional safety measure to the area. It is case officer's opinion that the proposal will not create conflict with adjacent land uses and there will be no unacceptable amenity impact on surrounding dwellings as a result of overlooking or loss of light given the separation distances, orientation and surrounding types of development. Environmental Health have been consulted regarding the proposal have no objections to the scheme.

*(h) the development is designed to deter crime and promote personal safety.*

The proposed layout gives neighbouring dwellings a good view of people approaching on the main estate road. There are no alley ways or areas that would give rise to concerns of crime or which would impede safety. The proposal meets the requirements of this criterion.

#### Policy LC 1 of the Addendum to PPS 7

Given the mixed character of the area surrounding the site and the existing use of this site, the proposal must accord with the requirements of this policy.

In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

*(a) the proposed density is not significantly higher than that found in the established residential area;*

The density of the proposal is approximately 10.2 units per hectare. Case officers note that the density of the proposal is just under half of this KSR. The agent (Clyde Shanks) has provided justification for the low density proposed at the request of the Council. In a letter dated 01/07/2020 the agent made the case that there are a number of constraints on this site including, context of part of the site fronting Windsor Avenue, topography, floodplain, culvert and need for two internal access roads with turning heads, that have meant complying with the KSR very challenging.

Case officers accept the agent's justification and acknowledge that a large portion of the site is blighted from development, hindering the ability to achieve a higher density while simultaneously respecting the character of the surrounding area i.e. detached and semi-detached dwellings. Taking a pragmatic approach and on balance the planning department find density proposed acceptable.

*(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area;*

The pattern of development (A mixture of detached and semi-detached dwelling houses, in-curtilage parking with front and rear gardens) is in keeping with the character and environmental quality of the area.

*(c) all dwelling units and apartments are built to a size not less than those set out in Annex A*

The floor space of the proposed dwellings is compliant with the floor space requirements within this criterion.

### PPS 2 - Natural Heritage

The proposal involves the demolition of a dwelling and associated outbuildings, which could have an impact of Bats and other protect species, as such the provisions of NH 2- Species Protected by Law apply.

NH2 states that planning permission will only be granted for a development proposal that is not likely to harm a European protected species. The presence of species protected by legislation is a material consideration when a planning authority is considering a development proposal that if carried out, would be likely to result in harm to the species or its habitats. The application was submitted with a Tree Survey and Report and Preliminary Ecological Assessment and subsequent Bat Activity Survey. The council carried out consultations with Natural Environment Division (NED) who acknowledges receipt of all ecological materials associated with the site, and in their most recent response are content that sufficient information has been provided for NED to make an assessment in this instance. NED consider that the evidence submitted in the bat survey report shows that the proposal is unlikely to significantly impact the local bat population.

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). In a response dated 27/07/2020 SES stated that having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

A Preliminary Risk Assessment (PRA) has been presented by RSK Ireland Limited (RSK) in support of this application. Through the PRA RSK present a conceptual site model and conclude that the development does not present any unacceptable risks to environmental receptors. Based on the information provided Regulation Unit (Land



& Groundwater Team) would have no objections to the development provided Conditions and Informatives are placed on any Planning Decision Notice.

### PPS 3 – Access, Movement and Parking

Throughout the assessment of this application DfI Roads had been consulted on a number of times (9 occasions) with regards to the Access, Movement and Parking. The Department has responded to the most recent scheme with no objections to the proposal subject to Conditions.

As stated above, it is considered parking provision for each unit is sufficient. The site indicates 12 units will use the same entrance road and shared access on to the Windsor Avenue with the exception of unit 13 which will have its own individual access from the public road. The development includes a footpath within the site and also along the site frontage (2m wide), with internal access road width of 5.5m, and 10m radius at the site entrance from Windsor Avenue, with splays of 2.4m by 60m and 2.4m by 77m in either direction, which is deemed acceptable by DfI Roads in this instance.

### PPS 6 – Planning, Archaeology and the Built Heritage

The application site is within close proximity to HB16/26/025 - Laurel Lodge, 55 Downshire Road, Newry, Co Down, a Grade B1 listed building of special architectural or historic interest as set out in Section 80 and protected under the Planning Act (NI) 2011. Having carried out consultation with HED, in a response dated 11/03/2020 HED considers the proposal does not represent a demonstrable negative impact on the setting of the listed building.

This proposal seeks to demolish the existing dwelling and ancillary building on site. HED has made reference to the fact the building is of considerable age (pre 1830's). The planning department agree the building is of a vintage, however the building is unlisted and not afforded any special protection. In addition, the Key Site Requirements of the Area Plan made no reference requiring the retention of this building. In light of these circumstances, the planning department could not sustain a refusal on this basis.

### PPS 15 – Planning and Flood Risk

The site is traversed by a watercourse which is designated under the terms of the Drainage (Northern Ireland) Order 1973, and known to DfI Rivers as the 'Downshire Stream'. The site may be affected by undesignated watercourses of which we have no record.

In respect of Policy FLD 1 - Rivers Agency's initial response advised that the Flood Maps (NI) indicates that portions of the development **lie within** the 1 in 100 year fluvial flood plain. DfI Rivers would consider that this proposal is contrary to PPS 15, Planning and Flood Risk, FLD 1, and would object to any such development taking place.

The agent submitted additional drainage assessment, covering letter and revised aspects of the site in response to DfI Rivers comments. In the most recent response DfI Rivers PAMU note that the applicants revised Downshire Stream road crossing, now removes any proposed development from the 1 in 100 year fluvial flood plain. In addition, DfI Rivers, while not being responsible for the preparation of the Flood Risk Assessment, accepts its logic and has no reason to disagree with its conclusions.

FLD 2 - Under 6.32 of the Revised Policy PPS 15 FLD 2, it is essential that an adjacent working strip is retained to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5 meters, but up to 10 meters were considered necessary, and be provided with clear access and egress at all times. The submitted site plans shows an appropriate provision of working strip, satisfying FLD 2.

FLD3 - Development and Surface Water – DfI Rivers has reviewed the Revised MicroDrainage Simulations by IE Consulting, and our comments are as follows:-

This proposal exceeds the design standards required under 'Sewers for Adoption, Northern Ireland' (SfA) and consequently there is no guarantee that NIW will adopt this theoretical design. In addition, there is no requirement under SfA for NIW to consider flood risk from out of sewer flooding beyond the development under consideration, and therefore no guarantee that this form of flood risk will be considered outside the planning process.

Consequently, DfI Rivers requests, that the drainage assessment is resubmitted to provide a demonstration of how out of sewer flooding will be managed if the proposed drainage network is designed and constructed in accordance with SfA, or requests that the planning authority includes the following Condition as part of its planning permission if granted.'

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

Reason – To safeguard against flood risk to the development and from the development to elsewhere.' FLD 4 – Not applicable to this site.

FLD4 - Artificial Modification of Watercourses – DfI Rivers PAMU acknowledge approval to undertake works on the watercourse in correspondence dated 27th August 2019.

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

### Water/ Sewerage

There is a public water supply as well as foul and surface water sewerage available within 20m of the site. In their latest comments Northern Ireland Water, in terms of Waste Water Treatment Facilities (Newry WwTW) are presently available to serve this proposal. However, there are Wastewater Network Constraints that are ongoing within parts of the Newry area. NI Water have outlined that there is downstream incapacity in the Newry Catchment and recommend that no further connection should be made to this network until the mandatory Sewer Adoption Agreement has been authorised by NIW.

A condition shall be attached to any approval notice requiring that no development shall take place on the site until the method of sewage disposal has been agreed in writing with the relevant Authority.

### Considerations of Objections

All of the issues raised (valid planning reasons) in these objections have been fully considered in the assessment of this planning application. The planning department noted the proposal originally sought an apartment block along Windsor Avenue, which was an issue raised by objectors. As discussed above the planning department considered only a detached dwelling could front onto Windsor Avenue.

Case officers consider the proposal to be compliant with surrounding land uses with no amenity impact on surrounding properties in terms of overlooking, loss of light noise and general disturbance.

In terms of Road safety, DfI Roads have been formally consulted carried out to ensure the proposal was compliant with PPS 3. DfI roads have noted the objections raised and are now satisfied with the most recent site layout/access arrangements subject to conditions and informatives. With respect to creating a quality residential environment the planning department are content that the distance from rear wall to rear boundaries are adequate.

The Planning Authority have secured significant amendments to this proposal throughout the processing of this application to ensure that this proposal meets these core planning principles for sustainable development outlined in the SPPS for the reasons outlined within this report.



### **Recommendation:**

Approval

### **Conditions:**

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

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

The development hereby permitted shall take place in strict accordance with the following approved plans: 01, 1582-P-02M, 04, 05, PL06B, PL07B, PL08C, PL09A, PL12D, PL13A, PL14A, 1582P-15, 1582-P-016B, 1582-P-017C & Andacrib Concrete Crib Retaining Wall (Phi Group).

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

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

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 1582-P-017C, bearing the date stamp 2<sup>nd</sup> December 2021

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

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

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

4. The visibility splays at the access of Windsor Avenue shall be provided in accordance with drawing number 1582-P-017C, bearing the date stamp 02<sup>nd</sup> December 2021 prior to the commencement of any other works or other development.

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

5. No dwelling shall be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars at the rate of 2 space per dwelling.

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

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

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

7. The Development hereby permitted shall not be commenced until a Street Lighting scheme design has been submitted and approved by the Department for Infrastructure Street Lighting Section.

Reason: Road safety and convenience of traffic and pedestrians.

8. The Street Lighting scheme, including the provision of all plant and materials and installation of same, will be implemented as directed by the Department for Infrastructure Street Lighting Section. (These works will be carried out entirely at the developer's expense.)

Reason: To ensure the provision of a satisfactory street lighting system, for road safety and convenience of traffic and pedestrians.

9. A detailed Construction Method Statement, for works in, near or liable to affect any waterway as defined by the Water (Northern Ireland) Order 1999, must be submitted to NIEA Water Management Unit, at least 8 weeks prior to the commencement of the works or phase of works.

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

10. The appointed contractor must submit a Construction Method Statement (CMS) for approval in writing by Newry City, Mourne and Down District Council Planning before commencement of any works on site. This CMS must contain site specific environmental mitigation that will protect the on-site water environment from polluting discharges during construction phase.

Reason: To ensure that the appointed contractor is aware of and implements the appropriate environmental mitigation during construction phase.

11. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease, and the Planning Authority shall be notified immediately. This new contamination shall

be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance, as applicable. In the event of unacceptable risks being identified, a Remediation Strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction. This strategy should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance, as applicable. Reason: Protection of environmental receptors to ensure the site is suitable for use.

12. After completing the remediation works under Condition 11 and prior to occupation of the development, a Verification Report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance, as applicable. The Verification Report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

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

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

14. No development shall take place on-site until the method of sewage disposal and storm sewer disposal has been agreed in writing by the Planning Authority in conjunction with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure that a feasible method of sewage disposal is available at the site

15. No construction to be made, trees planted, or other obstruction made within
  - 3m (or 1.5 times the depth whichever is greater) of sewers,
  - 4m (or 1.5 times the depth whichever is greater) of watermains



Reason: To prevent disturbance/ damage to existing sewers / watermains and in the interest of public safety.

16. During the first available planting season after the occupation of the first dwelling, or as otherwise agreed in writing with the Planning Authority, landscaping shall be carried out in accordance with Drawing No 30224-205 REV C - Landscape Layout and Details and maintained in perpetuity to the satisfaction of the Planning Authority.

Reason: In the interest of visual and residential amenity.

17. All areas of public open space and communal landscaping as shown on the approved drawings shall be maintained in accordance with a Landscape Management and Maintenance Plan to be submitted to and agreed in writing with the Planning Authority prior to the occupation of any part of the residential development hereby approved. The Plan shall cover a minimum period of 25 years. Should the Management Company dissolve at any stage, then a new Management Company shall be appointed, and a new Management and Maintenance Plan shall be submitted to and agreed in writing with the Planning Authority.

Reason: To ensure the successful establishment and long-term maintenance of public open space and landscaping in the interests of visual and residential amenity.

18. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Planning Authority gives its written consent to any variation. Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

**Case Officer Signature:** S. Maguire

**Date:** 23-03-22

**Appointed Officer Signature:** M Keane

**Date:** 23-03-22



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:**

LA07/2021/0911/F

**Date Received:**

05.05.2021

**Proposal:**

Conversion of existing agricultural barn to self-contained holiday accommodation

**Location:**

6 Clonduff Road  
Ballyaughian  
Hilltown  
Co. Down

**Site Characteristics & Area Characteristics:**

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

The application site comprises No. 6 Clonduff Road which is a 1 ½ storey dwelling and associated farm buildings and farm yard. The subject building is sited approximately 10m east from the roadside and is finished in natural stone with a tin roof. Part of the application building appears to have been extended overtime. The building is

accessed via an existing entrance that serves the farm yard and dwelling. The application proposes to use this access also.



*Subject building outlined in red*





*Subject building*

## **Planning Policies & Material**

### **Considerations:**

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 2: Natural Heritage
- PPS 3: Access, Movement and Parking
- PPS 21: Sustainable Development in the Countryside

### **Site History:**

No planning history.

### **Consultations:**

Roads – No objections

Environmental Health – No objections

Water – Generic response

### **Objections & Representations:**

Neighbour notifications - 15.07.2021

Advertisement - 02.06.2021

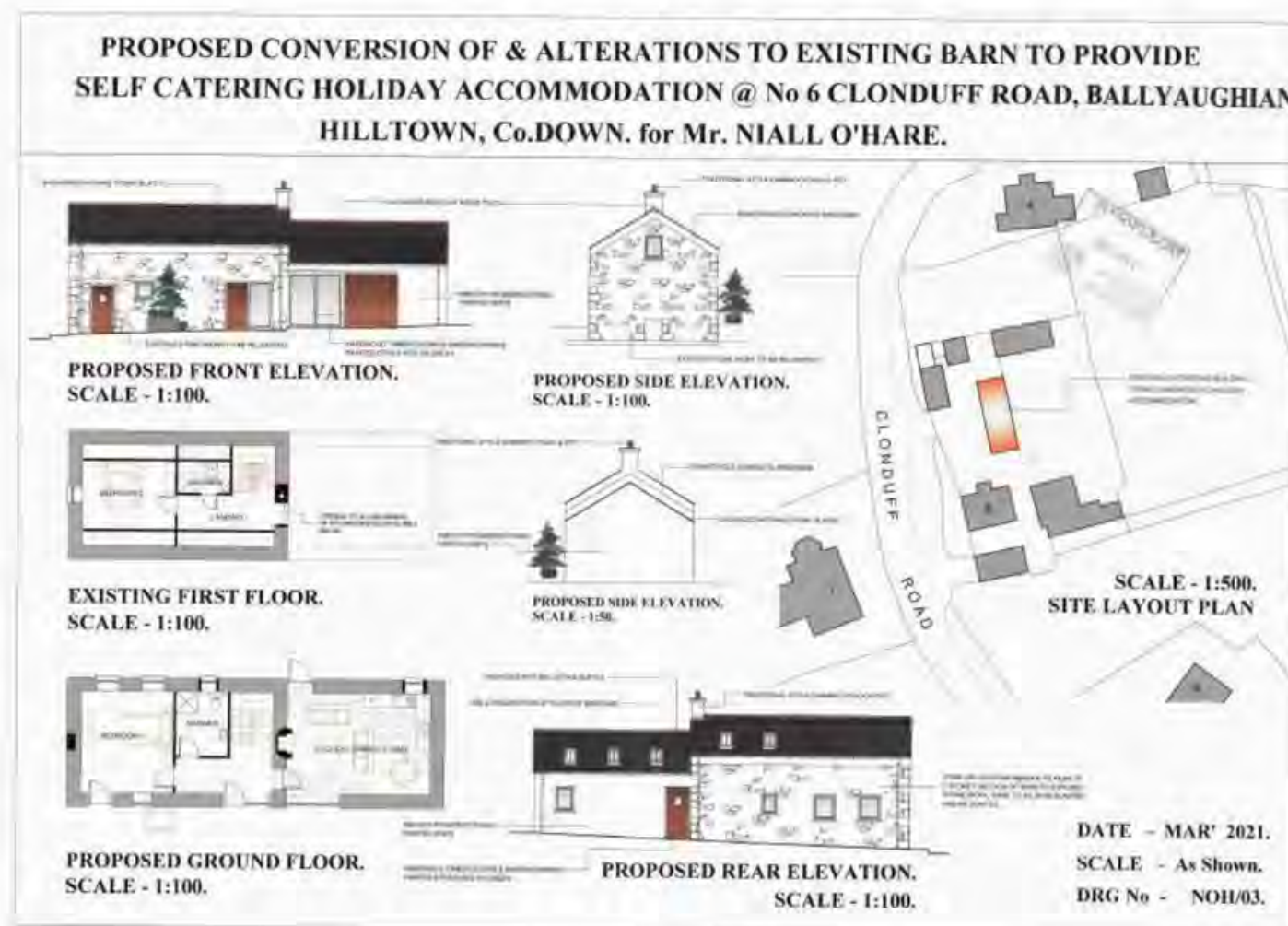
A letter of objection was received from the occupier of neighbouring property No. 4 Clonduff Road. It was considered that the letter contained sensitive information and therefore wasn't uploaded onto the Planning Portal and will not be discussed in full within this report. The main concerns were in relation to additional noise that the proposal may bring to the area as well as safety concerns over strangers coming to the area.

The letter of objection has been considered in full and Environmental Health have no concerns with the proposal in terms of noise, air pollution, general amenity, air quality, contaminated land and other considerations.

## **Assessment**

### Proposal

The proposal involves the conversion of an existing agricultural barn to self-contained holiday accommodation. The proposal does not involve the creation of any additional footprint. There will be a large kitchen/dining/living area, bedroom and shower at ground floor and a second bedroom and shower at first floor level. The existing exterior stone work is to be re-jointed while the extended part of the building is to be finished in a smooth render painted white. The roof is to be finished with salvaged natural stone slates and the windows and doors are to be hardwood timber painted red or green. The proposal is shown below.



*Proposed plans*

### Strategic Planning Policy Statement

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.

Paragraph 6.73 relates to the conversion and re-use of existing buildings for residential use and states *"Provision should be made for the sympathetic conversion and re-use, with adaptation if necessary, of a locally important building (such as former school houses, churches and older traditional barns and outbuildings), as a single dwelling where this would secure its upkeep and retention. Provision should also be made for the conversion of a locally important building to provide more than one dwelling where the building is of sufficient size; the conversion involves minimal intervention; and, the intensity of the use is considered appropriate to the locality. A former dwelling previously replaced and retained as an ancillary building to the new replacement dwelling will not be eligible for conversion back into residential use under this policy".*



This application seeks a "Conversion of existing agricultural barn to self-contained holiday accommodation".

No supporting information was submitted alongside this application. An email was sent to the applicant 7<sup>th</sup> July 2021 requesting more information as to what policy the application is being submitted under. Further information was received 22<sup>nd</sup> July 2021 in the form of a Design and Access Statement which outlined "the fact that this proposal involves the conversion of an existing building, ensures that Policy TSM 5 of PPS 16 is not engaged." The DAS goes on to consider Policy CTY 4 of PPS 21, however no reference was made to the greater weight that should be applied to the SPPS in relation to conversions. No information was submitted to show how the building is a "locally important building".

A second email was sent to the applicant 29<sup>th</sup> July to advise of the further criteria that needs to be met since the introduction of the SPPS. The applicant was advised that due to the lack of information provided, the application will be moved forward recommended for refusal.

Further information was received 5<sup>th</sup> August in the form of a document by O'Callaghan Planning. The further information outlined that:

"The building, being an older traditional barn / outbuilding, does in fact fit the definition laid out in the SPPS, and it is felt that officers have looked to the first part of the (non-definitive) list of typologies i.e. former school houses and churches without regard to the later reference to older traditional barns. To emphasise this building's age, we would draw your attention to the historic map extract below, dating to 1957. While the Policy does not define "old", we feel that a building of this age cannot be characterised otherwise. The building is traditional insofar as it is linear, rectangular, of low elevation, and it could almost be characterised as vernacular."

In consideration of all the information to date, the Planning Department consider that the building is not considered a locally important building and it has no distinguishable features than standard outbuildings. The subject building is set back from the road within a farm yard with public views subsequently obscured and part of the building appears to have been extended more recently. The Department consider that the building is not of any particular importance and therefore the proposal does not comply with the SPPS.

The document submitted goes on to state: "If, upon reflection, the Council remains of the view that the subject building is not an old traditional barn or outbuilding, we would emphasise that the assessment of the proposal has to shift elsewhere, to the "other policies set out within the SPPS"". The document makes reference to PPS 16 and goes on to outline "6.260 of the SPPS states that the guiding principle should be to ensure policies and proposals facilitate appropriate tourism development in the

countryside **such as** appropriate farm diversification schemes, **the re-use of rural buildings**.....

PPS 16 refers the proposed conversion of an existing building to provide a tourist amenity to Policy CTY 4 (discussed above – more weight given to SPPS) and states that proposals involving the reuse or adaptation of existing farm buildings should be assessed under Policy CTY 11 – Farm Diversification of PPS 21. Criterion (a) of CTY 11 requires the farm business to be currently established and active. Although the information provided does not allude to the proposal being assessed under Policy CTY 11 I will make comments for clarity. No information (business ID, farm maps, invoices etc) has been provided to show that this is the case therefore an informed assessed could not be made and the proposal fails to comply with criterion (a) of this policy.

The application proposes self-catering accommodation which is of a permanent fixed nature. The relevant Policy within PPS 16 is Policy TSM 5. The criteria within this policy is outlined below:

*Planning approval will be granted for self-catering units of tourist accommodation in any of the following circumstances:*

- (a) one or more new units all located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park;*
- (b) a cluster of 3 or more new units are to be provided at or close to an existing or approved tourist amenity that is / will be a significant visitor attraction in its own right;*
- (c) the restoration of an existing clachan or close, through conversion and / or replacement of existing buildings, subject to the retention of the original scale and proportions of the buildings and sympathetic treatment of boundaries. Where practicable original materials and finishes should be included.*

- (a) The subject building is not located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park;
- (b) The proposal does not involve a cluster of 3 or more new units to be provided at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right;
- (c) The proposal does not involve the restoration of an existing clachan.

