

February 2nd, 2023

**Notice Of Meeting**

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

**Committee Membership 2022-2023**

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

# Agenda

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

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

## 4.0 Minutes of Planning Committee Meeting held on 11 January 2023. (Attached).

[📄 Planning Committee Minutes - 11.01.2023.pdf](#)

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

[📄 Addendum list - 08-02-2023.pdf](#)

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### *Local Development Plan Items - Exempt Information*

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## 6.0 LDP: Progress Report – Quarterly Update. (Attached).

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

[📄 PC Report re LDP Progress - Quaterly Update \(3rd Q 2022-23\).pdf](#)

Not included

[📄 LDP Progress - Quarterly Update \(3rd Q 2022-23\)\(Report Appendix\).pdf](#)

Not included

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**7.0 LA07/2022/0273/F - Change of use application from existing shop (Use Class A1) to proposed Amusement Arcade - 54 Market Street Downpatrick Co Down. (Case Officer report and addendum attached).**

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

[LA07-2022-0273-F - 54 Market Street - change of use \(002\).pdf](#) Page 16

[LA07\\_2022\\_0273\\_F\\_Market St\\_Addendum.pdf](#) Page 23

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

**8.0 LA07/2020/1651/F - Erection of dwelling (Change of house type from that previously approved under P/2006/2002/F) (Amended description) 75m north of 18 Ballinasack Road, Mullaghbawn, Newry. (Case Officer report attached).**

REFUSAL

- In line with the Operating Protocol no further speaking rights are not permitted on this application (Colin O'Callaghan agent, will be available to answer any queries Members might have).
- A site visit was held on 18 January 2023 - Councillors Byrne, Larkin, Lewis, Murphy, McAteer and McEvoy attended.

[2020 1651 - Ballinasack Road Mullaghbawn...pdf](#) Page 27

**9.0 LA07/2022/0578/O - Approx. 55m North-west of 61 Dromore Road Ballynahinch - New Dwelling and Domestic Garage. (Case Officer report attached).**

REFUSAL

- Councillor Hanna has requested this application be deferred as the planning consultant is not able to attend the meeting on this date.

[LA07-2022-0578-O 61 Dromore Road cluster.pdf](#) Page 37

*Development Management - Planning Applications for determination*

**10.0 LA07/2020/1043/F - Proposed residential development of 22 no**

**two storey dwellings, detached garages and associated site works - Land 30m north of 4A Tollymore Road. (Case Officer report attached).**

APPROVAL

- Written statement of objection received from Mr Gordon Kendall and circulated to Committee Members.
- A request for speaking rights has been received from Barry Fletcher, agent, in support of the application. **(Submission attached).**

📄 *LA07-2020-1043-F.pdf*

*Page 43*

📄 *Item 10 - LA07-2020-1043-F (support).pdf*

*Page 63*

**11.0 LA07/2021/1995/F - Proposed 2no Detached Dwellings with associated Car Parking and Landscaping - Lands to North West of 26-34 Boulevard Park and South West of 59 Boulevard Park Newcastle. (Case Officer report attached).**

APPROVAL

- Councillor Devlin has requested this application be deferred as an objector is not able to attend the meeting on this date

📄 *LA07-2021-1995-F.pdf*

*Page 64*

**12.0 LA07/2022/1069/F - Change of Use of the former bank (Class A2) to an amusement arcade/adult gaming centre facility and alterations to shop front - 80-82 Market Street Downpatrick. (Case Officer report attached).**

APPROVAL

- A request for speaking rights has been received from Philip Campbell, Chair, Downpatrick Town Committee, and Andy Stephens, Planning Consultant, in objection to the application. **(Submissions attached).**

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

*Page 75*

📄 *Item 12 - LA07\_2022\_1069\_F.pdf*

*Page 84*

📄 *Item 12 - LA07-2022-1069-F (objection A stephens).pdf*

*Page 86*

**13.0 LA07/2022/1438/F - Proposed single storey side and rear**

**extension, and new patio area - 25 Main St Bessbrook. (Case Officer report attached).**

APPROVAL

- Addendum list

📄 *LA07-2022-1438-F (extension) 25 Main Street Bessbrook Signed.pdf*

*Page 93*

**14.0 LA07/2022/1586/LBC - Proposed single storey side and rear extension, and new patio area - 25 Main St Bessbrook. (Case Officer report attached).**

APPROVAL

- Addendum list

📄 *LA07-2022-1586-LBC (extension listed building curtilage) 25 Main Street Signed.pdf*

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***For Noting***

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**15.0 Historic Action Sheet. (Attached).**

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

*Page 98*

**16.0 Planning Committee Performance Report for December 2022. (To follow).**

**17.0 Current appeals and decisions. (To follow)**

**NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

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**Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 11 January 2023 at 10.00am in the Boardroom, Monaghan Row, Newry and via Microsoft Teams.**

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**Chairperson:** Councillor D McAteer

**In attendance: (Committee Members)**

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

**(Officials)**

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

**P/001/2023: APOLOGIES AND CHAIRPERSON'S REMARKS**

No apologies were received.

**P/002/2023: DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

**P/003/2023: DECLARATIONS OF INTEREST IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL- PARAGRAPH 25**

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

There were no Declarations of Interest in relation to Para. 25.

**MINUTES FOR CONFIRMATION**

**P/004/2023: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 14 DECEMBER 2022**

Read: Minutes of Planning Committee Meeting held on Wednesday 14 December 2022. (Copy circulated)

**AGREED:** On the proposal of Councillor Burgess, seconded by Councillor Hanna, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 14 December 2022 as a true and accurate record.

**FOR DISCUSSION/DECISION**

**P/005/2023: ADDENDUM LIST**

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 11 January 2023. (Copy circulated)

**AGREED:** On the proposal of Councillor Hanna, seconded by Councillor Burgess, it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 14 December 2022:

- **LA07/2022/0527/F** - 41 Windmill Road Kilkeel BT34 4LP - Proposed alterations & 2 story extension to front of existing dwelling including new replacement garage with store over at rear of dwelling  
**APPROVAL**

**DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION**

**P/006/2023: PLANNING APPLICATIONS FOR DETERMINATION**

**(1) LA07/2019/1254/F**

**Location:**  
42 Downpatrick Road Killyleagh

**Proposal:**

Demolition of existing garage and erection of 4 No. detached dwellings with modified existing access

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point Presentation:**

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

**Speaking rights:**

Mr David Worthington, Planning Consultant and Mr Kieran Dempsey, agent presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**AGREED:**

**On the proposal of Councillor Reilly, seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/1254/F as per the information contained within the Case Officer report and presented to Committee.**

**(2) LA07/2021/2005/F****Location:**

Lands approximately 25m northeast of 212 Concession Road and approximately 20 south west of Shelagh Youth Club Cullaville Co. Armagh

**Proposal:**

Erection of dwelling and garage

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point Presentation:**

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

**Speaking rights:**

In support

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

**Issues raised:**

- Mr O'Callaghan considered there was development on two sides, the youth club to the east and the three dwellings to the south west.
- Mr Rooney accepted there was an existing entrance on to the protected route, but he said for the proposed development to be acceptable in this regard, it would have to meet the requirements of planning policy, which he said it did not.





**(3) LA07/2022/0030/F****Location:**

Approximately 265 metres west