It is considered that the proposal fails to comply with Policy TSM 5 as outlined above.

For the reasons outlined above, it is considered that the principle of development cannot be established at this site. I will consider the other relevant policies for future reference.

### Policy CTY13

Policy CTY 13 states that planning permission will only be granted for a building in the countryside where it can be visually integrated into the landscape and is of an

appropriate design. As the proposal does not involve the creation of any floorspace and the existing structure is to remain with the exception of proposed finishes, the proposal is considered to comply with Policy CTY13.

#### Policy CTY14

Policy CTY 14 relates to rural character. As previously stated, as the proposal does not involve the development of any new buildings, it is not considered that the proposal will appear as unduly prominent in the landscape. It will not result in suburban style build up nor add or create a ribbon of development. The proposal is considered to comply with Policy CTY14.

#### Policy NH6

Policy NH6 relates to areas of Outstanding Natural Beauty and states that planning permission will only be granted where it is of an appropriate design, size and scale for the locality. As the proposal does not involve the development of any new buildings or floorspace, it is considered to comply with Policy NH 6.

#### **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.
2. The proposal is contrary to the Strategic Planning Policy Statement in that the subject building is not considered a locally important building.
3. The proposal is contrary to Policy TSM 5 of PPS 16 in that the proposal does not involve:
  - (a) The subject building is not located within the grounds of an existing or approved hotel, self catering complex, guest house or holiday park;
  - (b) The proposal does not involve a cluster of 3 or more new units to be provided at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right; and
  - (c) The proposal does not involve the restoration of an existing clachan or close.

**Case Officer Signature: Eadaoin Farrell**

**Date: 09.09.2021**

**Appointed Officer Signature: M Keane**

**Date: 10-09-21**





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

## Addendum Report

**Application Reference:**

LA07/2021/0911/F

**Date Received:**

05.05.2021

**Proposal:**

Conversion of existing agricultural barn to self-contained holiday accommodation

**Location:**

6 Clonduff Road  
Ballyaughian  
Hilltown  
Co. Down

**Summary**

This application was originally recommended for refusal under SPPS, Policy CTY 1 of PPS 21 and TSM 5 of PPS 16 in that the subject building was not considered a locally important building (SPPS given higher weight than CTY 4) and is not located within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park, does not involve a cluster of 3 or more new units to be provided at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right and does not involve the restoration of an existing clachan or close.

The application was on the Delegated List 13<sup>th</sup> September 2021 and was subsequently called in by Cllr Tinnelly. The application was discussed at Planning Committee 15<sup>th</sup> December 2021 whereby Cllrs agreed for the application to be deferred to allow the submission of additional information in relation to Policy CTY 11 – Farm Diversification.

Additional information was received 18<sup>th</sup> January 2022 in the form of a P1C form. A consultation was issued to DAERA 20<sup>th</sup> January 2022 and a response received 24<sup>th</sup>

February 2022. The principle of development will be discussed further below under Policy CTY 11 in line with the additional information and DAERA's response.

### **Objections & Representations:**

Due to the additional information received, 2 neighbouring properties were notified 25.01.2022. A letter of objection was received from neighbouring property No. 4 Clonduff Road 08.02.2022. This letter has been uploaded onto the Portal for viewing. A letter of objection was originally received from this address when the application was first received and the points within the letter remain the same.

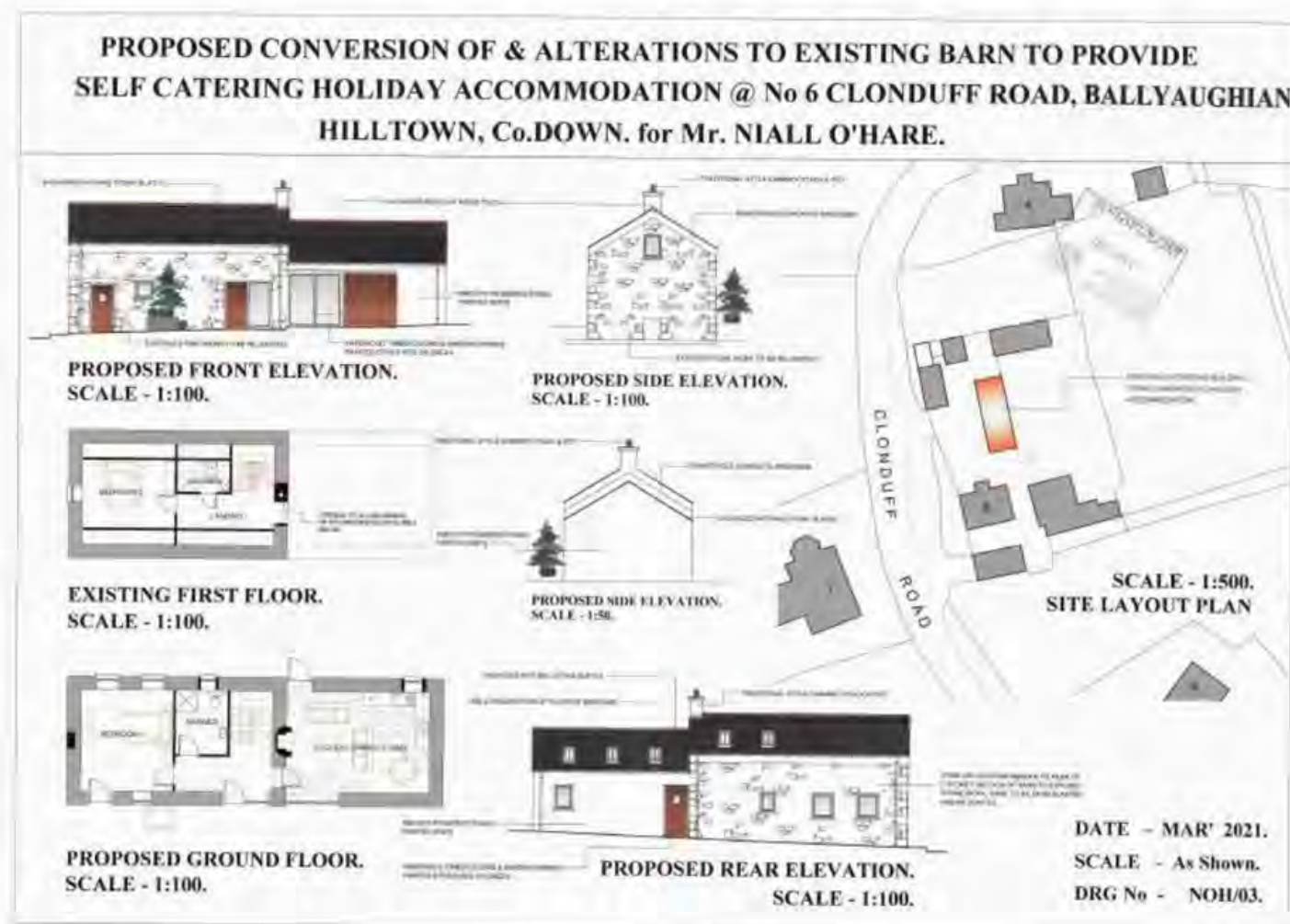
The main concerns are in relation to additional noise that the proposal may bring to the area as well as safety concerns over strangers coming to the area which would affect the objector's daughter's wellbeing.

The letter of objection has been considered in full and Environmental Health (consulted originally) have no concerns with the proposal in terms of noise, air pollution, general amenity, air quality, contaminated land and other considerations.

### **Assessment**

#### Proposal

The proposal involves the conversion of an existing agricultural barn to self-contained holiday accommodation. The proposal does not involve the creation of any additional footprint. There will be a large kitchen/dining/living area, bedroom and shower at ground floor and a second bedroom and shower at first floor level. The existing exterior stone work is to be re-jointed while the extended part of the building is to be finished in a smooth render painted white. The roof is to be finished with salvaged natural stone slates and the windows and doors are to be hardwood timber painted red or green. The proposal is shown below.



*Proposed plans*

### Policy CTY 11

*Planning permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. The following criteria will apply:*

- (a) the farm or forestry business is currently active and established;

In a response dated 24.02.22, DAERA have confirmed that the farm business has been established for more than 6 years (allocated 1991) and that the farm business has claimed payments in each of the last 6 years. From this response, I am satisfied that the farm business is currently active and established.

- (b) *in terms of character and scale it is appropriate to its location;*

The proposal does not involve the creation of any floorspace and the existing structure is to remain with the exception of proposed finishes. Due to the minor nature of the proposed works, I am satisfied that the proposal is appropriate to its location as it involves the conversion of an existing agricultural barn.



(c) *it will not have an adverse impact on the natural or built heritage; and*  
 Again, the proposal does not involve any major ground works as the existing structure is to be retained. I am satisfied that the proposal will not have an adverse impact on the natural or built heritage.

(d) *it will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.*  
 There are neighbouring properties, Nos. 4, 8 and 7, to the north, south and west of the site respectively. The proposal involves the change of use of the building to holiday accommodation. A letter of objection was received from No. 4 to the north (outlined earlier in the report). EH were originally consulted on the proposal and advised of no objections in a response dated 5<sup>th</sup> July 2021. There are no concerns over possible overlooking, loss of light or overshadowing of the neighbouring properties as no additional floor space is to be created.

*Proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings. Exceptionally, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they are essential for the maintenance of the existing farm enterprise, are clearly unsuitable for adaptation and re-use or cannot be adapted to meeting the requirements of other statutory agencies. Where a new building is justified it should be satisfactorily integrated with an existing group of buildings.*

The proposal involves the re-use of an existing agricultural barn sited within an existing farm yard. No new buildings are proposed.

The proposal is considered to comply with Policy CTY 11 and the principle of development on this site is acceptable. Comments provided under Policies CTY 13 and 14 and NH 6 remain the same as the additional information was to address the principle of development only.

#### Policy CTY13

Policy CTY 13 states that planning permission will only be granted for a building in the countryside where it can be visually integrated into the landscape and is of an appropriate design. As the proposal does not involve the creation of any floorspace and the existing structure is to remain with the exception of proposed finishes, the proposal is considered to comply with Policy CTY13.

#### Policy CTY14

Policy CTY 14 relates to rural character. As previously stated, as the proposal does not involve the development of any new buildings, it is not considered that the proposal will appear as unduly prominent in the landscape. It will not result in

suburban style build up nor add or create a ribbon of development. The proposal is considered to comply with Policy CTY14.

#### Policy NH6

Policy NH6 relates to areas of Outstanding Natural Beauty and states that planning permission will only be granted where it is of an appropriate design, size and scale for the locality. As the proposal does not involve the development of any new buildings or floorspace, it is considered to comply with Policy NH 6.

#### PPS 3: Access, Movement and Parking

The existing access to the farm yard and building off Clonduff Road is proposed to be used. DfI Roads were consulted and have no objections. The Planning Department also consider there to be ample space within the farm yard to provide 2 parking spaces to serve the 2 bedroom holiday let.

**Recommendation:** Approval

#### **Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: N0H/01 and N0H/03.

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

3. The development hereby permitted shall be used only for holiday accommodation and shall not be used for permanent residence.

Reason: The site is located within the rural area where it is the policy is to control development and this consent is hereby granted solely because of its proposed holiday use.

#### **Informatives:**

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

**Case Officer Signature: Eadaoin Farrell**

**Date: 10.03.2022**

**Appointed Officer Signature: M Keane**  
**Date: 10-03-22**





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

**Application Reference:**

LA07/2021/2066/F

**Date Received:**

16.11.2021

**Proposal:**

Proposed gym extension to front of existing leisure centre, proposed play area and proposed MUGA pitch on the leisure centre grounds

**Location:**

Kilkeel Leisure Centre  
Mourne Esplanade  
Kilkeel  
BT34 4DB

**Site Characteristics & Area Characteristics:**

The site is within the development limits of Kilkeel as designated in the Banbridge, Newry and Mourne Area Plan 2015. The site is also within an Area of Outstanding Natural Beauty and is zoned as a Major Area of Existing Open Space.

The application site comprises the existing recreation centre and swimming pool, existing car park and a piece of vacant land that is enclosed by metal palisade fencing and wooden fencing.

Residential dwellings abut the application site to the east, the grounds within Kilkeel Primary and High School complex abut the site to the north and a second car park serving the Leisure Centre abuts the application site to the west.



*Existing leisure centre*



*Existing swimming pool*





*Vacant plot of land*

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

This application will be assessed under the following policy considerations:

- Strategic Planning Policy Statement (SPPS)
- Banbridge, Newry and Mourne Area Plan (2015)
- PPS 2: Natural Heritage
- PPS 3: Access, Movement and Parking
- PPS 8: Open Space, Sport and Outdoor Recreation

### **Site History:**

- P/1978/0519 – Site for recreation community hall – Permission granted
- P/1985/1036 – Proposed recreation and community centre – Permission granted
- P/1996/1088 - Alterations and extension to existing sports centre to include new swimming pool, fitness suite, entrance lobby and associated car parking and landscaping – Permission granted

### **Consultations:**

- Environmental Health – Environmental Health have reviewed the information in support of this application. It is noted that this application includes a MUGA field located in close proximity to residential properties



which has no indication if floodlighting is to be used. Environmental Health would require the following information before further comment can be made:

- The proposed hours of operation for the flood lighting should be provided.
- A lighting plot should be provided showing how light from the flood lighting will impact on any nearby dwellings. The impact of the lighting should be assessed in accordance with the Institution of Lighting Professionals Guidance Notes on the Reduction of Obtrusive Light.

In an email dated 10<sup>th</sup> February 2022, Stephen Ruddy of NMDDC who is dealing with the application confirmed that no floodlighting was proposed as part of the application. I am content that re-consultation with EH is not required.

- NI Water – Recommended approval.
- DfI Roads – No objections. Planning have noted that the proposed plans show the loss of 6 parking spaces (3 disable parking spaces) to facilitate the gym extension and a drop of bay created. The proposed plan also shows the provision of 4 new disabled parking spaces (using 4 existing spaces) and the creation of a zebra crossing. In summary, the Planning Department note the overall loss of 6 parking spaces, however it is considered that there is ample parking provision to serve the Leisure Centre including the car park within the red line boundary and the second car park to the east of the Leisure Centre outside the red line. I have no concerns with parking and consider the proposal to comply with PPS 3.
- DfI Rivers – No objections under FLD 1, 2, 4 and 5. As per FLD 3, a Drainage Assessment is required if an additional hard-standing of 1000m<sup>2</sup> or greater is to occur. The Planning Department do not consider there to be an additional 1000sqm of hard standing proposed under this application therefore a DA is not required.

### **Objections & Representations:**

Eleven neighbour notification letters were issued 30.11.2021. A further two neighbour letters were issued 27.01.2022 and a neighbour letter was hand delivered to a neighbouring property 21.02.2022.

Advertisement: 08.12.2021

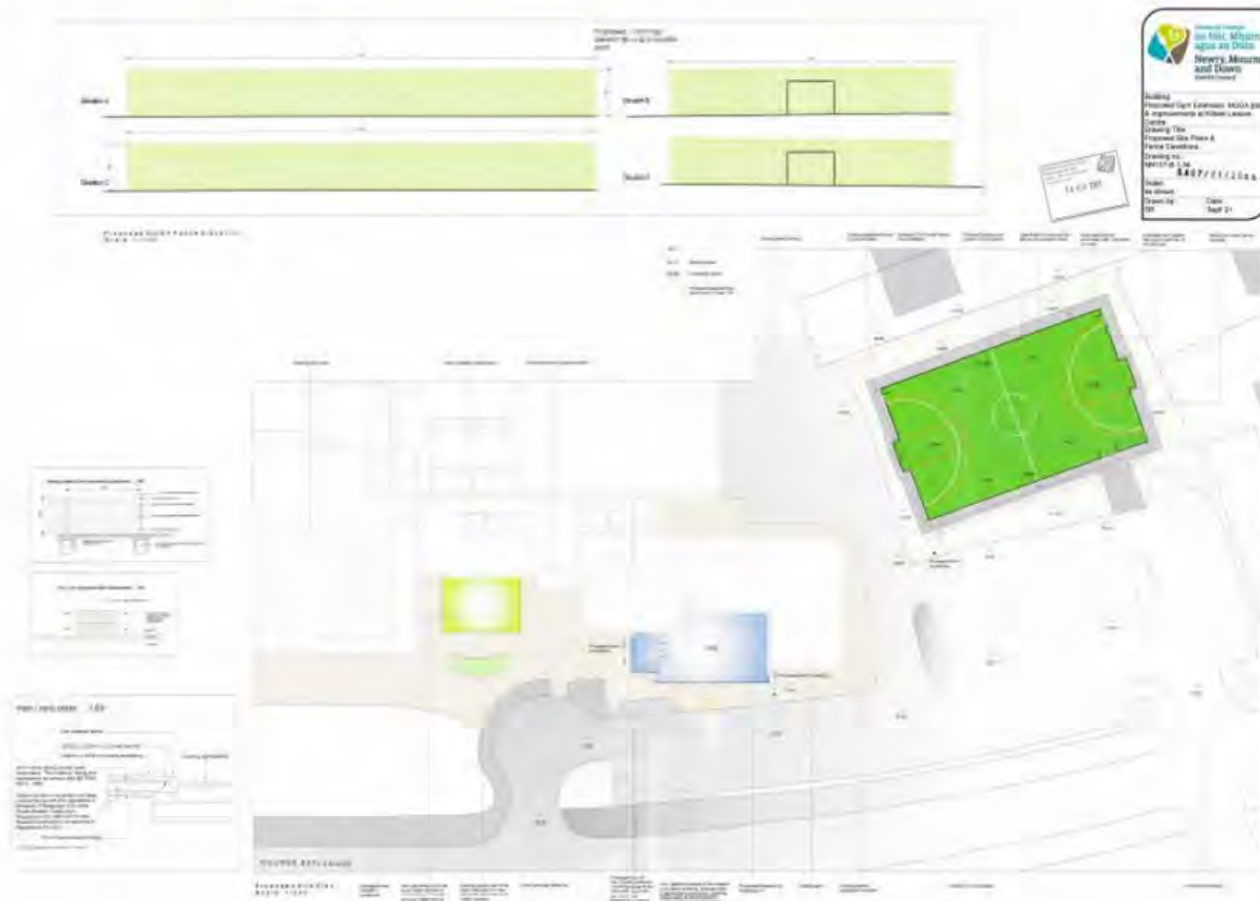
No objections or representations have been received to date (10.03.22).

**Assessment****Proposal**

The proposal involves an extension to the front of the existing gym, a proposed play area to be surfaced with wet pour rubber and enclosed by a 1.2m high bow top metal fence painted grey and a MUGA pitch on the vacant plot of land to be enclosed by a 3m high fence around the perimeter of the pitch and a proposed bitmac perimeter path around the outside of the pitch. The existing boundary fences along the boundaries of the abutting dwellings are to be retained. Planting is also proposed between the MUGA pitch and the adjacent dwellings. No floodlighting is proposed. The proposed extension will provide approx. 136 sqm of additional floor space at ground floor level and will have a maximum ridge height of 5.5m from GL. The proposed finishes include;

rainscreen cladding system (colour shown below), aluminium PPC curtain wall glazing and single ply PVC roofing membrane.

The existing vehicular entrances are to be retained with a few minor parking amendments also proposed as outlined under Roads response above. The proposed drawings are shown below.



### Proposed site layout and boundary treatments





*Proposed floor plans and elevations*

### Principle of Development

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015. The application site is located in the settlement development limit of Kilkeel and part of the site (leisure centre building and parking area) is zoned as a Major Area of Existing Open Space while the vacant plot of land (proposed MUGA) is un-zoned white land within the relevant Area Plan.

### Strategic Planning Policy Statement (SPPS)

Paragraph 6.200 states that "open space, whether or not there is public access to it, is important for its contribution to the quality of urban life by providing important green lungs, visual breaks and wildlife habitats in built-up areas. Open space can enhance the character of residential areas, civic buildings, conservation areas, listed buildings and archaeological sites. It can also help to attract business and tourism and thereby contribute to the process of urban and rural regeneration."

There is little change in the SPPS from that of the policies within PPS 8 and it is arguably less prescriptive, therefore PPS 8: Open Space, Sport and Outdoor Recreation will provide the material considerations for this application.

### PPS 8: Open Space, Sport and Outdoor Recreation

Policy OS1 of PPS8 states that development that would result in the loss of existing open space or land zoned for the provision of open space will not be permitted. An

exception will be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space.

Paragraph 1.3 of PPS 8 states that "open space, for the purposes of this Statement, is defined as all open space of public value. The definition includes not just outdoor sports facilities, parks and gardens, amenity green space and children's play areas, but also natural and semi-natural urban green spaces, allotments, cemeteries, green corridors and civic spaces."

Policy OS1 seeks to protect open space. The proposal involves an extension to the front of the existing Leisure Centre to create a larger gym area, a play area to the front of the existing Leisure Centre and a MUGA pitch to the side of the existing Leisure Centre. Although the proposed siting of the MUGA pitch is un-zoned white land and appears as a fenced off vacant plot of land, it appears as part of the Leisure Centre complex which is zoned as existing open space.

On balance, the extension to the front of the building is proposed on ground currently in use as parking spaces. The proposed extension is considered appropriate in scale and sympathetic to the existing building. The extension will improve existing gym facilities. The redevelopment of a vacant plot of land with a MUGA pitch will also create new outdoor facilities for the Leisure Centre.

It is considered that there is no unacceptable impact on the amenities of people living nearby due to the minor nature of the proposal. EH requested further information on floodlighting due to the neighbouring residential properties, however the agent has confirmed that no flood lighting is proposed and therefore Policy OS 7 does not apply.

The proposal is considered to comply with Policy OS 1 of PPS 8.

#### PPS 2: Natural Heritage

The application site is within an AONB, therefore Policy NH 6 applies. The proposal is considered to comply with this policy given the existing building on site and the urban context. The proposed play areas will not look out of place given the adjacent areas of land that are zoned as existing open space. The proposed finishes and design of the extension are also considered to be acceptable.

#### **Recommendation:** Approval

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

#### **Conditions:**

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: NM107-B-1-30, NM107-B-1-34 and NM107-B-1-35a.

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

3. A mix of Silver Birch and Rowan trees shall be planted at a minimum height of 2m between the MUGA pitch hereby approved and the adjacent residential properties as shown on Drawing No. NM107-B-1-34 prior to the MUGA pitch coming into use and permanently retained thereafter.

Reason: To protect the amenity of the neighbouring properties.

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

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

#### **Informative:**

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

**Case Officer Signature: Eadaoin Farrell**

**Date: 10.03.2022**

**Appointed Officer Signature: M Keane**

**Date: 10-03-22**





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/0769/F

**Date Received:** 15.04.2021

**Proposal:** Slieve Gullion car park lighting

**Location:** Slieve Gullion Forest Park, 89 Drumintee Road, Killeavy,  
BT35 8SW

#### **Site Characteristics & Area Characteristics:**

The application site comprises an area of car parking within Slieve Gullion Forest Park (a Historic Park, Garden and Demesne,) which is in close proximity to a group of listed buildings. This area is approximately 0.8 miles from Meigh village, in a rural area within the Ring of Gullion Area of Outstanding Natural Beauty (AONB.)

#### **Relevant Site History:**

LA07/2017/1136/F - New car and coach park to provide approximately 52 no. additional car parking spaces and to accommodate relocation of coach parking from the existing car park. Replace existing coach parking in existing car park with car parking to provide 32 no. additional car spaces. Total additional car parking spaces proposed: 84 no. new car & coach park finishes: retaining walls; ashfelt hard standing with white lining indicating parking spaces. Approximately 8m deep strip of land times the full width of the new car park will be planted west of the new car park to provide screen planting, PERMISSION GRANTED 25.10.2018

#### **Consultations:**

- HED (07.02.22) – No objections
- SES (18.10.21) – No objections
- NIEA (16.07.21) – Recommend lux does not exceed 1 and not directed at vegetation.
- Transport NI (28.06.21) – Consulted in error.
- EH (15.06.21) – No objection

### **Objections & Representations**

The application was advertised in local press on 4th May 2021 and 1 neighbouring property was notified by letter on 28<sup>th</sup> May 2021. No objections or representations have been received to date and both the statutory advertising and neighbour notification periods have expired.

### **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 in a rural area within a designated AONB (Ring of Gullion,) as identified by the BNMAP. There are no specific policies in BNMAP relevant to the determination of the application, directing the decision-maker to the operational policies of the SPSS and the retained Policies of PPS21, in addition to the relevant guidance listed below.

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

#### Banbridge, Newry & Mourne Area Plan 2015 (BNMAP)

The site is located within a rural area, AONB, Special Countryside Policy Area, Historic Park, Garden and Demesne and directly adjoins a Site of Local Nature Conservation Importance (SLNCI – Hawthorn Hill.) The proposal fully complies with these designations and associated policies of the Area Plan.

#### PPS2 - Natural Heritage

The site is located to the east of Slieve Gullion ASSI and SAC (designated sites,) which are of international and national importance and protected by the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002 (as amended). The site is also adjacent to Hawthorn Hill SLNCI. DAERA raise no concerns about the impact of the proposal on the SLNCI or ASSI, in accordance with NH3 and NH4.

SES advise that the Council is the competent authority to carry out the Habitats Regulations Assessment, as the authority in both undertaking and assessing the proposal. In conducting a HRA screening, the potential impact of this proposal on Slieve Gullion SAC has been assessed. It is considered that the proposal will not have a likely significant effect on this site or any other European Sites given the scale, nature and location of development in relation to the SAC (c.0.6km west of the site / uphill) and no mitigation would be required. The proposal is acceptable to NH1.

In assessing other natural heritage interests, it is noted that the site contains a building, grassland, two car parks and is adjacent to woodland which have the potential to contain and or be used by protected and/or priority species including badgers, bats and birds. DAERA NED has considered all of the information provided and recommends that light spillage from the proposed car park is to be no more than one lux and directed away from the boundary vegetation and trees. This matter will be dealt with by condition. It will also be necessary to attach informatives in respect of bats and birds for the applicant's awareness and to ensure the provisions of NH2 and NH5 are met.

The proposed works do not raise any concerns in relation to the AONB and NH6 requirements.

Conditional to the necessary conditions and informatives being met, the proposal is compliant with the relevant policies of PPS2.

#### SPPS and PPS6 – Planning, Archaeology and the Built Heritage

HED, Historic Buildings, whilst initially largely content with the proposal. Were unable to fully assess the application (Policy BH11) on the basis of information available and requested drawings which demonstrate the relationship between the listed buildings and the lighting proposal (to include East and North elevations showing finished ground and full height of the proposed lighting in relation to the existing site and road levels and to the listed buildings. Following provision of this information (HED in final comments dated 07.02.22) is content that the proposed lighting does not represent a demonstrable negative impact on the listed building or its setting. And in conclusion, considers that the proposal satisfies the policy requirements of SPPS 6.12 and BH11 PPS6, without the need for planning conditions.

#### SPPS and PPS21: Sustainable Development in the Countryside (Policy CTY1)

The proposal relates to the provision of car park lighting to serve the facilities at Slieve Gullion Forest Park. The proposal will not cause unacceptable degree of harm to the surrounding rural character, landscape, environmental integrity (including AONB) or to any historic / architectural interests and it is compatible with the existing and surrounding context. Environmental Health has confirmed that the proposal would not result in any adverse amenity to any surrounding residents. And on a whole, the proposal will not result in an adverse impact on the visual amenity or character of the area. For these reasons, the proposal is also considered to comply with the policy requirements of PPS21 CTY1.

**Recommendation:** Approval

#### **Conditions:**

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

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

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

- Drawing No 01 (Plan No. 27605SW) – Site Location Plan
- Drawing No EL-03 Rev P4 – Electrical Services Upper and Lower Car Park Lighting;
- Drawing No. EL-04 Rev P1 - Electrical Service Upper and Lower Car Parking Lighting Section Views
- Drawing No EL-05 Rev P1 – Electric Services Upper and Lower Car Park Lighting Elevations;

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



3. Light spillage from the carpark lighting shall not exceed one lux and directed away from the boundary vegetation and trees.

Reason: To ensure protection of potential protected species.

<b>Case Officer Signature:</b> Orla Rooney	<b>Date:</b> 14.03.22
<b>Appointed Officer Signature:</b> Patricia Manley	<b>Date:</b> 14.03.22

**Regional Planning Directorate**



Department for

**Infrastructure**

An Roinn

**Bonneagair**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

To: Head of Planning (Councils)

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[julie.maroadi@infrastructure-ni.gov.uk](mailto:julie.maroadi@infrastructure-ni.gov.uk)

Your reference:  
Our reference:

15 March 2022

Dear Colleagues

**END OF THE EMERGENCY PERIOD - THE PLANNING (DEVELOPMENT MANAGEMENT) (TEMPORARY MODIFICATIONS) (CORONAVIRUS) REGULATIONS (NORTHERN IRELAND) 2020**

As you will be aware, the Planning (Development Management) (Temporary Modifications) (Coronavirus) Regulations (Northern Ireland) 2020 temporarily removed the requirement for a public event (and its associated advertising) as part of the pre-application community consultation process associated with planning applications for major development. This applied where a proposal of application notice, which triggers the pre-application community consultation process, is given to a council / the Department before, or during, the defined emergency period. This was introduced from 01 May 2020 to 30 September 2020, but has been subsequently extended three times, initially to 31 March 2021, then to 30 September 2021 and finally to 31 March 2022.

As the emergency period end date of 31 March 2022 is fast approaching the Department is now advising that there will be no further extension. This means that where a proposal of application notice, which triggers the pre-application community consultation process, is given to a council / the Department after 31 March 2022, the requirement for a public event (and its associated advertising) as part of the pre-application community consultation process associated with planning applications for major development will again be required.

It has always been the Department's stated position that it would not extend the emergency period any longer than absolutely necessary. Taking account of the changes to the public health advice and Minister Swann's announcement of the removal of all

remaining Covid-19 restrictions, the Department considers it the right time for pre-application community consultation public events to be facilitated.

I know that innovative solutions to ensure community engagement have emerged during the pandemic and the Department is keen that these should continue. Flowing from the recently published Review of the Implementation of the Planning Act (NI) 2011 and recommendations which will emerge from the work of the Planning Engagement Partnership the Department is considering how we can take this forward as quickly as possible.

In the meantime applicants can voluntarily hold an on-line/electronic pre-application public engagement event and planning authorities can require that such an event is held.

I hope this is helpful.

Yours sincerely



**ANGUS KERR**  
**Chief Planner &**  
**Director of Regional Planning**



**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
		<b>PLANNING MEETING – 1 AUGUST 2018</b>			
LA07/2017/1261/0	Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield	<b>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</b>	Annette McAlarney	<b>Legal Advice received.</b>	N
		<b>PLANNING MEETING - 13 FEBRUARY 2019</b>			
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	<b>Withdrawn by the Planning Department to allow further consultation to be completed</b>	A Davidson	<b>Remains under consideration</b>	N

	between 54 and 58 Edenappa Road, Jonesborough				
<b>PLANNING COMMITTEE MEETING 26 AUGUST 2020</b>					
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.	<b>Defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can be secured for this proposal.</b>	A McAlarney	<b>Awaiting consultation response from DFI Roads on new info submitted.</b>	N
LA07/2019/1087/0	Replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar	<b>Removed from the agenda as agent unable to attend</b>	A McAlarney	<b>Application on hold to allow a Bat survey to be carried out by applicant. Survey season is May – August.</b>	N
<b>PLANNING COMMITTEE MEETING 23 SEPTEMBER 2020</b>					
LA07/2020/0176/F	Proposed rural infill detached dwelling and garage – 45m north of 5 Molly Road Lower, Jonesborough	<b>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</b>	A Davidson	<b>Under consideration by Planning Office</b>	N
<b>PLANNING COMMITTEE MEETING – 05 MAY 2021</b>					
LA07/2021/0911/F	Conversion of existing agricultural barn to self-contained holiday accommodation 6 Clonduff Road Ballyaughian Hilltown Co. Down BT34 5XF	<b>Removed from the addendum list for full presentation at the next Committee Meeting</b>	Mark Keane	<b>Dec Planning Committee – Defer Amended description and additional info</b>	Y



				received re: Farm Diversification.  Return to PI Committee on 06-04-2022	
LA07/2021/0758/O	Dwelling and garage - Lands immediately south of No. 40 Quarter Road Annalong BT34 4QZ.	Defer for 3 months to allow for additional medical consultants information to be forwarded to the Planning Department and also to have a site visit on this application.	Mark Keane	site visit 07-01-2022 Additional info now received.  Return to PI Committee on 06-04-2022	Y
<b>PLANNING COMMITTEE MEETING 09 MARCH 2022</b>					
LA07/2020/1567/F	Proposed GAA training pitch, multi-use games area, ball wall along with associated lighting, fencing, ball stops and ground works (amended drawings) - Ballyholland Harps GAA grounds Bettys Hill Road Ballyholland Newry BT34 2PL	Removed from the schedule at the request of Planners – to be brought back to Committee	Patricia Manley		
LA07/2017/0978/F and LA07/2017/0983/LBC	Demolition of side and rear extension. New rear and side extensions and rear dormer 50 Hilltown Road Bryansford Newcastle	Defer back to officers to see if agreement on design can be reached and delegate decision to officers	Annette McAlarney		
LA07/2019/1134/O	Replacement Dwelling - 90 Manse Road Darraghcross Crossgar	Insufficient Members for a quorum – bring back to April Planning Meeting	Annette McAlarney	On agenda for PI Committee Meeting – 06-04-2022	



LA07/2021/1370/O -	Infill development of 2 no. dwellings Land located between No.22 and No.22B Lurgan Road Silverbridge Newry BT35 9EF	Defer for a site visit	Andrew Davidson	Site visit held 30-03-2022	
LA07/2020/1161/F -	Change of use from rough grazing to motorhome park - Adjacent to No.11 Altnadue Road Castlewellan	Defer for a site visit	Annette McAlarney	Site visit held 30-03-2022	
END					

## Newry, Mourne & Down District Council – March 2022

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### 1. Live Applications

MONTH 2021/22	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April 2021	206	1,195	232
May 2021	204	1,238	228
June 2021	172	1,219	236
July 2021	176	1,190	224
August 2021	152	1,174	226
September 2021	182	1,175	226
October 2021	188	1,188	232
November 2021	184	1,158	234
December 2021	112	1,097	232
January 2022	160	1,128	232
February 2022	158	1,121	233
March 2022	209	1,147	229

### 2. Live Applications by length of time in system

Month 2021/22	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April 2021	770	193	81	54	97	<b>1,195</b>
May 2021	818	192	76	53	99	<b>1,238</b>
June 2021	777	206	82	43	111	<b>1,219</b>
July 2021	787	179	79	44	101	<b>1,190</b>
August 2021	754	194	84	49	93	<b>1,174</b>
September 2021	737	212	87	44	95	<b>1,175</b>
October 2021	724	232	85	46	101	<b>1,188</b>
November 2021	687	237	81	50	103	<b>1,158</b>

## Newry, Mourne & Down District Council – March 2022

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December 2021	623	242	78	48	106	<b>1,097</b>
January 2022	652	244	76	49	107	<b>1,128</b>
February 2022	638	250	79	44	110	<b>1,121</b>
March 2022	694	224	81	38	110	<b>1,147</b>

### 3. Live applications per Case Officer

Month 2021/22	Average number of Applications per Case Officer
April	83
May	85
June	89
July	83
August	75
September	67
October	64
November 2021	66
December 2021	66
January 2022	69
February 2022	65
March 2022	71

### 4. Decisions issued per month

Month 2021/22	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	161	155
May	157	146
June	190	184
July	159	150
August	148	145
September	177	166
October	160	155
November 2021	199	183
December 2021	165	147
January 2022	120	101
February 2022	157	145
March 2022	162	153



## Newry, Mourne & Down District Council – March 2022

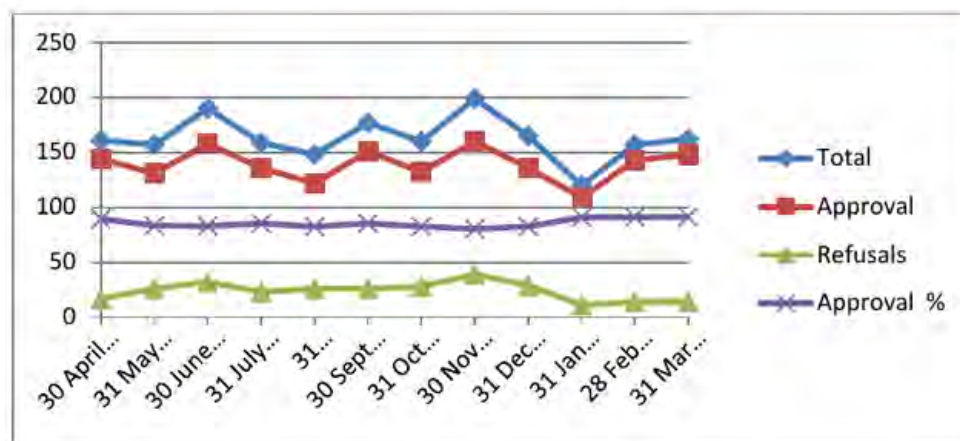
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### 5. Decisions Issued YTD

Month 2021/22	Number of Decisions Issued	Breakdown of Decisions	
April	161	Approvals (144)	89%
		Refusals (17)	11%
May	318	Approvals (275)	86%
		Refusals (43)	14%
June	508	Approvals (433)	85%
		Refusals (75)	15%
July	667	Approvals (569)	85%
		Refusals (98)	15%
August	815	Approvals (691)	85%
		Refusals (124)	15%
September	992	Approvals (842)	85%
		Refusals (150)	15%
October	1,152	Approvals (974)	85%
		Refusals (178)	15%
November	1,351	Approvals (1,134)	84%
		Refusals (217)	16%
December	1,516	Approvals (1,270)	84%
		Refusals (246)	16%
January 2022	1,636	Approvals (1,379)	84%
		Refusals (257)	16%
February 2022	1,793	Approvals (1,522)	85%
		Refusals (271)	15%
March 2022	1,955	Approvals (1,670)	85%
		Refusals (285)	15%

## Newry, Mourne & Down District Council – March 2022

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### 6. Enforcement Live cases

Month 2021/2022	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ yrs	Total
April	285	133	127	122	62	101	830
May	291	134	122	128	64	104	843
June	267	132	121	136	60	102	818
July	269	134	114	137	68	102	824
August	266	132	107	133	71	103	812
September	279	136	103	129	71	102	820
October	269	121	99	126	65	101	781
November	248	129	93	123	60	98	751
December	244	126	85	126	59	92	732
January 2022	223	127	82	117	62	95	706
February 2022	224	134	82	102	59	99	700
March 2022	230	147	79	87	69	96	708

## Newry, Mourne & Down District Council – March 2022

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### 7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting	Number of Officer recommendation overturned
8 April 2021	14	11	3	3
5 May 2021	16	8	8	3
2 & 30 June 2021 (Meetings cancelled)	-	-	-	-
28 July 2021	15	7	8	2
25 August 2021	15	9	6	6
22 September 2021	13	10	3	5
20 October 2021	25	22	3	6
17 November 2021	19	10	9	4
15 December 2021	20	13	7	9
12 January 2022	12	9	3	8
9 February 2022	14	11	3	8
9 March 2022	17	10	7	4
<b>Totals</b>	<b>180</b>	<b>120</b>	<b>60</b>	<b>58</b>

### 8. Appeals

Planning Appeal Commission Decisions issued during period 1 July 2021 to 31 March 2022

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	26	3	3	0	0
Down	45	3	1	2	0
<b>TOTAL</b>	<b>71</b>	<b>6</b>	<b>4</b>	<b>2</b>	<b>0</b>



## Newry, Mourne &amp; Down District Council – March 2022

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Statutory targets monthly update - January 2022 (unvalidated management information)

Newry, Mourne and Down

Major applications (target of 30 weeks)					Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks	Number opened	Number brought to conclusion <sup>3</sup>	"70%" conclusion time <sup>3</sup>	% of cases concluded within 39 weeks
April	2	-	0.0	0.0%	171	143	16.6	43.4%	44	19	69.8	52.6%
May	2	1	35.4	0.0%	159	137	17.2	41.6%	31	30	57.0	66.7%
June	1	1	49.8	0.0%	179	173	16.8	42.8%	38	41	85.8	46.3%
July	0	-	0.0	0.0%	124	136	17.0	41.2%	38	27	85.2	51.9%
August	0	-	0.0	0.0%	137	140	17.1	38.6%	35	67	89.2	53.7%
September	2	-	0.0	0.0%	148	166	19.8	28.3%	48	37	158.4	37.8%
October	0	-	0.0	0.0%	159	147	17.8	34.0%	27	75	122.0	40.0%
November	0	2	75.3	0.0%	149	174	20.0	33.3%	25	69	129.2	44.9%
December	0	1	31.4	0.0%	97	141	22.2	30.5%	20	34	178.7	38.2%
January	0	-	0.0	0.0%	108	106	20.4	28.3%	33	48	101.7	44.7%
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	7	5	49.8	0.0%	1,431	1,463	18.6	36.3%	339	447	108.8	46.6%

Source: NI Planning Portal

## Newry, Mourne & Down District Council – March 2022

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**Notes:**

- 1. DCs, CLUDS, TPOS, NMCS and PADS/PANs have been excluded from all applications figures*
- 2. The time taken to process a decision/withdrawal is calculated from the date on which an application is deemed valid to the date on which the decision is issued or the application is withdrawn. The median is 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".*
- 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

<b>ITEM NO</b>	1	<b>PAC Ref:</b>	2019 /A0248
<b>Planning Ref:</b>	LA07/2019/1130/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Mr James Rogan		
<b>LOCATION</b>	Site Adjacent To 33 Dunwellan Park Newcastle		
<b>PROPOSAL</b>	New end terrace Dwelling with associated site works		

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** 10/03/2020

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

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<b>ITEM NO</b>	2	<b>PAC Ref:</b>	2020/A0003
<b>Planning Ref:</b>	LA07/2019/1021/	<b>DEA</b>	Rowallane
<b>APPELLANT</b>	Mrs E Fitzsimons		
<b>LOCATION</b>	53A Saintfield Road Crossgar		
<b>PROPOSAL</b>	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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## Current Appeals

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<b>ITEM NO</b>	<b>3</b>	<b>PAC Ref:</b>	2020/A0124
<b>Planning Ref:</b>	LA07/2019/1119/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	John McKay		
<b>LOCATION</b>	75 Mill Hill Castlewellan		
<b>PROPOSAL</b>	2 semi-detached dwellings and 1 detached dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/01/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>4</b>	<b>PAC Ref:</b>	2020/A0126
<b>Planning Ref:</b>	LA07/2020/0027/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Judy Meharg		
<b>LOCATION</b>	7 Rocks Road Ballyhornan Downpatrick		
<b>PROPOSAL</b>	Wooden hut on a raised deck (retrospective)		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	22/01/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>5</b>	<b>PAC Ref:</b>	2020/A0142
<b>Planning Ref:</b>	LA07/2020/1072/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Chris Ball		
<b>LOCATION</b>	67 St Patricks Avenue Downpatrick		
<b>PROPOSAL</b>	Change of use from commercial/office to a 2 bedroom dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	15/02/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>6</b>	<b>PAC Ref:</b>	2020/A0145
<b>Planning Ref:</b>	LA07/2020/1485/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Leo McGrenaghan		
<b>LOCATION</b>	Land Adjacent To 32 Teconnaught Road Downpatrick		
<b>PROPOSAL</b>	Dwelling House		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	12/02/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

141

<b>ITEM NO</b>	<b>7</b>		
<b>Planning Ref:</b>	LA07/2018/0293/	<b>PAC Ref:</b>	2020/A0156
<b>APPELLANT</b>	Paul McEvoy	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Opposite 49 And Adjacent To 56 Darragh Road Darraghcross		
<b>PROPOSAL</b>	Erection of housing development consisting of 3 pairs of semi-detached dwellings, 1 detached chalet dwelling and 1 detached bungalow fronting Darragh Road.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	15/03/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>8</b>		
<b>Planning Ref:</b>	LA07/2018/1616/	<b>PAC Ref:</b>	2020/C002
<b>APPELLANT</b>	David Trevor Shields	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Approximately 35 Metres South East Of 8 Ballinran New Road Kilkeel		
<b>PROPOSAL</b>	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.		
<b>APPEAL TYPE</b>	DC- EIA Determination - app ES is required		
<b>Appeal Procedure</b>	<b>Formal Hearing</b>	<b>Date Appeal Lodged</b>	11/08/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

142

<b>ITEM NO</b>	<b>9</b>		
<b>Planning Ref:</b>	LA07/2021/0159/	<b>PAC Ref:</b>	2021/0153
<b>APPELLANT</b>	Mr & Mrs S Morrison	<b>DEA</b>	The Mournes
<b>LOCATION</b>	37 Ballagh Road Newcastle		
<b>PROPOSAL</b>	Proposed Replacement two-storey split level dwelling with retention of existing dwelling for ancillary use		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	01/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>10</b>		
<b>Planning Ref:</b>	LA07/2020/0258/	<b>PAC Ref:</b>	2021/A0008
<b>APPELLANT</b>	Johnny Farrell	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	49a Greenan Road Newry		
<b>PROPOSAL</b>	Retention of construction access with new improved sight lines- previously approved under P/2011/0702/F		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	20/08/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

143

<b>ITEM NO</b>	<b>11</b>		
<b>Planning Ref:</b>	LA07/2020/1568/	<b>PAC Ref:</b>	2021/A0009
<b>APPELLANT</b>	Mr & Mrs Pat Hayes	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	To The Rear And Immediately South West Of 62 Crawfordstown Road		
<b>PROPOSAL</b>	Drumanness Retrospective extension to domestic curtilage, construction of garden feature and greenhouse along with all associates hard and soft landscaping.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	18/05/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>12</b>		
<b>Planning Ref:</b>	LA07/2020/1360/	<b>PAC Ref:</b>	2021/A0022
<b>APPELLANT</b>	Charlie Magennis	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Base And Morelli's 71-73 Central Promenade Newcastle		
<b>PROPOSAL</b>	Proposed erection of temporary retractable awning and lightweight structure		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	09/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

144

<b>ITEM NO</b>	<b>13</b>		
<b>Planning Ref:</b>	LA07/2020/1077/	<b>PAC Ref:</b>	2021/A0031
<b>APPELLANT</b>	Mr Eammon McAteer	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	12 Cullion Road Mayobridge RT34 2H11		
<b>PROPOSAL</b>	Improvements to existing lorry parking area, erection of a building for the maintenance of lorries and collection and compacting of cardboard polystyrene for transfer to re cycling centers		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	25/05/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>14</b>		
<b>Planning Ref:</b>	LA07/2021/0096/	<b>PAC Ref:</b>	2021/A0033
<b>APPELLANT</b>	Mr Bailey	<b>DEA</b>	Rowallane
<b>LOCATION</b>	18a Drumgivan Road Drumgivan Ballynahinch		
<b>PROPOSAL</b>	Extension and renovation of Schoolhouse to domestic dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/05/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>15</b>		
<b>Planning Ref:</b>	LA07/2020/0770/	<b>PAC Ref:</b>	2021/A0034
<b>APPELLANT</b>	Jamie McDonald	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Approx. 40m NE Of 29 Clontigora Hill Newry		
<b>PROPOSAL</b>	Infill dwelling and garage, associated landscaping and site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	25/05/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>16</b>		
<b>Planning Ref:</b>	LA07/2020/0115/	<b>PAC Ref:</b>	2021/A0046
<b>APPELLANT</b>	Brendan Ferris	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	110 Southwest Of 50 Crawfordstown Road Downpatrick		
<b>PROPOSAL</b>	Retrospective change of use of agricultural building to gym		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	28/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

146

<b>ITEM NO</b>	<b>17</b>		
<b>Planning Ref:</b>	LA07/2020/0079/	<b>PAC Ref:</b>	2021/A0049
<b>APPELLANT</b>	M Farrell	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Approximately 50m North West Of No. 53 Ayalogue Road Newry		
<b>PROPOSAL</b>	Dwelling and garage on gap site		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	14/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>18</b>		
<b>Planning Ref:</b>	LA07/2020/1828/	<b>PAC Ref:</b>	2021/A0051
<b>APPELLANT</b>	Richard Hall	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Adjacent And Immediately North Of 42 Old Belfast Road Dundrum Newcastle		
<b>PROPOSAL</b>	Infill site for dwelling with domestic garage		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	16/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

147

<b>ITEM NO</b>	<b>19</b>		
<b>Planning Ref:</b>	LA07/2021/0616/	<b>PAC Ref:</b>	2021/A0052
<b>APPELLANT</b>	Andrew Davis	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	East And Adjacent To 4 Turmennan Road Crossgar		
<b>PROPOSAL</b>	Dwelling at a crossroads/cluster in compliance with PPS21 CTY2a		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>20</b>		
<b>Planning Ref:</b>	LA07/2020/0387/	<b>PAC Ref:</b>	2021/A0074
<b>APPELLANT</b>	Mr C O'Connor	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	59 Drumnaquoile Road Castlewellan		
<b>PROPOSAL</b>	Change of house type and siting in substitution to Planning permission LA07/2018/1590/F		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/07/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

148

<b>ITEM NO</b>	<b>21</b>		
<b>Planning Ref:</b>	LA07/2021/0450/	<b>PAC Ref:</b>	2021/A0075
<b>APPELLANT</b>	Paul Smith	<b>DEA</b>	The Mournes
<b>LOCATION</b>	57 Castlewellan Road Newcastle		
<b>PROPOSAL</b>	Artist studio and study to existing dwelling, for domestic use associated with the dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	28/07/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>22</b>		
<b>Planning Ref:</b>	LA07/2020/1830/	<b>PAC Ref:</b>	2021/A0083
<b>APPELLANT</b>	Briege McComiskey	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Approx 160m North West Of No.26 Leode Road Hilltown		
<b>PROPOSAL</b>	Newry Erection of dwelling and domestic garage on a farm		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	03/08/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

149

<b>ITEM NO</b>	<b>23</b>		
<b>Planning Ref:</b>	LA07/2020/1702/	<b>PAC Ref:</b>	2021/A0088
<b>APPELLANT</b>	Mr Hewitt	<b>DEA</b>	Rowallane
<b>LOCATION</b>	North West And Adjacent To 59 Glasswater Road Creevycarnon		
<b>PROPOSAL</b>	Erection of Sheltered Accommodation for the Elderly		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	11/08/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>24</b>		
<b>Planning Ref:</b>	LA07/2020/0936/	<b>PAC Ref:</b>	2021/A0092
<b>APPELLANT</b>	Mr James Hughes	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Mountview Business Park Rathfriland Road		
<b>PROPOSAL</b>	Replacement free standing vertical sign with logos to both faces		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	17/08/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>25</b>		
<b>Planning Ref:</b>	LA07/2021/0055/	<b>PAC Ref:</b>	2021/A0105
<b>APPELLANT</b>	Heather & Stephen Verner	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Adjacent & 40m North Of 22 Tullyveery Road Killyleagh		
<b>PROPOSAL</b>	Dwelling and garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	17/09/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>26</b>		
<b>Planning Ref:</b>	LA07/2021/0790/	<b>PAC Ref:</b>	2021/A0107
<b>APPELLANT</b>	Mr & Mrs Wayne Garrett	<b>DEA</b>	Rowallane
<b>LOCATION</b>	135m South Of 58 Carsonstown Road Saintfield		
<b>PROPOSAL</b>	Single dwelling and garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	14/09/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>27</b>	<b>PAC Ref:</b>	2021/A0109
<b>Planning Ref:</b>	LA07/2021/0473/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Rhys Dowsall		
<b>LOCATION</b>	5 Killowen Road Rostrevor		
<b>PROPOSAL</b>	Retention of mobile home on concrete hardstanding		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	16/09/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>28</b>	<b>PAC Ref:</b>	2021/A0112
<b>Planning Ref:</b>	LA07/2020/1834/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Mr & Mrs Christopher Kelly		
<b>LOCATION</b>	Approx. 200m SE Of No. 36 Mountain Road Ballynahinch		
<b>PROPOSAL</b>	Dwelling on a Farm		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	28/09/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>29</b>		
<b>Planning Ref:</b>	LA07/2018/0932/	<b>PAC Ref:</b>	2021/A0116
<b>APPELLANT</b>	Dynes Bros	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	No's 12 And 14 St Patrick's Way And Lands Between 12 And 14 St Patrick's Way Ballyhornan Road Ballyalton Downpatrick (amended Address)		
<b>PROPOSAL</b>	Detached dwelling on lands between 12 and 14 St Patrick's Way and amendments to existing dwellings 12 and 14 to provide additional lands, landscaping and amendments to previously approved parking arrangements. (Amended Proposal)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	13/10/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>30</b>		
<b>Planning Ref:</b>	LA07/2019/1206/	<b>PAC Ref:</b>	2021/A0118
<b>APPELLANT</b>	Kilbroney Timberframe Limited	<b>DEA</b>	Newry
<b>LOCATION</b>	Land At 76 Canal Street Newry And Lands 15 Metres North Of 31-43 Catherine Street		
<b>PROPOSAL</b>	Proposed 8 dwellings (2 blocks of four terrace dwellings)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	13/10/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>31</b>	<b>PAC Ref:</b>	2021/A0120
<b>Planning Ref:</b>	LA07/2021/0762/	<b>DEA</b>	Rowallane
<b>APPELLANT</b>	Mr B McCallister		
<b>LOCATION</b>	70 Old Belfast Road Saintfield		
<b>PROPOSAL</b>	Extension to curtilage of dwelling to provide additional access to rear of dwelling, double garage/garden store with games room over.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	15/10/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>32</b>	<b>PAC Ref:</b>	2021/A0122
<b>Planning Ref:</b>	LA07/2020/0921/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Alan Humphries		
<b>LOCATION</b>	Adjacent To 127a Shore Road Kilclief		
<b>PROPOSAL</b>	Dwelling and garage		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	18/10/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>33</b>		
<b>Planning Ref:</b>	LA07/2020/1002/	<b>PAC Ref:</b>	2021/A0128
<b>APPELLANT</b>	Cathal McGroder & Moira Fegan	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	Site 50m West Of 15 O'Callaghan Road Tullydonnell Silverbridge		
<b>PROPOSAL</b>	Proposed erection of a dwelling house and garage.		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	28/10/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>34</b>		
<b>Planning Ref:</b>	LA07/2021/0092/	<b>PAC Ref:</b>	2021/A0137
<b>APPELLANT</b>	Mr Paul Henry Murney	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	39 Chapel Hill Road Mayobridge Newry		
<b>PROPOSAL</b>	Retention of agricultural shed used for the wintering of animals and the storage of fodder and farm machinery		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	04/11/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>35</b>		
<b>Planning Ref:</b>	LA07/2021/0174/	<b>PAC Ref:</b>	2021/A0138
<b>APPELLANT</b>	Mary Boal	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	To The Rear Of No. 56 Milltown Street Burren Warrenpoint Proposed dwelling		
<b>PROPOSAL</b>			
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	04/11/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>36</b>		
<b>Planning Ref:</b>	LA07/2021/1066/	<b>PAC Ref:</b>	2021/A0141
<b>APPELLANT</b>	Sean & Linda Tumelty	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Adjacent To And North West Of 150A Vianstown Road Downpatrick		
<b>PROPOSAL</b>	Single Dwelling House		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	10/11/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>37</b>	<b>PAC Ref:</b>	2021/A0143
<b>Planning Ref:</b>	LA07/2020/0518/	<b>DEA</b>	Slieve Gullion
<b>APPELLANT</b>	Mr Alan Milne		
<b>LOCATION</b>	100m North Of 245 Armagh Road Tullyhappy		
<b>PROPOSAL</b>	Newry Retention of replacement agricultural store		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	17/11/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>38</b>	<b>PAC Ref:</b>	2021/A0148
<b>Planning Ref:</b>	LA07/2021/0536/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Messrs. M & P Fitzsimons		
<b>LOCATION</b>	Lands 186m Due West Of 83 Crew Road Ardglass		
<b>PROPOSAL</b>	Downpatrick Proposed building for mixed use agricultural purposes.		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	23/11/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>39</b>	<b>PAC Ref:</b>	2021/A0149
<b>Planning Ref:</b>	LA07/2019/1375/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Cacola Ltd		
<b>LOCATION</b>	Lands Immediately South Of 17 Leitrim Road Ballymaginaghy Castlewellan Co Down		
<b>PROPOSAL</b>	Erection of 2 Dwellings		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	01/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>40</b>	<b>PAC Ref:</b>	2021/A0150
<b>Planning Ref:</b>	LA07/2021/1061/	<b>DEA</b>	Crotlieve
<b>APPELLANT</b>	Mr Dermot O'Hare		
<b>LOCATION</b>	Lands Between 17A And 17B Hilltown Road Mayobridge RT34 2A1		
<b>PROPOSAL</b>	Proposed dwelling and garage		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	02/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>41</b>		
<b>Planning Ref:</b>	LA07/2019/1490/	<b>PAC Ref:</b>	2021/A0154
<b>APPELLANT</b>	Castleinch Ltd	<b>DEA</b>	Rowallane
<b>LOCATION</b>	North Of 7 And 9 Saintfield Road Ballynahinch		
<b>PROPOSAL</b>	Vary condition 10 of planning approval R/2011/0648/F;  Condition 10: No other development hereby permitted shall be commenced until the works necessary for the improvement of a public		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	02/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>42</b>		
<b>Planning Ref:</b>	LA07/2021/0502/	<b>PAC Ref:</b>	2021/A0156
<b>APPELLANT</b>	Mr & Mrs J Wade	<b>DEA</b>	Rowallane
<b>LOCATION</b>	71 Lisburn Road Lisdalga Saintfield		
<b>PROPOSAL</b>	Replacement dwelling and conversion of existing dwelling to domestic store.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	01/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>43</b>		
<b>Planning Ref:</b>	LA07/2019/1262/	<b>PAC Ref:</b>	2021/A0158
<b>APPELLANT</b>	SJ Anderson & Sons	<b>DEA</b>	Rowallane
<b>LOCATION</b>	11 Lisburn Road Ballynahinch		
<b>PROPOSAL</b>	Replacement of existing dwelling with 4 townhouses and associated site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	03/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>44</b>		
<b>Planning Ref:</b>	LA07/2021/0639/	<b>PAC Ref:</b>	2021/A0161
<b>APPELLANT</b>	Declan Clarke	<b>DEA</b>	Newry
<b>LOCATION</b>	Located Upon Lands Approximately 50 Meters North Of No 33 Ferryhill Road Clontarf		
<b>PROPOSAL</b>	Proposed Erection of outline rural detached infill dwelling house and detached domestic garage, site works and associated landscaping		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	14/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>45</b>		
<b>Planning Ref:</b>	LA07/2021/0578/	<b>PAC Ref:</b>	2021/A0162
<b>APPELLANT</b>	Mr Brendan Quinn	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	Located Upon Lands Approximately 40m South East Of No. 20 Creamery Road		
<b>PROPOSAL</b>	Carran Proposed erection of a rural infill detached dwelling house together with detached domestic garage, site works and associated landscaping		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	14/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>46</b>		
<b>Planning Ref:</b>	LA07/2021/0361/	<b>PAC Ref:</b>	2021/A0163
<b>APPELLANT</b>	Gerard Murphy	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	Approximately 84 Metres North East Of No. 2 Milltown Road Lislea		
<b>PROPOSAL</b>	Co. Armagh Proposed erection of an agricultural storage building and associated site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	14/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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**Current Appeals****161**

<b>ITEM NO</b>	<b>47</b>	<b>PAC Ref:</b>	2021/A0168
<b>Planning Ref:</b>	LA07/2020/1025/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Patrick Fitzsimons		
<b>LOCATION</b>	Adjacent To And North West Of 59 Annacloy Road Downpatrick		
<b>PROPOSAL</b>	BT30 9AQ Proposed dwelling accessed by existing entrance and proposed new entrance for 59 Annacloy Road, Downpatrick		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	14/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>48</b>	<b>PAC Ref:</b>	2021/A0169
<b>Planning Ref:</b>	LA07/2021/0066/	<b>DEA</b>	Newry
<b>APPELLANT</b>	Mr Peter Connolly		
<b>LOCATION</b>	3 River Street Newry BT34 1DQ		
<b>PROPOSAL</b>	Conversion of commercial property to four number self contained one bedroom apartments		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	15/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>49</b>		
<b>Planning Ref:</b>	LA07/2021/0552/	<b>PAC Ref:</b>	2021/A0173
<b>APPELLANT</b>	Stephen Grogan	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Between 1a And 1b Mullavat Road Newry		
<b>PROPOSAL</b>	Co Down Private dwelling on gap/infill site (two storey requested)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	Informal Hearing	<b>Date Appeal Lodged</b>	17/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>50</b>		
<b>Planning Ref:</b>	LA07/2021/0408/	<b>PAC Ref:</b>	2021/A0177
<b>APPELLANT</b>	Irwin Carr Consulting Ltd	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Lands Located To The Rear Of No. 7 Osbourne Promenade (together With Rear Access And Parking From Great Georges Street South)		
<b>PROPOSAL</b>	Proposed Retention of Existing Office/Storage Building to be used in conjunction with No. 7 Osbourne Promenade (amended description)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	Written Reps	<b>Date Appeal Lodged</b>	20/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>51</b>		
<b>Planning Ref:</b>	LA07/2020/0982/	<b>PAC Ref:</b>	2021/A0178
<b>APPELLANT</b>	Mr Noel McKevitt	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Approximately 55 Metres North West Of No.5 Upper Fathom Road		
<b>PROPOSAL</b>	Fathom Lower Proposed erection of 2 No. Rural infill detached dwelling houses and detached garages, rural entrance pillars and gates, additional landscaping and associated site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	20/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>52</b>		
<b>Planning Ref:</b>	LA07/2021/0598/	<b>PAC Ref:</b>	2021/A0179
<b>APPELLANT</b>	Ryan Kelly	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Adjacent To 104 Downpatrick Road Ballynahinch		
<b>PROPOSAL</b>	Farm dwelling, detached garage and site works		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	22/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>53</b>		
<b>Planning Ref:</b>	LA07/2021/0246/	<b>PAC Ref:</b>	2021/A0182
<b>APPELLANT</b>	Gerard Milligan	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Immediately North-west Of 102 Tullybrannigan Road Newcastle		
<b>PROPOSAL</b>	Proposed 3no. self contained tourism units		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	05/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>54</b>		
<b>Planning Ref:</b>	LA07/2021/0428/	<b>PAC Ref:</b>	2021/A0185
<b>APPELLANT</b>	Michael Berrill	<b>DEA</b>	Newry
<b>LOCATION</b>	Casa Bella Interiors 4 The Mall Newry		
<b>PROPOSAL</b>	Replacement of existing shop front sign		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	06/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

165

<b>ITEM NO</b>	<b>55</b>		
<b>Planning Ref:</b>	LA07/2021/1747/	<b>PAC Ref:</b>	2021/A0186
<b>APPELLANT</b>	Walter Watson	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Site Between 121 And 121a Ballylough Road Castlewellan		
<b>PROPOSAL</b>	New Infill Dwelling (CTY 8)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	10/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>56</b>		
<b>Planning Ref:</b>	LA07/2021/0339/	<b>PAC Ref:</b>	2021/A0192
<b>APPELLANT</b>	Mr Daniel Clarke	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Lands Approx. 30m To North East Of No 16 Ringhaddy Road Killinchy		
<b>PROPOSAL</b>	Proposed site for dwelling in accordance with Policy CTY8 of PPS21		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	14/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

166

<b>ITEM NO</b>	<b>57</b>		
<b>Planning Ref:</b>	LA07/2020/1796/	<b>PAC Ref:</b>	2021/A0196
<b>APPELLANT</b>	Joseph McKevitt	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Immediately North West Of No. 4 Aughtnamoira Road Warrenpoint BT34 2PR		
<b>PROPOSAL</b>	Erection of dwelling (amended address)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	14/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>58</b>		
<b>Planning Ref:</b>	LA07/2021/1407/	<b>PAC Ref:</b>	2021/A0197
<b>APPELLANT</b>	Mr & Mrs Orr	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Adjacent To 60 Carsonstown Road Carsonstown Saintfield		
<b>PROPOSAL</b>	Erection of Replacement Dwelling and Retention of existing building as outbuilding		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	18/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

167

<b>ITEM NO</b>	<b>59</b>		
<b>Planning Ref:</b>	LA07/2021/0956/	<b>PAC Ref:</b>	2021/A0200
<b>APPELLANT</b>	David Og Downey	<b>DEA</b>	Newry
<b>LOCATION</b>	101m North West Of No.60 Lower Foughill Road Jonesborough		
<b>PROPOSAL</b>	Newry Proposed off site replacement dwelling and associated site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	24/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>60</b>		
<b>Planning Ref:</b>	LA07/2021/0620/	<b>PAC Ref:</b>	2021/A0203
<b>APPELLANT</b>	Mr Martin Russell	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Magheralagan Corn Mill Opposite 68 Druncullan Road		
<b>PROPOSAL</b>	Downpatrick Restoration and Conversion of Magheralagan Corn Mill to single dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

168

<b>ITEM NO</b>	<b>61</b>	<b>PAC Ref:</b>	2021/A0211
<b>Planning Ref:</b>	LA07/2021/1079/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Bridgeen King		
<b>LOCATION</b>	7 Woodgrove Castlewellan		
<b>PROPOSAL</b>	Use of building as salon for home-working (retrospective)		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Date Appeal Lodged</b>	07/02/2022	
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>62</b>	<b>PAC Ref:</b>	2021/A0225
<b>Planning Ref:</b>	LA07/2021/1123/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Mr & Mrs Malone		
<b>LOCATION</b>	Lands Approx. 50m South East Of 55 Leitrim Road Castlewellan		
<b>PROPOSAL</b>	Proposed Site for erection of 1no detached off site Replacement Dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Date Appeal Lodged</b>	21/02/2022	
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

169

<b>ITEM NO</b>	<b>63</b>		
<b>Planning Ref:</b>	LA07/2021/1188/	<b>PAC Ref:</b>	2021/A0229
<b>APPELLANT</b>	Frank Clerkin	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	170 Metres North West Of 107 Kilbroney Road Rostrevor		
<b>PROPOSAL</b>	RT34 3RW Proposed extension to existing farm yard		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/02/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>64</b>		
<b>Planning Ref:</b>	LA07/2021/1091/	<b>PAC Ref:</b>	2021A0234
<b>APPELLANT</b>	Mr Garth & Mrs Kathryn Belshaw	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Land Adjoining 26 Windmill Avenue Ballynahinch		
<b>PROPOSAL</b>	Single Dwelling House		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	14/03/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

170

<b>ITEM NO</b>	<b>65</b>	<b>PAC Ref:</b>	2021/A0235
<b>Planning Ref:</b>	LA07/2021/0251/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Robin Dalzell		
<b>LOCATION</b>	Site Adjacent To 57 Castlewellan Road Newcastle		
<b>PROPOSAL</b>	Single Dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission	<b>Date Appeal Lodged</b>	14/03/2022
<b>Appeal Procedure</b>			
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>66</b>	<b>PAC Ref:</b>	2021/A0239
<b>Planning Ref:</b>	LA07/2021/0368/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Mr & Mrs L Venney		
<b>LOCATION</b>	Lands Contained Between 1 Minerstown Road And 55 Rossglass Road		
<b>PROPOSAL</b>	Downpatrick 2 no. Infill dwellings and detached garages		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission	<b>Date Appeal Lodged</b>	15/03/2022
<b>Appeal Procedure</b>			
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

171

<b>ITEM NO</b>	<b>67</b>		
<b>Planning Ref:</b>	LA07/2021/1640/	<b>PAC Ref:</b>	2021/A0244
<b>APPELLANT</b>	Luke Rea & Claire McIlwaine	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Lands Adjacent To And 35m West Of 73 Lisbane Road Ballynahinch		
<b>PROPOSAL</b>	Proposed Site for a Single Infill Dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/03/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>68</b>		
<b>Planning Ref:</b>	LA07/2020/1906/	<b>PAC Ref:</b>	2021/E0010
<b>APPELLANT</b>	Eamonn McAteer McAteer Recyclin	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Lands At And To The Rear Of No. 12 Cullion Road Mayobridge		
<b>PROPOSAL</b>	Newrv Existing area, yard and access, for storage, parking and circulation of vehicles associated with McAteer Recycling Ltd, and all associated site works and infrastructure		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	10/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

172

<b>ITEM NO</b>	<b>69</b>		
<b>Planning Ref:</b>	LA07/2021/0778/	<b>PAC Ref:</b>	2021/E0057
<b>APPELLANT</b>	Norman Graham	<b>DEA</b>	Rowallane
<b>LOCATION</b>	50m North To Rear Of 46 Riverside Road Ballynahinch		
<b>PROPOSAL</b>	Erection and use of two agricultural sheds for agricultural uses for storing farm machinery and equipment for active farm and provide lambing/calving, TB Testing onsite facilities with crush		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	21/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>70</b>		
<b>Planning Ref:</b>	LA07/2021/0780/	<b>PAC Ref:</b>	2021/E0058
<b>APPELLANT</b>	Norman Graham	<b>DEA</b>	Rowallane
<b>LOCATION</b>	50m North To Rear Of 46 Riverside Road Ballynahinch		
<b>PROPOSAL</b>	Erection and Use of Dwelling House		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	22/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

173

<b>ITEM NO</b>	<b>71</b>	<b>PAC Ref:</b>	2021/E0069 LDC
<b>Planning Ref:</b>	LA07/2021/1361/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Mr Christopher Skelly		
<b>LOCATION</b>	Land Adjacent And NW Of 50 Flush Road Ballyward Castlewella		
<b>PROPOSAL</b>	The formation of a laneway to the site and the digging of foundations		

<b>APPEAL TYPE</b>	DC- Refusal of CLUD	<b>Date Appeal Lodged</b>	22/02/2022
<b>Appeal Procedure</b>			
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>72</b>	<b>PAC Ref:</b>	2021/E0074 LDC
<b>Planning Ref:</b>	LA07/2021/0990/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Mr Brendan Starkey		
<b>LOCATION</b>	Approx 90m East Of 27 Bright Road Downpatrick		
<b>PROPOSAL</b>	The digging of foundations, the lying of concrete and the construction of a portion of block-work		

<b>APPEAL TYPE</b>	DC- Refusal of CLUD	<b>Date Appeal Lodged</b>	16/03/2022
<b>Appeal Procedure</b>			
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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# Appeal Decision

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<b>Appeal reference:</b>	2021/E0013
<b>Appeal by:</b>	Mr Robert Hollywood
<b>Appeal against:</b>	Refusal to certify a Certificate of Lawfulness for an Existing Use or Development.
<b>Development:</b>	Agricultural storage building associated with the existing farm enterprise
<b>Location:</b>	Lands approximately 100m north west of no. 34 Church Road, Shean, Forkhill, Co Armagh
<b>Planning authority:</b>	Newry, Mourne and Down District Council
<b>Application reference:</b>	LA07/2020/0622/LDE
<b>Procedure:</b>	Written representations with Commissioner's site visit on 22 March 2022.
<b>Decision by:</b>	Commissioner Mandy Jones, dated 23 March 2022.

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## Decision

1. The appeal is allowed, and the attached Certificate of Lawfulness is granted.

## Reasons

2. A Lawful Development Certificate is a statement specifying what was lawful on a particular date. The application for a certificate of lawfulness for an existing use or development ( CLEUD ) was received by the Council on 1 May 2020, in accordance with Section 169 of the Planning Act ( Northern Ireland ) 2011. This appeal was made under Section 173 of the 2011 Planning Act against the Council's refusal of the application.
3. Section 169 of the Act makes provision for the issue of an CLEUD. Section 169 (1) states that ' if a person wishes to ascertain whether – (a) any existing use of buildings or other land is lawful... that person may make an application for the purpose to the appropriate Council specifying the land and describing the use, operations or other matter'. Section 169 (2) indicates that ' for the purposes of this Act uses and operations are lawful at any time if – (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any reason) ; and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force'. Section 169 (4) states that, if, on an application under this section, the Council is provided with information satisfying it of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the Council or a description substituted by it, the



Council must issue a certificate to that effect; and in any other case it must refuse the application. There is no current enforcement notice in place on the appeal site. The onus is on the appellant to establish that the existing building is lawful.

4. The main issue in this appeal is whether or not the appeal building is permitted development in accordance with Part 7 Agricultural Buildings and Operations within The Planning ( General Permitted Development ) Order ( Northern Ireland ) 2015.
5. The application for a Certificate of Lawfulness for an Existing Use or Development was received by the Council on 1 May 2020. It sought to certify that the works were considered permitted development under the Planning ( General Permitted Development ) Order ( Northern Ireland ) 2015, by virtue of Part 7 Class A Agricultural Buildings and Operations. This states that development is permitted where the carrying out on agricultural unit of – (a) works for the erection, extension or alteration of a building; or (b) any excavation or engineering operation; reasonably necessary for the purposes of agriculture within that unit.
6. The Council refused to certify that the appeal building was permitted development. On the notice of refusal dated 22 January 2021, 3 reasons were cited why they considered the development not to be permitted. Firstly, it was considered that the building in question is not necessary for the purposes of agriculture within the unit. Secondly, that the nearest part of any building or structure so erected or extended is more than 75 m from the nearest part of a group of principal farm buildings and thirdly, that the building was not designed for the purposes of agriculture.
7. The Council's statement of case was returned as it was not submitted to the Commission prior to the specified deadline. However, the case officers report within the background papers is before me and confirms that the building does not fall within development not permitted as per criteria (a), (b), (d), (f), (g), (h) and (i) as listed under Part 7, A1- Development not permitted.
8. The appellant operates an agricultural enterprise with a farm business ID number 661135. The Department of Agriculture, Environment and Rural Affairs ( DAERA ) consultation response confirms that that the farm business has been in existence for more than 6 years and has claimed single farm payments. The farm holding extends to around 12 hectares across 4 parcels of land. The appeal building is within field 7 and within this field, the appellant received full planning permission on 4 January 2018 ( LA07/2016/0733/F ) for the erection of new agricultural sheds and slurry tank, approx. 80m west of no.34 Church Road, Forkhill, Armagh, which have been constructed. The existing agricultural shed is 18m x 12m and adjacent are 3 blockwork walls approx. 1.4 m in height enclosing an area used for bale storage.
9. The footprint of the appeal building is 1.2m x 1.8m with a ridge height of 2.0m. Access is from Church Road and the appeal building is set back, approx. 110m from the road. It is sited perpendicular and approximately 9m north of the existing farm shed ( LA/2016/0733/F ). It is of a timber frame construction on a concrete base with external finishes of horizontal shiplap timber cladding and felt roof.
10. The agricultural enterprise consists of both beef production and crop production. I was told by the appellant that this building is required for the storage of veterinary



medicines and records for the herd. The following is required, as confirmed by a Veterinary Medicine Specialist ( letter submitted ) :

- The storage unit must be able to contain spillages, be lockable and kept secure at all times;
- The storage unit must be hygienic and regularly cleaned;
- It must not contain food or drink or be near any animal feed storage;
- Medicines / vaccines store should be of a sufficient size to hold all treatments required for one month;
- All medicines to be clearly labelled and carry warning signs;
- All medicines to be stored in accordance with manufacturer's instructions;
- Product information sheets to be kept in the unit where appropriate copies also needed for COSHH purposes;
- Different classes of products ( antibiotics, vaccines ) should be stored separately;
- To house a refrigerator, and record the storage temperature weekly;
- Check of expiry dates on all stock;
- The herd vet should be able to routinely check the storage and record as part of the animal welfare records for the farm and
- To keep Veterinary records.

11. The Council seemed to focus on the small size of this storage building rather than its use which I consider to be inextricably linked to the existing agricultural building to house cattle. I consider that its size and footprint is reflective of its function to securely store agricultural supplies to ensure the adequate welfare of livestock in the main building; to provide a secure place for health and safety information; animal records for veterinary services and a sterilising point.
12. As such, I am persuaded that the appeal building is reasonably necessary for the purposes of agriculture within the unit. I do not consider the external finishes to be unacceptable for such an agricultural use. Given, the evidence provided by the appellant on the function of the appeal building, I am also of the opinion that it was designed for the purposes of agriculture. The appeal building does not fall within development not permitted by Class A1 ( c ).
13. The appeal building is approximately 9m from the existing agricultural building. To the south of the main agricultural shed are three concrete blockwork walls which enclose an area for bale storage. The existing agricultural building is the only agricultural building on the appellant's holding – other than a stone building adjacent to no 6 Upper Road, Mullaghbawn, already considered by the Council as not appropriate for farming operations. As such, it can be regarded as the principal farm building and the fact that it is a singular building cannot exclude it from being considered, to establish permitted development for the appeal building. To do so, would be illogical. The appeal building does not fall within development not permitted by Class A1 ( e ).
14. I conclude that the appeal building is reasonably necessary for the purposes of agriculture within the unit and complies with Class A of Part 7 of the Schedule of Development Permitted under Article 3 of the GPDO. It does not fall within development not permitted by Class A.1 (c) or (e) of Part 7. The agricultural building on the appeal site is therefore lawful development in accordance with Part

7, Class A of the GPDO. I therefore attach a Certificate of Lawfulness of Existing Use or Development.

**COMMISSIONER MANDY JONES**

**List of Documents**

Appellant: 'A' Statement of Case.

PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169

**CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT**

The Planning Appeals Commission hereby certifies that on 1 May 2020 the use and operation described in the First Schedule to this certificate in respect of the land specified in the Second Schedule was lawful within the meaning of section 169 of the Planning Act 2011, for the reasons set out in the appeal decision to which this certificate is attached.

Signed

**COMMISSIONER MANDY JONES**

23 March 2022

FIRST SCHEDULE

Agricultural storage building associated with the existing farm enterprise.

As shown on drawings; PL01 : Site Location Plan / Location Overview Map / Existing Building Plan and Elevations received by Newry, Mourne and Down District Council dated 1 May 2020.

SECOND SCHEDULE

Lands approximately 100m north west of no. 34 Church Road, Shean, Forkhill, Co Armagh

Notes:

(1) This certificate is issued solely for the purpose of section 169 of the Planning Act 2011.

(2) It certifies that the use and operations described in the First Schedule taking place on the land described in the Second Schedule was lawful on the specified date and, thus, was not 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 use and operations described in the First Schedule and to the land specified in the Second Schedule and identified on the referenced plans. Any use/operations/matters which are materially different from that described or which relates to other land may render the owner and occupier liable to enforcement action.





# Appeal Decision

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<b>Appeal Against:</b>	2021/A0007
<b>Location:</b>	Land to the west of Nos 20-24 Watsons Road Newry
<b>Claim by:</b>	EDB Construction Ltd.
<b>Claim Against:</b>	Newry Mourne and Down District Council
<b>Decision by:</b>	Commissioner Helen Fitzsimons 31 <sup>st</sup> March 2022

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## Decision

1. The award of costs is denied.

## Reasons

2. Paragraph 12 of the Commission's Costs Award Guidance states that the Commission will normally award costs only where all of four stated conditions are met. The stated conditions are as follows:-
  - The claim relates to a relevant type of appeal;
  - The claim is timely;
  - The party against whom the award is sought has acted unreasonably; and
  - The unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense
3. The claimant submitted the costs award claim for this appeal under Section 60 of The Planning (Northern Ireland) Act 2011 one of the types of appeal for which a costs claim can be made. The claim was submitted before the claimant's final submission in a timely manner. The first two conditions are met.
4. The application for planning permission was made on 7<sup>th</sup> May 2020. An extension of the statutory date to determine the application was granted by the respondent on 5<sup>th</sup> November 2020 with a new time limit of 10<sup>th</sup> December 2020.
5. Evidence within the claimant's submission suggests that there had been ongoing communication with the respondent between November 2020 and April 2021 regarding the status of the application for planning permission and that there was disagreement between the parties on the matter of improvements to the carriageway that ought to have been carried out under Condition 9 of previous planning permission P/2006/1117/F.
6. The claimant argued that on 21<sup>st</sup> December 2020, shortly after the agreed extended time limit had expired, the respondent sent an email advising that it had all the necessary information it required to commence writing a report to present to its

2021/A0007

Planning Committee. However, it later transpired that this was not the case and the application for planning permission was still under consideration.

7. Email correspondence submitted by the claimant asserts that on 4<sup>th</sup> February 2021 it had furnished the respondent with information that should have satisfied the respondent that Condition 9 of planning permission P/2006/1117/F had been lawfully discharged. This was in the form of a Preliminary Certificate of Adoption and a Certificate of Lawfulness of Existing Development that planning permission P/2006/1117/F had been lawfully commenced. On 30<sup>th</sup> March 2021 the claimant provided further information regarding the discharge of Condition 9 by virtue of a court judgement. The claimant also advised the respondent that if it continued to withhold a decision on the application for planning permission then it would lodge an appeal with the Planning Appeals Commission in default of that decision by 9<sup>th</sup> April 2021.
8. The respondent advised by email dated 9<sup>th</sup> April 2021 that it was 'continuing to work to achieve a positive outcome to the application for planning permission and that it would prefer if this was not done through the offices of the Planning Appeals Commission.' The respondent also advised it was unable to facilitate the request for a decision to issue by 7<sup>th</sup> April 2021 and continued that even if consideration of the case had been completed, the respondent's procedures in relation to determining planning applications would not have allowed for a decision to issue in that time period.
9. On 23<sup>rd</sup> April the claimant advised the respondent it had not further sought to extend the statutory period for a number of reasons one of which was 'the Council will be required to indicate its position to the Commission in early course as part of the appeal process and that is the opportune time to indicate a 'positive outcome'.
10. I see nothing in the respondent's email of 21<sup>st</sup> December 2020 that infers that the application for planning permission would be granted. It is incumbent on the respondent as the planning authority to satisfy itself that its decisions are lawful and in this case that Condition 9 of planning permission P/2006/1117/F had been complied with. I do not accept that the respondent was acting unlawfully in taking time to consider the matters before it or that it was unreasonable for it to do so.
11. Given the timing and content of the email exchanges between the claimant and the respondent during the period December 2020 and April 2021 I am satisfied that the respondent was working towards a way of resolving the outstanding matters pertaining to the application for planning permission and I do not consider that there was any undue delay in that process. Although I was not given any details, as far as I am aware, the procedures for a Council determining the outcome of an application for planning permission are bound by previously agreed Planning Committee cycles and it is not inconceivable that the claimant's request for a decision before 7<sup>th</sup> April 2021 fell outwith such a cycle. I have no evidence from the claimant to persuade me otherwise. Taking account of all of the above, I do not accept that at the time the appeal was lodged the respondent's actions were unreasonable behaviour that led the claimant to incur an unnecessary or wasted expense.

**COMMISSIONER HELEN FITZSIMONS**

2021/A0007

2021/A0007

**Documents**

Claimant:-

Statement of Case C1

Respondent:-

Response R1





# Appeal Decision

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<b>Appeal Reference:</b>	2021/A0007
<b>Appeal by:</b>	EDB Construction Ltd
<b>Appeal against:</b>	Failure to make a decision
<b>Proposed Development:</b>	Residential development comprising 26 No. Houses (4 No detached and 22 No. semi-detached) change of house type in respect of approval P/2006/1117/F
<b>Location:</b>	Land to the west of Nos 20 – 24 Watsons Road and to the east of Chancellors Road Newry.
<b>Planning Authority:</b>	Newry Mourne and Down District Council
<b>Application Reference:</b>	LA07/2020/0685/F
<b>Procedure:</b>	Written Representations with Commissioner's Site Visit on 26 <sup>th</sup> January 2022
<b>Decision by:</b>	Commissioner Helen Fitzsimons on 31 <sup>st</sup> March 2022

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## Decision

1. The appeal is allowed subject to conditions and full planning permission is granted.

## Claim for Costs

2. A claim for costs was made by EDB Construction against Newry Mourne and Down District Council. This claim is the subject of a separate decision.

## Reasons

3. The main issue in this appeal is whether the proposed development would be contrary to the provisions of the Local Development Plan and if as a consequence it would have an unacceptable adverse impact on the safety and convenience of road users.
4. Section 45(1) of the Planning (Northern Ireland) Act 2011 states that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
5. The appeal site is located within the settlement of Newry as designated by Designation NY 01 'Settlement Limits' of the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) the LDP which operates for the area where the appeal site is located. It is subject to Zoning NY 41 'Housing Chancellors Road' and lies within the western portion of that zoning. Zoning NY 55 'Housing West of Watsons Road' is

2021/A0007



located immediately north of the appeal site but none of the appeal site lands fall within it. Both zonings are contained in Map 3/02a of BNMAP

6. Zoning NY 41 sets out five Key Site Requirements (KSRs) in relation the development of that land. KSR three states that Watsons Road shall be widened and realigned to agreed standards with footway linkage provision. The developer is advised to consult with Roads Service at an early stage. Zoning NY 55 also contains a number of KSRs. KSR four of that zoning requires that Watsons Road shall be widened and realigned to agreed standards with footway linkage provision.
7. An application for planning permission for the 'Construction of new housing development consisting of 77 dwellings and associated access roads, parking and landscaping' was made on 24<sup>th</sup> May 2006 (Ref P/2006/1117/F) and this is the planning permission that the appeal proposal seeks to amend ('the parent permission'). The lands to which this parent permission relates comprise four former fields within the northern portion of Zoning NY 41 and the totality of the lands comprising Zoning NY 55. The plans that accompanied the parent permission identify improvements to Watsons Road that were intended to fulfil KSR three of Zoning NY 41 and KSR four of Zoning NY 55 of BNMAP.
8. The parent permission was granted on 8<sup>th</sup> May 2013 subject to a number of planning conditions. Condition 9 of that permission required 'No part of the development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined in blue on Drawing FB 1016- 202 Rev F bearing the date stamp 14<sup>th</sup> March 2013.' The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3(4C). The reason given was 'To ensure that the road works considered necessary to provide a proper safe and convenient means of access to the development are carried out.'
9. The Order referred to in Condition 9 is The Private Streets (Northern Ireland) Order 1980 (PSO). The stamped approved Drawing No FB 1016-202 'Proposed Roads Determination' encompasses the works required by the relevant KSRs in Zonings NY 41 and NY 55 in respect of road widening and the provision of a footway that extends across the full frontage of the site of the parent permission.
10. Article 3(4A) of the PSO states that 'Where street planning functions are exercisable by the Department in relation to a street which joins an existing public road, the Department may, subject to paragraph (4B), attach to any determination under this Article in respect of that street a requirement that such works as the Department considers necessary for the improvement of that public road are carried out in accordance with an agreement under paragraph (4C). Article 3(4C) (b) of the PSO says that 'the Department may enter into an agreement under seal with any person for the issue of a certificate by the Department when those works have been completed in accordance with the agreement and the terms and conditions of the agreement have been duly complied with.'
11. The appellant provided me with a Preliminary Certificate for the Completion of Streets (preliminary certificate) issued by the Department for Infrastructure dated 7<sup>th</sup> June 2019 which states that 'The Department being satisfied that the requirement (if any) attached to the determination given under Article 3(1) of the Private Streets

(Northern Ireland) Order 1980 has been complied with.' The certificate goes on to say that all works which are reasonably necessary to bring the street into conformity with the regulations made under Article 5(1) have been executed. The certificate was accompanied by a plan numbered NM429A.

12. At my site visit I saw that the works to the carriageway had been carried out to the extent that the road had been widened, road markings were in place and a new footway laid out. However, the new footway has not been laid out across the full extent of Zoning NY 55 and some 500mm of the original footway remains in situ. It is this shortfall that is the basis for the Council's concerns regarding all three of its draft reasons for refusal. A 3rd Party has also raised similar concerns regarding this 500mm piece of land.
13. The appellant told me that, by letter dated 21<sup>st</sup> June 2019 the Department for Infrastructure (DfI) had investigated an alleged breach of Condition 9 of the parent permission, and concluded that 'DfI Roads is content that the road/footway at Watsons Road, Newry has been set out as agreed at the meeting of 8<sup>th</sup> April 2019 and has been constructed to the required standard'. The letter continued that 'Accordingly, from a DfI Roads perspective the Works to the public roads as detailed under the Article 3(4)C Agreement have been completed in accordance with the planning requirements'.
14. The appellant stated that subsequent to this DfI Roads then refused to issue a final certificate that would adopt the said works to the public road. The appellant's contractor took legal action against the DfI position. In a judgement given on 18<sup>th</sup> January 2021 the Magistrates Court held that 'the preliminary certificate issued by the Department had confirmed that road works had been carried out in accordance with the approved PSD drawings.' I have no evidence that this judgement is the subject of a legal challenge and therefore I must conclude that it remains laid down. In addition the appellant told me that the Courts had noted that the DfI Roads Inspector had confirmed that the conditions, which I take to mean planning conditions, had been satisfied and therefore the certificate of adoption should issue. The Council gave me no persuasive evidence to counter that argument. In such circumstances I can only conclude that Condition 9 of planning permission P/2006/1117/F has been met. As a consequence, I must also conclude that the respective KSRs of Zonings NY 41 and NY 55 have been fulfilled. I note that the third party letter dated 7<sup>th</sup> May 2021 alleging a breach of planning control as condition that the works to the road network appended to the Council's written statement predates the issue of the certificate. The Council has not sustained its first draft reason for refusal based on Zonings NY 41 and NY 55 of BNMAP and the third party concerns are not upheld.
15. The Council and an objector argued that the 500mm shortfall in footway provision would inhibit the orderly development of zoned housing sites within the wider area and in particular planning permission P/2013/0242/F which encompasses Zonings NY 19 and NY 53 immediately north of the appeal site. I was told that the objector could not fulfil condition 12 of that permission which states 'No development shall commence until the developer has obtained from Transport NI and all relevant landowners, agreement for works relating to the connection of footpaths and roads approved by this decision with similar structures either existing or proposed, in the surrounding area. The reason given for the necessity of the condition was 'To ensure that a satisfactory network of footpaths and roads, including any boundary

walls and vehicle restraint systems are provided to service the development. Both the Council and the objector, who is the recipient of planning permission P/2013/0242/F, are concerned that it would not be possible to tie in with the appeal site and meet condition 12.

16. In support of its arguments the Council relied upon Policy QD 2 'Design Concept Statements, Concept Master Plans and Comprehensive Planning' of Planning Policy Statement 7 'Quality Residential Environments' (PPS 7) where it says that any proposal for housing that would result in unsatisfactory piecemeal development will not be permitted, even on land identified for residential use in a development plan'.
17. As already referred to above some 500mm of a previous footpath remains in situ. The objector's letter of 7<sup>th</sup> May 2021 states that 'as the improvement works carried out by the neighbouring developer to date do not extend to the boundary of the two sites it is not currently possible for our client to complete these tie in works.' I see nothing in the wording of condition 12 of planning permission P/2012/0242/F to preclude the objector from connecting to this piece of a previous footpath provision. I was given no evidence other than generalised comments to explain why such a connection was not possible. In addition I see no requirement for land/works to the road network which might be associated with the appeal site to 'tie in' to footpaths and roads with similar structures either existing or proposed, in the surrounding area. Given all of this, I do not accept that the proposed development, for a change of house type, within an already approved site for which I have concluded Condition 9 has been met would result in piecemeal development that would be contrary to the provisions of the LDP and PPS 7. The Council has not sustained its second draft reason for refusal and the objector's concerns are not upheld.
18. Having concluded that Condition 9 of planning permission P/2006/1117/F has been met and that approval of the appeal proposal would not result in piecemeal development I must also conclude that a proper, safe, and convenient means of access to the proposed development can be provided. The Council has not sustained its third draft reason for refusal under Planning Policy Statement 3 'Access Movement and Parking (PPS 3) '.
19. As I have concluded that the appeal proposal is acceptable in its own right, I do not need to consider the appellant's other arguments regarding planning history.
20. The Council and 3<sup>rd</sup> Party have failed to demonstrate that the proposed development would offend the provisions of BNMAP or that it result would in piecemeal development that would hinder the provisions of the LDP and be contrary to Policy QD 2 of PPS 7. The Council have failed to demonstrate that the proposed development would offend PPS 3. Given this, the appeal must succeed and planning permission is granted.
21. Conditions are necessary to protect and minimise the impact of the development on biodiversity during and after construction works including a lighting scheme. The retention of existing vegetation is required in the interests of visual amenity and biodiversity. Conditions are required to ensure that parked vehicles do not encroach onto the footway, that no boundary treatments encroach onto areas of adopted road and that the orderly development of the site takes place with road access provided



to each dwelling. The provision of open space and appropriate hard and soft landscaping is required in order to provide a quality residential development.

22. The need for archaeological excavation was not required by planning permission P/2006/1117/F. However, the appeal site is in close proximity to Watsons Fort , which is the remains of a rath/medieval farmstead and there is the potential for further previously unrecorded archaeological remain to be found within it. Therefore conditions are necessary to ensure that archaeological remains are properly identified, protected and/or appropriately recorded.
23. A condition is required to ensure that on and off site drainage works are carried out to ensure that drainage and run off from the site is properly dealt with.
24. I do not consider it necessary to impose conditions regarding the PSD or works to the road network as they have already been carried out. Provision has already been made for the parking of two cars within the curtilage of each dwelling. I agree with the appellant that as that planning permission P/2006/1117/F has been lawfully implemented and that as the proposed development is for a change of house type the submission of a further Drainage Assessment is not necessary. The appellant has told me that an Article 17 Agreement has been entered into with NI Water and I see no need to impose a condition regarding sewage disposal. There is repetition in two draft conditions regarding surface water drainage and I agree with the appellant that only one is necessary.
25. Two differing site location plans date stamped 15<sup>th</sup> May 2020 accompanied the application for planning permission. This decision is based on the site location plan annotated PAC1 as it is fully representative of that which was the subject of planning permission P/2006/1117/F.

### Conditions

1. There shall be no construction works, vegetation clearance, disturbance by machinery, dumping or storage of materials within the badger sett exclusions zones, wildlife corridors or wetland areas shown on Drawing No.2(Rev 9) date stamped 27<sup>th</sup> February 2013 by the Planning Authority in respect of planning permission P/2006/1117/F.
2. The lighting scheme for the development shall be in accordance with that approved in respect of planning permission P/2006/1117/F or any other lighting scheme as may be agreed in writing with the planning authority. The lighting scheme shall be implemented prior to the occupation of any of the dwellings and retained as agreed.
3. Existing trees and hedgerows shown of Drawing No 2 (Rev 9) date stamped 27<sup>th</sup> February by the Planning Authority in respect of planning permission P/2006/1117/F and the Ash tree adjacent to dwelling 22A on drawing No. 02 dated 22 April 2020 shall be retained and protected in accordance with British Standard 5837:2012. No trees shall be cut down uprooted or destroyed or have their roots damaged within the crown spread. No arboriculture work or tree surgery shall take place on any tree without prior agreement in writing with the planning authority.



4. Prior to the occupation of any dwelling the public open space and all associated planting shall be laid out in accordance with Drawing No. 2 (Rev 9) date stamped 27<sup>th</sup> February 2013 in respect of planning permission P/2006/1117/f and thereafter permanently retained.
5. All hard and soft landscaping works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Code of Practice.
6. Notwithstanding the provisions of Article 3 Part 1 Class A of the Planning (General Permitted Development) Order (Northern Ireland) 2015 (or any legislation revoking that Order or re-enacting those provisions) no garage or building shall be sited within 5.6m of the back of any footway or service strip.
7. Notwithstanding the provisions of Article 3 Part 3 Class A of the Planning (General Permitted Development) Order (Northern Ireland) (or any legislation revoking that Order or re-enacting those provisions) no gates, walls, fences or other means of enclosure shall be erected between the public road and any building with frontage to it.
8. No dwelling shall be occupied until that part of the public road which provides access to it has been constructed.
9. No planting of trees or hedgerows shall take place between the public road and any building with frontage to it.
10. No development or site works shall take place until a programme of archaeological mitigation works has been completed in accordance with a brief approved by the local planning authority.
11. No dwelling shall be occupied until the means to deal with on site and off site surface drainage works have been agreed in writing with the planning authority and implemented in full.
12. The development shall commence before the expiration of 5 years from the date of this decision.

This decision relates to the following drawings: -

The 1:2500 scale site location plan annotated PAC 1;  
 The 1:500 scale existing site plan drawing number 01;  
 The 1:500 scale proposed site plan drawing number 02;  
 The 1:100 scale drawing titled House Type A;  
 The 1:100 scale drawing titled House Type B;  
 The 1:100 scale drawing titled House Type Ca; and  
 The 1:100 scale drawing titled House Type E

**COMMISSIONER HELEN FITZSIMONS**

2021/A0007

List of Documents

Planning Authority: -

C1 Written Statement and appendices

Appellant :-

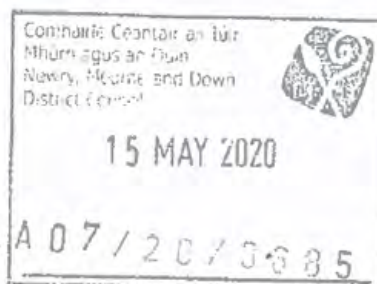
A1 Written Statement and appendices

A2 Comments

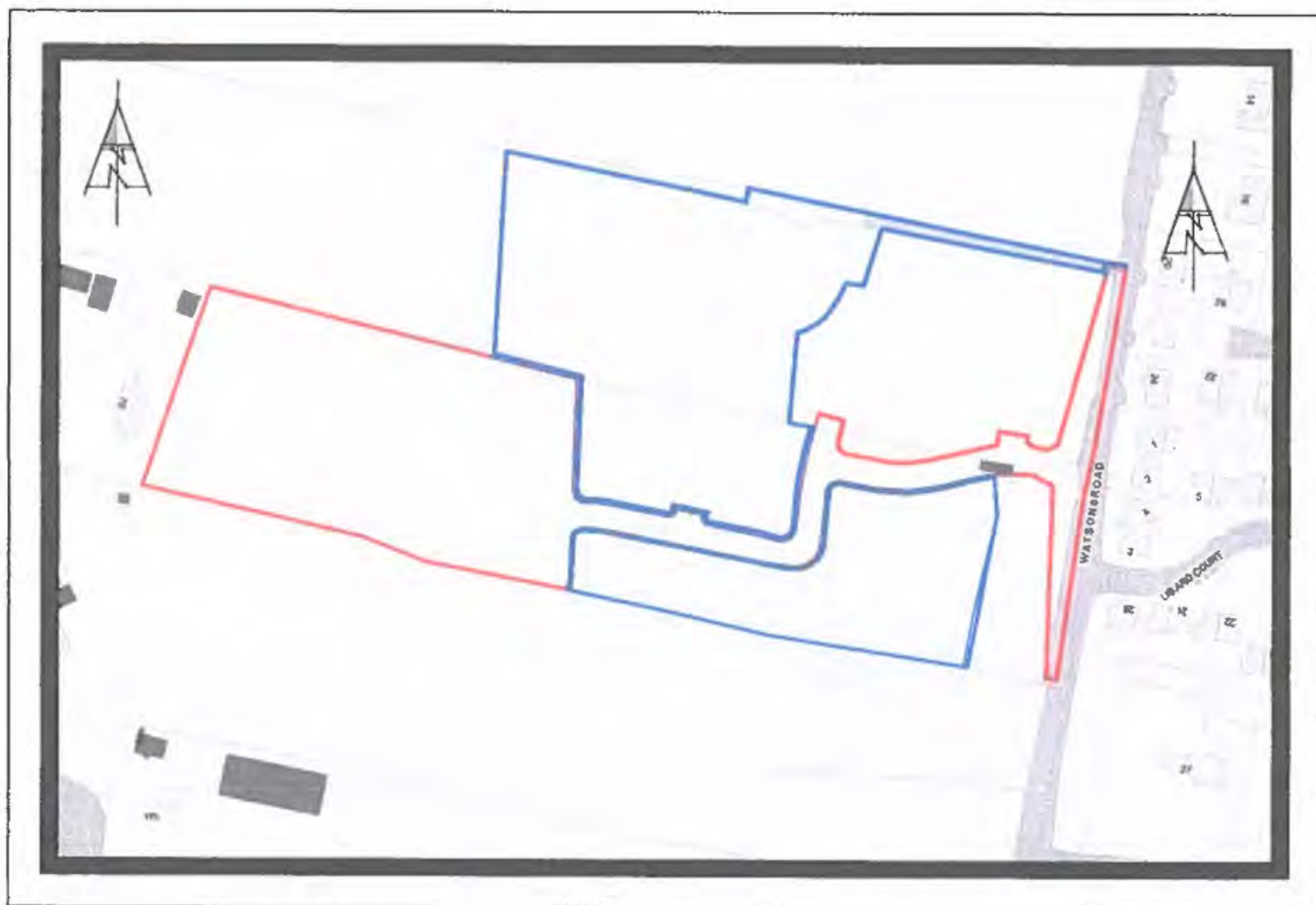
DAL 1



**ARCHITECTURAL  
DESIGN**



19 The Square, Killeel, Co Down BT34 4AA t: 02841 763961  
m: 07803 177197 / 07801 952862 e-mail info@mourne.org



### Site Location Map

Scale 1:2500  
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### PROJECT

**Proposed Housing Development  
Watson Road  
Newry, Co Down**

### CLIENT

**EDB Construction**



# Appeal Decision

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191

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<b>Appeal Reference:</b>	2020/A0103
<b>Appeal by:</b>	Mr Adrian Dodd
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Erection of farm animal shelter and wintering shed
<b>Location:</b>	Adjacent and south of 40 Craigy Road, Craignasasonagh, Saintfield
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2020/0836/F
<b>Procedure:</b>	Written Representations with Commissioner's site visit on 28 <sup>th</sup> February 2022
<b>Decision by:</b>	Commissioner B Stevenson, dated 16 <sup>th</sup> March 2022

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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The Council argued that the appellant had introduced new information at appeal stage concerning the need for the shed. This information does not constitute a 'new matter' as it relates to the main issue in the appeal namely whether the shed is necessary for the efficient use of the holding. As all parties had an opportunity to comment on the information, no prejudice arises from admitting this evidence.

## Reasons

3. The main issue in this appeal is whether the development is acceptable in principle in the countryside.
4. Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act states that, where in making any determination, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Ards and Down Area Plan 2015 (ADAP) operates as the LDP wherein the appeal site lies. In the ADAP, the appeal site is located within the countryside outside any defined settlement limit. The ADAP offers no proposals, policies or designations material to this appeal.
5. The Strategic Planning Policy Statement 'Planning for Sustainable Development' (SPPS) sets out transitional arrangements that will operate until a Plan Strategy is



adopted. During the transitional period, the SPPS retains certain existing Planning Policy Statements (PPSs) including Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21). Paragraph 6.73 of the SPPS contains policy in respect of agriculture development, which essentially repeats elements of PPS21. Given that the SPPS is no more prescriptive than the retained policy insofar as it relates to the appeal proposal, PPS21 provides the policy context for assessing this appeal.

6. Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One is agricultural development in accordance with Policy CTY12 of PPS21. Policy CTY12 of PPS21 states that planning permission will be granted for development on an active and established agricultural holding where certain criteria are met. Paragraph 5.56 of its amplification explains that for the purposes of Policy CTY12, the determining criteria for an active and established farm business will be that set out under Policy CTY10. The policy therefore requires that the appellant's farm business is currently active and has been established for at least six years.
7. The appellant's evidence indicates that he operates a sheep breeding and lamb producing business on an active holding that extends over 60ha, keeping around 600 sheep. The P1C form that accompanied the planning application indicates that the appellant's farm business identification number is 635128 and his flock number is 790798. The Council did not dispute that the appellant's farm business is currently active and established. Their main objection relates to criterion (a) of Policy CTY12 in that they consider that the appeal building is not necessary for the efficient use of the holding. The Council argued that the appellant owned suitable existing buildings north-west of the appeal site that could accommodate the sheep. In addition, they had concerns that the appeal building was not sited beside existing farm buildings thereby failing to comply with another policy test. It was their view that it was not an exceptional case.
8. The appeal site is cut out of the northern part of an agricultural field some 6m directly south of the farmhouse (No. 40 Craigy Road) where the appellant resides. The appeal building is situated parallel to a hedgerow that defines the northern boundary of the site and set back approximately 20m from the road. It measures around 13m in width, 36m in length and 5.5m to the ridgeline and is finished in green coloured metal cladding. At the time of my site visit, I observed a significant number of silage bales located within the appeal shed and sheep grazing in the host field. As outlined above, there are other agricultural sheds located north-west of the appeal site some 130 metres away.
9. The first requirement of Policy CTY12 is that development on an active and established agricultural holding should be necessary for the efficient use of the holding. The appellant stated that sheep farming involves a range of animal husbandry procedures to maintain and enhance animal health, welfare and production and ultimately the profitability of the enterprise. This involves the farmer carrying out every day essential routine treatments. The appellant argued that it is essential that shelter and wintering accommodation be provided to ensure the safety and well-being of his livestock. He explained that supervision is necessary during lambing time and living near the shed ensures that help and

assistance can be at hand in case of complications. He also referred to what he termed as a legal and moral need to comply with basic animal welfare.

10. At appeal stage, the appellant submitted correspondence from the Ulster Farmers' Union that indicates that up until early 2020 he rented sheds for housing his sheep but the sheds were no longer available since the owners required the sheds for their own use. The appellant stated that this left him with no winter shelter for his 600 sheep to use during the lambing season. A local Councillor also advised that the appellant rented sheds from other farmers. This evidence indicates that more than one shed was rented from more than one farmer. However, no rental information or other documentary evidence was provided to corroborate these claims nor was any compelling evidence submitted to explain why the arrangements can no longer occur. No robust explanation was given as to why all of the rented sheds were suddenly unavailable at the same time especially given they were with more than one other farmer.
11. Policy CTY12 states that in cases where a new building is proposed, sufficient information will also need to be provided to confirm that there are no suitable existing buildings on the holding or enterprise that can be used. The site location plan (Drawing 2018-01) indicates that the group of farm buildings north-west of the appeal site are within the appellant's ownership. However, the buildings are shown in farm maps outside of the farm holding (635128). Such lands are shown in a separate farm map that relates to a family member's farm business (604355). The subject buildings are not therefore on the appellant's farm holding. Nevertheless, as he owns them one would expect that they could be used. Paragraph 5.52 of the amplification text of Policy CTY12 states that "where permission is sought for a new building, the applicant will be required to satisfactorily demonstrate that renovation, alteration or redevelopment opportunities do not exist." No evidence has been presented to demonstrate that such buildings could not be renovated, altered or redeveloped for facilitating the appellant's sheep farming business.
12. The farm maps that identify the extent of the farm holding (635128) show an existing building in Field 055/5. This building is lying vacant as observed at my site inspection. Whilst it is smaller than the appeal building, the appellant has provided no compelling evidence to demonstrate why this existing building could not be renovated or extended to provide shelter for his sheep. For the reasons given, I am not satisfied that there are no suitable existing buildings on the farm holding that can be used. The appeal building therefore offends the first requirement that should be satisfied for a new building on an active and established agricultural holding. In the evidential context, the appeal building is not considered necessary for the efficient use of the agricultural holding. Accordingly, the appeal development does not meet criterion (a) of Policy CTY12 of PPS21.
13. Policy CTY12 indicates that in cases where a new building is proposed, it should be sited beside existing farm buildings. The Council argued that the appeal building offends this requirement given that it is located beside a single dwelling only. However, Policy CTY12 allows for exceptions provided that there are no other sites available at another group of buildings on the holding, and where it is essential for the efficient functioning of the business or there are demonstrable health and safety reasons. Given that there is an existing building on the holding

and no persuasive evidence has been presented to demonstrate that there are no sites available at the other farm building, the appeal development fails to overcome the first policy hurdle. Consequently, the appeal building cannot be considered as an exceptional case and therefore does not accord with the exceptional siting test of Policy CTY12 of PPS21.

14. Overall, the appeal development offends Policy CTY12 of PPS21, and accordingly, it fails to comply with Policy CTY1 of PPS21. The Council's sole reason for refusal is sustained and the appeal is dismissed.

This decision is based on the following drawings which were received by the Council on 16<sup>th</sup> June 2020 and numbered as:

- Drawing No. 2018-01: Site Location Plan to scale 1:2500;
- Drawing No. 2018-02: Elevations and Floor Plan to scale 1:100; and
- Drawing No. 2018-03: Site Plan to scale 1:500.

**COMMISSIONER B STEVENSON**

### **List of Documents**

Planning Authority: -

'A' Written Statement of Case  
Newry, Mourne and Down District Council

'B' Rebuttal Statement  
Newry, Mourne and Down District Council

Appellant: -

'C' Written Statement of Case  
G.T Design





# Appeal Decision

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<b>Appeal Reference:</b>	2021/A0013
<b>Appeal by:</b>	Mr Norman Harvey
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Dwelling
<b>Location:</b>	Approximately 25m south of 32 Kilmore Road, Crossgar
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2020/1187/F
<b>Procedure:</b>	Written representations and Commissioner's site visit on 14 <sup>th</sup> March 2022
<b>Decision by:</b>	Commissioner Gareth Kerr, dated 16 <sup>th</sup> March 2022

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## Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.

## Preliminary Matters

2. The proposal refused by the Council involved a new shared access point for both the existing dwelling (No. 32) and the proposed dwelling to its south. The access to the new dwelling would run across the front and side of the existing dwelling. In an attempt to overcome the Council's concerns about the impact of this access route on the privacy and amenity of the existing dwelling, the appellant submitted an amended proposal to the Council routing the access around the rear of the existing dwelling. The Council had already recommended refusal of the application and did not accept the amendment. The amended proposal which includes enlargement of the red line boundary of the site has now been submitted along with the appellant's evidence in the appeal. The Council objected to its admission in the appeal.
3. Under Section 59 of the Planning Act (Northern Ireland) 2011, a party to the proceedings is not to raise any matter which was not before the Council at the time the decision appealed against was made unless that party can demonstrate that the matter could not have been raised before that time, or that its not being raised before that time was a consequence of exceptional circumstances. The Council's rebuttal confirms that the amended scheme was sent in to the Council. This took place after a recommendation to refuse planning permission was published on a list of delegated applications on 25<sup>th</sup> January 2021. However, the publishing of a recommendation does not constitute the Council decision being made. The amended plans were before the Council when the decision was issued on 24<sup>th</sup> February 2021, albeit the Council chose not to consider them. Therefore the

amended proposal is not debarred from consideration in the appeal by Section 59 of the Act.

4. However, in considering whether the amended scheme is admissible in the appeal, I must also have regard to established principles of public law. While it is possible in some cases to amend the red line of the application site for the purposes of access without prejudice to any other party, I must consider whether the effect would be a development that is in substance not that which was applied for. The proposal description on the planning application form was "new dwelling". No reference was made to the stopping up of the existing access and the provision of a new shared access.
5. The route of the proposed amended access over land to the rear of the existing dwelling would in my opinion be a substantially different development from that originally applied for. Landowners to the north and east of the site could be affected by additional noise or car headlights on this route and could therefore be prejudiced if the amended red line and access route was admitted in the appeal without being properly advertised. As the increase in the area of the site would be substantial and those who would expect to be consulted on the changed development have not been consulted, the amended scheme entitled 'Revision B' in the appellant's evidence is not admissible in the appeal. The appeal will be determined based on 'Revision A' – the scheme refused by the Council.
6. The appellant's concerns at how the Council processed the planning application are not matters to be adjudicated in the context of this appeal.

### Reasons

7. The main issue in this appeal is whether the proposed access arrangement would adversely affect the residential amenity of an existing dwelling.
8. The appeal site is located to the eastern side of the Kilmore Road within the village of Crossgar. The site is L-shaped and comprises the front garden and part of the side garden of an existing bungalow (No. 32). An existing access is positioned centrally along the frontage. The garden in front of the existing house sits approximately 1 metre above road level behind a dashed concrete wall. The southern part of the site sits approximately 1 to 2 metres below road level and is part of a wider grassed area within the appellant's control. A mobile home which appears to be occupied is located to the north of the existing dwelling and also avails of the existing access.
9. The appeal proposal is for a new bungalow to the south of the existing dwelling. The walls would be rendered and painted, the roof would be covered with flat grey concrete tiles and the windows would be uPVC. Due to the sloping nature of the site, it would have an undercroft garage to the lower side, accessed from the rear. Both dwellings would share an access from Kilmore Road. As visibility at the existing access is poor, particularly in the northerly direction, it is proposed to create a new shared access point near the northern end of the site frontage with the existing access permanently closed up.



10. The Planning Act (Northern Ireland) 2011 states in Section 45 that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 states that the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Ards and Down Area Plan 2015 (ADAP) operates as the local development plan for this area. In it, the appeal site is located within the settlement development limit of Crossgar and is within a larger area zoned for housing development (Housing Policy Area 3). The ADAP sets out a number of key design considerations for development of the HPA 3 zoning. These include "provision of satisfactorily sited accesses and visibility splays onto Kilmore Road" and "design of access arrangements and dwelling layout to ensure that houses front Kilmore Road". In this respect, the proposal is not contrary to the policy provisions of the ADAP. It would not prejudice any future proposals for the development of the remainder of the zoning.
11. The ADAP goes on to state that planning applications within the Housing Policy Areas will also be processed in accordance with the requirements of all prevailing planning policy. Overarching regional planning policy is found in the Strategic Planning Policy Statement for Northern Ireland (SPPS). It retains certain existing Planning Policy Statements (PPSs) including PPS 3 – Access, Movement and Parking and PPS 7 – Quality Residential Environments, which are of relevance in the appeal. In respect of the issues in this appeal, the retained policies take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS.
12. Under Policy AMP2 of PPS 3, planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic. The new shared access was proposed to overcome the poor visibility available at the existing access. DFI Roads are content with the proposed access incorporating visibility splays of 2.0m x 60m along Kilmore Road, subject to conditions. Having visited the site, I am satisfied that the proposed access position further north along the site frontage would give adequate visibility beyond a crest in the road to the north of the site and that the proposal would not prejudice road safety or significantly inconvenience the flow of traffic.
13. Policy QD1 of PPS 7 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 environment. The policy sets out nine criteria that proposals for residential development will be expected to conform to. The Council raised concerns in relation to criterion (h) which requires that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. Their concerns are specific to the proposed access arrangement. They argue that the noise and lights of vehicles travelling to the new dwelling would harm the amenity of the existing dwelling. There are no objections to the principle of a dwelling on the site or its design.
14. At my site visit, I observed a significant number of vehicles parked around the existing dwelling. Some were parked at the rear of the house and some were parked

at the northern gable where the mobile home is located. I note from my site visit that the mobile home is occupied, though I have no evidence from either party on its status. Vehicles attending the mobile home already travel across the front of the existing house and park at its side. The proposal would utilise the same section of driveway across the front of the house, but in the opposite direction, to access the appeal site.

15. Even if the mobile home remained on the site upon completion of the new dwelling, traffic could then access the mobile home directly from the new entrance without passing the front of No. 32. It is unlikely that there would be a significantly higher level of traffic attending the new single dwelling compared to the existing situation where the driveway is used by vehicles attending the mobile home. The Council has not quantified the number of vehicles expected to attend the new dwelling on a daily basis. The appellant has stated that the new dwelling will be occupied by members of his family and considers that the proposal would cause no ill effect on his or his family's amenity.
16. As the site is within a village, it would not be unusual for traffic to some dwellings to pass close to other dwellings. Traffic noise and lights are not unexpected to the front of a dwelling within a settlement. While traffic movements associated with the appeal dwelling would generate some noise for a brief period and additional lighting from car headlights arriving at night, the policy test is whether there would be an unacceptable adverse effect on existing properties (my emphasis). Based on the above considerations and the way the site is presently used by vehicles, I am not persuaded that any harm to residential amenity from noise or lights would be of an unacceptable degree in this urban location. The Council has not sustained its sole refusal reason based on Policy QD1 (h).
17. In order to define the curtilage of the new dwelling and ensure reinstatement of the roadside wall behind the visibility splays, the imposition of a planning condition controlling the implementation of hard and soft landscaping works is necessary. The timescale for carrying out planting should be during the first planting season after the dwelling is occupied. The condition should also provide for the replacement of any dead or damaged trees. Although not mentioned in the Council's draft conditions, it is also necessary in the interests of road safety to condition the provision of the new shared access, the stopping up of the original access and control of the gradient of the access given the significant change in levels, as indicated in the DFI Roads consultation response. Given the existing dwelling can lawfully use the existing access, the appropriate timescale for provision of the new access would be prior to occupation of the new dwelling.
18. As the proposal would accord with the LDP and the Council's sole refusal reason based on Policy QD1 of PPS 7 has not been sustained, the appeal is allowed, subject to the conditions set out below.

### Conditions

- (1) The new shared access with visibility splays of 2.0m x 60m in each direction shall be provided in accordance with the approved drawing No. A 2585 (Rev A) and shall be permanently retained and the existing access shall be permanently closed before the new dwelling is occupied.



- (2) The access gradient shall not exceed 8% (1 in 12.5) over the first 5 metres outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) and 2.5% (1 in 40) and shall be formed so that there is no abrupt change of slope along the footway.
- (3) All hard and soft landscape works shall be carried out in accordance with the approved drawing No. A 2585 (Rev A). The scheme of planting shall be carried out during the first planting season after the dwelling is occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.
- (4) The development shall be begun before the expiration of five years from the date of this permission.

This decision approves drawing No. A 2585 (Rev A) – site location plan and detailed drawings at various scales – which was received by the Council on 19<sup>th</sup> November 2020.

**COMMISSIONER GARETH KERR**

**List of Documents**

- |                      |   |   |
|----------------------|---|---|
| Planning Authority:- | A | Statement of Case<br>Newry, Mourne and Down District Council  |
|                      | B | Rebuttal Statement<br>Newry, Mourne and Down District Council |
| Appellant:-          | C | Statement of Case<br>Mr David Burgess                         |



# Appeal Decision

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<b>Appeal Reference:</b>	2021/E0014
<b>Appeal by:</b>	Ms Colleen McGinnis
<b>Appeal against:</b>	Refusal to certify a Certificate of Lawfulness for an existing use or development.
<b>Development:</b>	Existing access arrangement, hardcore access laneway, 2 no. ancillary oil tanks and boiler enclosure, ancillary 1 no. detached timber garage, ancillary hardstanding area surrounding dwelling, timber security gates and boundary fencing, underground septic tank and ancillary drainage, existing curtilage area and the use of the existing building as a permanent residential dwelling house.
<b>Location:</b>	Lands at 33b Ballyvally, Mayobridge.
<b>Planning Authority:</b>	Newry, Mourne and Down District Council.
<b>Application Reference:</b>	LA07/2020/1532/LDE
<b>Procedure:</b>	Written Representations with Commissioners Site Visit on 11 March 2022.
<b>Decision by:</b>	Commissioner Mandy Jones, dated 18 March 2022.

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## Decision

1. The appeal is allowed in part, and a Certificate of Lawfulness of Existing Use or Development is attached.

## Reasons

2. An application for a certificate of lawfulness for an existing use or development (CLEUD) was received by the Council on 22 October 2020, in accordance with Section 169 of the Planning Act ( Northern Ireland ) 2011. This appeal was made under Section 173 of the 2011 Planning Act against the Council's refusal of the application.
3. Section 169 of the Act makes provision for the issue of a CLEUD. Section 169 (1) states that ' if any person wishes to ascertain whether – (a) any existing use of buildings or other land is lawful ; (b) any operations which have been carried out in, on, over or under land are lawful.. that person may make an application for the purpose to the appropriate council specifying the land and describing the use, operations or other matter'. Section 169 (2) indicates that ' for the purposes of this Act uses and operations are lawful at any time if (a) no enforcement action may then be taken in respect of them ( whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason ) and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

4. Section 169 (4) states that ' if, on an application under this section, the Council is provided with information satisfying it of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the Council or a description substituted by it, the Council must issue a certificate to that effect; and in any other case it must refuse the application.
5. Section 132 of the Act refers to time limits for taking enforcement action against breaches of planning control. Paragraph (1) relates to operations and paragraph (2 ) relates to changes of use to a dwelling use. Paragraph (3) relates to all other types of development. Each state that no enforcement action may be taken after the end of the period of 5 years beginning with the date of the breach.
6. In the case of an application for a CLEUD, the onus is on the applicant to provide evidence of the lawfulness of the use or development cited in the application forms. The issue in this case therefore is whether the submitted evidence is sufficient to demonstrate on the balance of probabilities that the site and structures have been used continuously for the described use for a period of 5 years or more at the time of application. Immunity from enforcement action could also be achieved if the use has been continuous for the requisite period at some time in the past and had not been abandoned or superseded by another use. The critical date for immunity is 22 October 2015.
7. The appellant was granted a Certificate of Lawfulness for an '*Existing modular home of temporary construction*', under planning reference LA07/2016/1664/LDE on 28 April 2017.
8. The application seeks a CLEUD for a number of elements, some of which the Council accept are immune. I have considered each as they appear on the application description:  
  
*Existing Access arrangement and hardcore access laneway.*
9. Considered by the Council to be immune from enforcement action
- 2. No ancillary oil tanks and boiler enclosure.*
10. Considered by the Council not to be immune. The appellant considers that photographs taken by the Council, dated 19.01.2017 from the enforcement file together with the old oil delivery documentation provides convincing evidence of the tanks and boiler enclosure. It is very difficult to ascertain the tanks from these photographs or from the aerial photographs ( 2014 ). Whilst I accept the delivery invoices, I note that some are unreadable. I consider that the appellant has not demonstrated that the 2 no. oil tanks and boiler enclosure have been insitu from the critical date of 22 October 2015.
- 1 no. Detached Timber Garage.*
11. The Council considered this to be immune from enforcement action.



*Ancillary hard standing area surrounding dwelling.*

12. Council considered this to be immune from enforcement action.

*Timber security gates and boundary fencing.*

13. The Council considered that the timber security gates are not shown on the 2014 aerial image. They consider that they are shown on the 2016 aerial image – flown on 13 May 2016, which is 7 months short of the five year immunity period. However, I find it difficult to ascertain the timber security gates and boundary fencing in either aerial image. The submitted affidavits do not refer to the timber security gates or boundary fencing. The submitted evidence is insufficient to demonstrate on the balance of probabilities that the structures have been used continuously for the described use for a period of 5 years or more at the time of application.

*Underground septic tank and ancillary drainage.*

14. The Council maintain that it is very difficult to establish when the septic tank and ancillary drainage was installed as it is underground and not evident on any aerial images. I was told by the appellant that it was installed in 2008 when a previous small mobile home was placed on the lands. A letter was included from a retired builder who claimed to have carried out the original works to the site and drainage system in 2008. Again, the onus is on the appellant to demonstrate, that the underground septic tank and ancillary drainage has been in place for a period of 5 years or more at the time of application. I have not been persuaded that this is the case from the appellant's submissions.

*Existing curtilage area.*

15. The Council maintain that the curtilage area is shown on the 2016 aerial image but not the 2014 aerial image and is therefore not immune. The appellant claims that this curtilage has been in situ from August 2014. I was told that the 2014 aerial image shows a variation in colour of the grass associated with the then illegal sheds and buildings and other surrounding agricultural fields, together with a stone footpath between the buildings. The appellant also claims that further evidence is visually provided by the case officers photographs associated with the 2016 Certificate, whereby the lawn area is deep green and fronts the existing dwelling house. I would concur with the Council, that the curtilage area seems to be apparent on the later 2016 aerial photography. I cannot discern this on the earlier 2014 aerial photograph and I consider that the case officers photographs referred to are inconclusive. The submitted affidavits do not refer to the curtilage area. Again, the onus is on the appellant to demonstrate, that the existing curtilage area has been in place for a period of 5 years. I have not been persuaded that this is the case from the appellant's submissions.

*Use of the building as a permanent residential house.*

16. The appellant was granted a Certificate of Lawfulness for an 'Existing modular home of temporary construction', under planning reference LA07/2016/1664/LDE on 28 April 2017. The Council modified the original description submitted ('Existing modular construction dwelling house') to that cited above. The appellant presented arguments to dispute the modified description of the previous 2016 Certificate. I note that the Certificate was not appealed at the time and I am unable to take into consideration any of the appellants argument's. Accordingly, regarding

the previous certificate, I make no comment and it will be taken as read. I can only deal with the appeal before me.

17. The Council maintain that the nature and appearance of the building has not changed since the previous LDC was issued for an existing modular home of temporary construction. There has been no change to the building since the 2016 application was approved and therefore, it was considered there is no reason to disagree with the previous cases officer's reasoning that the building is of temporary construction. There is no dispute that it is a building.
18. Regarding its 'temporary construction,' and whether it is appropriate to modify the description as argued by the appellant, I regard the following factors to be relevant;
  - The structure on site has the appearance of a single storey prefabricated chalet;
  - The external appearance of dash render painted cream, black plastic roof tiles, white PVC windows with the appearance of a modular building;
  - An email from WesternBuild dated August 2020, describes the structure as a 'Timber Frame Modular home' ... which was delivered to Ballyvalley Road, Mayobridge on 9 December 2009' ;
  - In accordance with the submitted plans the footprint of the structure is approx. 73.30m<sup>2</sup> ( 10.9m x 7.015m ) and accommodates two bedrooms, bathroom, hallway, cloakroom, utility and kitchen and living room. The ridge height is 4.55m. The structure also has two external doors and concrete steps;
  - The appellant has advised that the appeal site was cleared in the autumn of 2009, hardcore was then laid in October 2009, construction of a timber frame modular building was put in place on the site 9 December 2009, with the second fix internally taking place in late December/ January 2009/2010, and other internal fixtures, such as bathrooms and tiles were inserted around January 2010;
  - The erection of the dwelling involved preparation of the ground, placement and erection of the modular dwelling, connection of the dwelling to existing services such as water, sewage and electricity supply and internal fit out. All carried out over a period of around 4 months;
  - The appellant claims that a connection to the existing septic tank and drainage system, relating to a previous removed mobile structure on the site also adds weight to the significant works undertaken;
  - The structure is fixed permanently to the ground via steel straps. I was told that as the site was exposed to wind from the south, the appellant took the decision to further attach the structure to the existing concrete and block foundations with steel straps. This has given the existing structure additional structural stability and photographs of steel straps were included;
  - A stone aggregate path leads around the structure and services including a manhole are in place. The appellant claims that the appeal site and lands have been modified to accommodate the structure and such works are representative of more than just placing or inserting a building on the site.
  - The appellant describes the appeal building as a 'modular home'.
19. I consider that the site works including excavations and laying of hardcore, laying of aggregate paths and steps and connection to services would apply to any

temporary modular building or unit. Given the previous LDC in place issued on 28 April 2017, the undisputed length of time the structure has been on site - around 11 years, its size, internal layout and internal fixtures and fittings, timber framed construction, external fabric and finishes, connection to the ground via foundations/ steel straps and plinth and lack of mobility, I do not consider that the structure on the site can be described now as 'temporary'.

20. However, I am not persuaded to modify the description 'modular home' from the original LDC description, as requested. I note that the appellant accepts that the appeal building is a modular home and the supplier of the structure also refers to it as a 'Timber Framed Modular Home.' In my opinion, it is an accurate description of the structure on the site.
21. Regarding the use of the existing structure as a dwelling house. The appellant's evidence includes:
  - Letters addressed to 33b Ballyvalley Road, Mayobridge from Newry Health Village Doctors Practice relating to vaccines ( 2015, 2017 and 2020 ) / health visitor ( 2014 / 2015 ) ( Southern Health and Social Care Trust ) , a letter relating to an appointment with Orthopitic Clinic in 2016 / Speech therapist in 2016 and 2017, ear nose and throat clinic in 2017, blood test results in 2017 all addressed to 33 b Ballyvalley Road, Mayobridge and 2 letters relating to operations in 2018 for D J McGinnis. ( Southern Health and Social Care Trust )
  - NIE wayleaves payment addressed to Ms McGinnis, 33b Ballyvalley Road, Mayobridge in 2012, 2016, 2017 and 2018;
  - Education Authority letters payment addressed to Ms C & F McGinnis - Madine, 33b Ballyvalley Road, Mayobridge in 2016, 2017 and 2020;
  - Phone bills addressed to Ms C McGinnis, 33b Ballyvalley Road, Mayobridge in 2016, 2017, 2018, 2019 and 2020;
  - NHS tax credit exception letters addressed to Ms C McGinnis, 33b Ballyvalley Road, Mayobridge in 2018;
  - Electric bill dated 2019;
  - Credit union statement dated 2020 for Ms C McGinnis with address 33b Ballyvalley Road;
  - Bank of Ireland, Payment Slip, dated 2 March 2020 with Ms McGinnis, 33b Ballyvalley Road, Mayobridge;
  - NILGOSC pensions letter dated 27 May 2020, addressed to Ms McGinnis, 33b Ballyvalley Road.
  - MG Oils – Fuel Invoices dated 2010, 2011, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020. (however the 2010, 2011, 2015, 2017 & 2018 invoices are difficult to read and non-determining )
22. The Council called into question the lack of sufficient information to demonstrate that the structure was occupied as a dwelling house. The Council maintain that there are gaps in the evidence over the 5 years and it is concerning that there are no continuous electricity bills, bank statements and phone bills over the 5 years. I note that rates bills have not been submitted and Building control records indicate that 33b Ballyvalley Road is not a registered postal address.

23. The onus is on the appellant to present evidence; in whatever way they see fit to best establish their case. I note there are no continuous electricity bills or rates bills which I accept is unusual. However, combining the timelines of the various submitted evidence streams, I am persuaded on the balance of probabilities that the use of the structure as a dwelling house has been continuous for a period of 5 years.
24. As referred to earlier, Section 169 (4) of the Planning Act (NI ) 2011, allows a description to be modified or substituted. Taking account of the evidence before me and observations on site I consider the following to be accurate and reflective of development on the appeal site. As such, I will modify this part of the description to read, ' *Use of the existing modular building as a permanent dwelling house.*'
25. Section 171 (4) states that a certificate under either of those sections ( Section 169 & 170 ), may be issued :
  - (a) for the whole or part of the land specified in the application.
26. In conclusion, a number of elements from the original description are immune from enforcement action as conceded by the Council; Existing access arrangement and hardcore access laneway; 1 no. detached timber garage and ancillary hard standing area surrounding dwelling. Also, I have found that the appellant has demonstrated on the balance of probabilities that the use of the existing modular building as a permanent dwelling house (modified description) has been used continuously for a period of 5 years or more at the time of application.
27. As such, the appeal is allowed in part and the Certificate of Lawfulness of Existing Use or Development as modified, is attached.

**COMMISSIONER MANDY JONES**



**List of Documents**

Planning Authority: 'A' Statement of Case and Appendices

Appellant: 'B' Statement of Case and Appendices

PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169

**CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT**

The Planning Appeals Commission hereby certifies that on 22 October 2020 the use and operations described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate was lawful within the meaning of section 169 of the Planning Act 2011, for the reasons set out in the appeal decision to which this certificate is attached.

Signed

**COMMISSIONER MANDY JONES**

**18 March 2022**

**FIRST SCHEDULE**

Existing access arrangement and hardcore access laneway, 1 no. detached timber garage, ancillary hard standing area surrounding dwelling and use of the existing modular building as a permanent dwelling house.

As shown on drawings; PL01 : Site Location Plan, Location Overview Map, and PL02 Existing Ground Floor Plans and Elevations, Existing Site Layout Plan all received by Newry, Mourne and Down District Council dated 22 October 2020.

**SECOND SCHEDULE**

Lands at 33b Ballyvally, Mayobridge.

**Notes:**

(1) This certificate is issued solely for the purpose of section 169 of the Planning Act 2011.

(2) It certifies that the use and operations described in the First Schedule taking place on the land described in the Second Schedule were lawful on the specified date and, thus, were not 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 use and operations described in the First Schedule and to the land specified in the Second Schedule and identified on the plans referred to. Any use or operations which are materially different from those described or which relates to other land may render the owner and occupier liable to enforcement action.

**PLANNING APPEALS COMMISSION**

**THE PLANNING ACT (NORTHERN IRELAND) 2011  
SECTION 58**

**Appeal by**

**Mr Stephen Hewitt**

**against the refusal of outline planning permission for the erection of sheltered accommodation for the elderly northwest and adjacent to 59 Glasswater Road, Creevecarron, Crossgar.**

**Report**

**by**

**Commissioner Laura Roddy**

**Planning Authority Reference: LA07/2020/1702/O**

**Procedure: Written Representations**

**Commissioner's Site Visit: 24<sup>th</sup> February 2022**

**Report Date: 31<sup>st</sup> March 2022**

## 1.0 **BACKGROUND**

- 1.1 Newry, Mourne and Down District Council received an application seeking outline planning permission on 19<sup>th</sup> November 2020 for the 'erection of sheltered accommodation for the elderly'. A decision notice dated 6<sup>th</sup> May 2021 refused planning permission giving the following reason:-

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

- 1.2 The Commission received the appeal on 10<sup>th</sup> August 2021 and advertised it in the local press on 13<sup>th</sup> October 2021. One representation was received from a third party. The Council forwarded to the Commission representations it had received at application stage.

## 2.0 **SITE AND SURROUNDINGS**

- 2.1 The appeal site is approximately 1.5km north of Crossgar. The site is located at the junction of Glasswater Road and Saintfield Road. The corner site comprises a generally rectangular plot of land cut out of a larger field plus visibility splays extending beyond the site to the east. There is a roadside verge separating the site from the Glasswater Road and also on the southwestern corner to Saintfield Road. The boundaries to the two roadsides are well defined by mature vegetation, although it has intermittent gaps. There is an access gate to the appeal site along the boundary at Glasswater Road. The northern boundary is undefined.
- 2.2 Glasswater Lodge care home is to the immediate east of the site, with a kerb separating it from the road. It is defined to the roadside with a wall and pillars and has an access onto Glasswater Road. There is no other development in the immediate vicinity of the appeal site.

## 3.0 **PLANNING AUTHORITY'S CASE**

- 3.1 The policy context is provided by Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21). Policy CTY1 of PPS21 states that there are a range of types of development which are, in principle, acceptable in the countryside and will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or is otherwise allocated for development in a development plan.
- 3.2 The proposal is for sheltered accommodation for the elderly. The proposed layout indicates there would be five separate dwellings with a separate building for a warden on site. While the Strategic Planning Policy Statement (SPPS) makes reference to social and affordable housing there is no reference to sheltered accommodation for the elderly. The SPPS requires where a need has been identified for social and affordable housing, by the Northern Ireland Housing Executive (or the relevant housing authority), that a small group of dwellings can be



supported adjacent to or near a small settlement. The appropriate number of dwellings permissible will depend on the identified need and the requirement to ensure the development is sited and designed to integrate sympathetically with its surroundings.

- 3.3 The proposal has not been supported by any information detailing a need for this type of accommodation in the local or wider area. The application is not supported by a housing association, nor has it been submitted by the owner of the adjacent residential home. On this basis it is not considered to be an ancillary element to the existing established use. The proposed layout indicates the appeal proposal is very separate from the residential home. It has its own entrance, separate parking and is physically separated by a planted boundary. These issues were identified to the agent on 18<sup>th</sup> January 2021 and no further evidence was submitted to justify this use in the countryside. Moreover, the objection from Glasswater Lodge Care Home reiterates concerns regarding the lack of justification or support for the proposed development i.e. from the Trust. If there is a need the existing establishment should be fully used to meet required needs.
- 3.4 The application therefore fails to comply with Policy CTY1 of PPS21 as there is no overriding reason why this development is essential and could not be located in the settlement.
- 3.5 Conditions have been put forward on a without prejudice basis as follows:
  - Siting, design and external appearance subject to reserved matters;
  - Reserved matters to be submitted within three years;
  - Time limit;
  - Reserved matters to incorporate plans and sections indicating existing and proposed ground levels and finished floor levels;
  - Visibility splays of 2m x 45m required prior to commencement and shall be permanently retained;
  - Accommodation shall not be occupied except by a person or persons over the age of 55 years, and
  - Landscaping scheme required showing any trees and hedgerows to be retained and the location, number, species and size of trees and shrubs to be planted. To be carried out within the first planting season after the buildings are occupied and any damages within five years to be replaced.

#### 4.0 **THIRD PARTY'S CASE**

- 4.1 Certificate A was completed on the application form in respect of landownership. However, the appellant does not own all the land within the visibility splays. The Department for Infrastructure (DfI) Roads response states visibility splays of 2m x 45m would be required. This will involve the removal of a pillar and wall at the existing access into the adjacent private nursing home. DfI should also have been notified of the appellant's intention to develop land outside their control within Certificate C. This is because part of the subject lands are within their control due to the required splays onto Saintfield Road. Whilst this is a legal issue between the parties, the application as submitted should not be considered to be valid as the correct certificate was not issued correctly.

- 4.2 The site is located outside the settlement limit on the Ards and Down Area Plan 2015. There are no specific policies in the plan that are relevant to the determination of this appeal. The operational policies of the SPPS and retained PPS21 apply. The guiding principle in the SPPS is that sustainable development should be permitted having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.
- 4.3 Paragraph 6.73 of the SPPS sets out policy for development in the countryside. There are nine categories of residential development which will be considered acceptable. Other types of development, apart from those listed, should be considered as part of the development plan process in line with other policies set out in the SPPS.
- 4.4 Policy CTY1 of PPS21 states there are a range of types of development which are acceptable in principle in the countryside and will contribute to sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.
- 4.5 While the SPPS makes reference to social and affordable housing development, there is no reference to sheltered accommodation for the elderly. The SPPS states that where a need has been identified by the Northern Ireland Housing Executive, or the relevant housing authority, plan policies should support the development of a small group of dwellings adjacent to or near a small settlement. The appropriate number of social/affordable dwellings permissible will depend upon the identified need and the requirement to ensure the development is sited and designed to integrate sympathetically with its surroundings. The appeal has not been submitted by a Housing Association or by the Northern Ireland Housing Executive, nor has it been submitted by the owner of the adjacent residential home adjacent and on this basis, it is not considered to be an ancillary element to this existing established use.
- 4.6 The biggest concern regarding the proposed development relates to the need in this area. The appeal has not been supported by any information detailing that there is a need for this type of accommodation in the local or wider area such as a business plan or information from the Trust. The Councillors' emails provided in the appellant's statement of case are at odds with the lack of member support at decision stage. The application could have been called in for consideration by the planning committee if it had council member support.
- 4.7 Glasswater Lodge has been trading adjacent to the appeal site for over thirty years. In the last five years it has not been at full capacity, mainly due to the Trust trying to promote community care. This is where service users remain at home as the preferred option. As a result, Glasswater Lodge has had to adapt to service users' needs in this area with a more 'fold type experience'. The appeal proposal also seems to propose a fold type structure. Glasswater Lodge has ten vacancies at present. Another local care home offering the same type of care to that proposed has also closed. The Glasswater Lodge should be fully used to meet the required needs. Any reduction in residents will render the business uneconomical. It would have a detrimental impact on the business losing over 60 jobs plus subcontractors in the local area.

- 4.8 There is concern regarding the construction stage as residents at Glasswater Lodge would be disturbed by works proceeding in close proximity to the home.
- 4.9 The appeal proposal would result in a build-up of development adjacent to Glasswater Lodge. It would no longer be a rural area or have views looking over the countryside or enjoying the wildlife. The proposed building would not have adequate private amenity space, contrary to the advice contained in Creating Places. The development would be dominated by road surface and parking areas.
- 4.10 The site is very close to the main Saintfield Road which can be extremely busy. The entrances at Glasswater Road can also be very busy and visibility at the proposed entrance would be very poor for the amount of vehicle activity that would be associated with this type of development.
- 4.11 There is no assessment on storm drainage or foul drainage or information on where this will go. Information on drainage is also lacking even though the development proposal exceeds the threshold where a drainage assessment would be required. There is also potential for noise, odour and emissions from the proposed development which could impact the residents of the adjoining facility. No topographic survey was submitted which should be required to provide information on road levels, access arrangements and proximity to existing buildings.
- 4.12 The Department of Agriculture, Environment and Rural Affairs (DAERA) Northern Ireland Environment Agency (NIEA) requested a Biodiversity Checklist and Preliminary Ecological Appraisal in their consultation response dated 8<sup>th</sup> December 2020. This was not requested by the Council despite the proposed removal of a significant amount of existing hedgerow to facilitate the visibility splays. No detailed landscaping plan was submitted.

## **5.0 APPELLANT'S CASE**

- 5.1 The rural area of County Down is made up of many small holdings with rural dwellers, most of whom have spent their lives living in the rural countryside. Elderly and infirm persons in their twilight years are being left to live in remote areas all alone, vulnerable to accidents and falls. To suggest these country dwellers, whilst alert but possibly frail and requiring supervision, should be removed to the towns or villages would be debilitating and diminish their quality of life. To be located in a settlement would be contrary to the ethos of the proposal.
- 5.2 The appeal proposal would provide the elderly with independent accommodation within a rural confine. It would also have the added security of a discreet overlooker and is an obvious solution to the care needs. It will give autonomy and independence to occupants with the benefit of being in their personal home with remote supervision. The proposal is for a completely different type of care to the adjacent Glasswater Lodge. The appeal proposal is a step down from a care home or nursing home. It would provide accommodation for retired self-sufficient rural dwellers with arm's length supervision. Contrary to rendering the residential home uneconomical, as occupants of the sheltered dwellings age and become less able to be self-sufficient, they could move to Glasswater Lodge thereby supporting it. Whilst it was not indicated that the proposal was ancillary to the residential home, it's position adjacent to such an establishment is self evident.



- 5.3 The care profession is under extreme pressure to cope with care of the elderly. Here we have a private entrepreneur willing to provide a much needed service to the rural community. In respect of need, evidence is provided in the form of six emails and one letter from local councillors. These emails lend support for the appeal proposal from councillors with local knowledge who have a great understanding of the need in the rural area. Each email is summarised as follows:
1. This is an interesting proposal, innovative and forward thinking;
  2. There is a clear need for single bed units for elderly people. This would release houses with more rooms for families on waiting lists;
  3. This is absolutely required;
  4. This is a great idea;
  5. This type of accommodation would be welcomed;
  6. There is a need to provide housing options for older people.
- 5.4 Given the above there are many overriding reasons why this type of development could not be located within a settlement.

## 6.0 **CONSIDERATION**

### Preliminary Matter

- 6.1 Section 42 'Notification of applications to certain persons' of the Planning (Northern Ireland) Act 2011 prohibits the Commission from entertaining an appeal against the refusal of planning permission unless it is accompanied by a certificate relating to the ownership of the appeal site. The appellant completed Certificate A on both the planning application and appeal forms stating that he was in actual possession of every part of the land to which the application relates at the time the application and appeal were submitted.
- 6.2 The third party has raised concern regarding the accuracy of the landowner certificate submitted, in relation to the works required to provide visibility splays of 2.0m x 45m on Glasswater Road.
- 6.3 Although this is an outline application, with details on access to be reserved, the concept plan submitted with the appeal shows the proposed access point immediately adjacent to the boundary with Glasswater Lodge. At my site visit I noted that the provision of the visibility splays may require the removal of part of the wall and pillars that form the roadside boundary of the nursing home which is occupied by the third party. I also noted that a grass verge and kerb, which forms part of the public road network, is included within the boundary of the appeal site.
- 6.4 The purpose of Section 42 is to ensure that certain persons likely to be interested in or affected by the outcome of a planning application are notified of it. The third party is aware of the application for planning permission and has made representations to both the planning authority and the Commission on the proposed development. The planning authority consulted the Department for Infrastructure (DfI) Network Planning on the proposed development. They responded that visibility splays of 2.0m x 45m would be required and should be included within the site outlined in red. I note they did not object to the proposal.



- 6.5 It is a matter of public interest that the provisions requiring the giving of notice to persons concerned ought to be formally observed. Despite investigations by the Commission, it has not been possible to determine if the certificate is accurate. However, an inaccurate certificate does not have the inevitable effect of invalidating a planning application. The purpose of Section 42 is to ensure that certain persons likely to be interested in, or affected by, the outcome of an application are notified of it. Both parties were aware of the proposed development, sufficient to make representations. No party who should have received notice has been prejudiced. For these reasons, I consider that the purpose of the provision remains unimpaired. Therefore, in these circumstances, I am satisfied that the Commission can entertain the appeal.

### Main Issues

- 6.6 The main issues in this appeal are whether the appeal proposal is acceptable in principle in the countryside and if it would result in a suburban form of build up.
- 6.7 Section 45(1) of the Planning (Northern Ireland) Act 2011 states that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.8 The Ards and Down Area Plan 2015 (ADAP) operates as the statutory local development plan for the area within which the appeal site lies. Newry, Mourne and Down District Council has not, as yet, adopted a Plan Strategy for the district. The plan locates the appeal site outside any defined settlement limit and in the countryside. In relation to countryside development, the ADAP states that Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21) will take precedence over the provisions of the adopted ADAP. The ADAP contains no other policies pertinent to the appeal proposal.
- 6.9 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. Notwithstanding that the Council and third party make reference to paragraph 6.73 of the SPPS, which relates to social and affordable housing, the appellant has not presented any arguments to suggest the appeal proposal falls within this category.
- 6.10 The SPPS sets out the transitional arrangements that will apply until a local authority has adopted a Plan Strategy for its council area. The SPPS also retains certain existing Planning Policy Statements (PPSs) including PPS21. There is no policy within the SPPS which specifically relates to accommodation for the elderly. However, it does provide policy on housing in the countryside. There is no conflict between the provisions of the SPPS and those of retained policy regarding issues relevant to this appeal, though PPS21 provides more detail. In accordance with the transitional arrangements set out in the SPPS, the appeal should be determined in accordance with the retained policies of PPS21.
- 6.11 Policy CTY1 of PPS21 states that there are a range of types of development which are acceptable in the countryside in principle. In regard to housing development,

details of these are set out at thirteen bullets points within the headline text of the policy. The appellant has not sought to argue that the appeal proposal falls within any of the range of types of development set out within Policy CTY 1 of PPS21 as being acceptable in principle in the countryside.

- 6.12 Policy CTY1 of PPS21 also allows other types of development in the countryside but only where there are overriding reasons why that development is essential and could not be located in the settlement, or it is otherwise allocated for development in a development plan.
- 6.13 Notwithstanding the Council's evidence that the proposal relates to *five units* of sheltered accommodation and one warden's unit, the concept plan submitted with the application for planning permission, for information only, shows *six units* of sheltered accommodation and one wardens' unit. Each single storey unit would comprise one bedroom and an open plan living and kitchen area. The proposed detached units would be centred around a courtyard in a cul de sac fashion with parking adjacent to the eastern and southern boundaries. Fourteen parking spaces are indicated in total and a new access is shown to Glasswater Road. It is to be run as a private commercial development.
- 6.14 In order to demonstrate that there are overriding reasons why the proposed development is essential in this location it would not be unreasonable to expect the appellant to put forward evidence to demonstrate a need for the type of accommodation proposed. The appellant made unsubstantiated arguments that moving elderly rural dwellers to towns or villages for caring purposes would be debilitating and diminish their quality of life. Whilst the six emails and letter from local representatives lend support for the proposal, they are generalised in nature and do not demonstrate a need for the proposed development in this countryside location. As a separate enterprise, the appeal proposal cannot be correctly described as ancillary to, or having links with, the adjacent nursing home. Its position adjacent to the existing care home is not of itself sufficient to persuade me it is necessary or would be complementary to that established business.
- 6.15 The third party's evidence suggests that the need for independent care for the elderly in the area has declined in recent years due to a preference from the local trust to provide care at home. As a result, he has had to adjust his business model from nursing home care to a fold structure, similar to that proposed. Despite this change his business currently carries ten vacancies and has been undersubscribed for the last five years. The appellant is aware of the third party's arguments in this respect and did not raise any dispute in relation to this. As a local provider of care for the elderly I consider the third party's undisputed evidence on need, or lack thereof, to be persuasive. In light of this I do not accept the appellant's arguments that there is a need for the proposed sheltered accommodation in this location.
- 6.16 Given the above there are no overriding reasons why the development is essential and could not otherwise be provided in a settlement. Consequently, the appeal proposal does not comply with Policy CTY1 of PPS21 and the Council has sustained its sole reason for refusal.
- 6.17 The third party raised a number of other concerns regarding the appeal proposal, including a build up of development. The appeal site is a prominent corner site and

although its roadside boundary is well vegetated there are gaps that allow views into it. There are also views from the adjacent roads of the nursing home which appears suburban in form due to its design. This development has impacted on the rural character of the area, to an extent. Whilst the concept plan is illustrative only, nonetheless it shows seven proposed units. The number of units and their configuration in a cul-de-sac fashion is of itself a suburban form of development. This, combined with the extent of hard surfacing that is proposed to accommodate access and car parking, would be incongruous in this rural location and, when read with the suburban nursing home adjacent, would further erode the rural character of the area. The third party concerns in this respect are sustained.

- 6.18 In relation to construction phase impacts, although the scale of development would be limited, given the proximity to the adjacent care home and the sensitivity of the receptors, I agree with the third party that there is potential for noise and dust. Environmental Health have also raised concerns regarding noise and dust but consider this could be addressed by condition. I agree that this could be mitigated by way of a condition requiring a construction and environmental management plan to identify appropriate controls for noise and dust during the construction phase. The third party's concerns regarding construction impacts are therefore not determining in this appeal.
- 6.19 In relation to other assessments, I have no information before me to demonstrate that the development proposal would exceed the thresholds requiring a drainage assessment. The appellant has indicated, on the P1 form, that a septic tank is proposed for foul sewage and a soak away to deal with surface water. I have no persuasive evidence that these could not be delivered.
- 6.20 Regarding the lack of a preliminary ecological appraisal, the NIEA response did not request one but instead referred the planning authority to DAERA guidance. No detail was presented in respect of ecological concerns other than hedgerow removal. Hedgerow would be required to be removed to facilitate the proposed development. I find the absence of a biodiversity checklist is not fatal to the proposal as a landscaping plan could deal with this issue. The third party concerns in this respect are not upheld.
- 6.21 In relation to access, the purpose of visibility splays is to allow those using an access point to see and be seen by other drivers using the public road network. I am satisfied that the provision of visibility splays of 2m x 45m at the junction of the proposed access with the public road, as suggested by the Department for Infrastructure, would facilitate its safe use. In addition, given the nature of the appeal proposal, I am not persuaded it would lead to an unacceptable intensification of vehicle movements on the surrounding road network. For the reasons given, I am not persuaded that the proposal would negatively impact on road safety and the third party's concern in this respect are not upheld.
- 6.22 I am not persuaded that an approval would have a financial impact to the extent specified by the third party. None of the third party's other concerns are determining in this appeal.
- 6.23 The appeal proposal is for outline planning permission for the erection of sheltered accommodation for the elderly in a countryside location. The proposal does not



meet any of the identified circumstances within Policy CTY1 of PPS21 where permission will be granted in the countryside. It is not allocated for in a plan. As I have found that there is no persuasive evidence to demonstrate that there is an overriding reason why the development is essential, and could not be located within a settlement, the proposal is considered to be contrary to Policy CTY1 of PPS21. As the Council's sole reason for refusal is sustained, and the third party concerns in respect of build up are upheld, the appeal must fail.

## **7.0 RECOMMENDATION**

7.1 I recommend to the Commission that the appeal is dismissed.

7.2 This recommendation relates to the following drawing:-

Drawing 2036-03C titled "Location Map (amended)" at 1:2500 scale.

**COMMISSIONER LAURA RODDY**



**List of Documents**

Planning Authority:-	"A1" Statement of Case by Newry, Mourne and Down District Council
Appellant:-	"B1" Statement of Case by G T Design on behalf of Mr Hewitt "B2" Rebuttal comments by G T Design on behalf of Mr Hewitt
Third Parties:-	"C1" Statement of Case by Mr L Reid of Glasswater Lodge "C2" Rebuttal comments by Mr L Reid of Glasswater Lodge



# Appeal Decision

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<b>Appeal Reference:</b>	2021/A0088
<b>Appeal by:</b>	Mr Stephen Hewitt
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Erection of sheltered accommodation for the elderly
<b>Location:</b>	Northwest and adjacent to 59 Glasswater Road, Creevy carron, Crossgar
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2020/1702/O
<b>Procedure:</b>	Written representations and Commissioner's site visit on 24 February 2022
<b>Decision by:</b>	The Commission, dated 31 March 2022

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The Commission has considered the report by Commissioner Laura Roddy and accepts her analysis of the issues and recommendation that the appeal should fail. The Commission agrees that the reason for refusal has been sustained.

**Decision** – the appeal is dismissed.

This decision is based on the following drawing:

Drawing 2036-03C titled "Location Map (amended)" at 1:2500 scale.

**ANDREA KELLS**  
Chief Commissioner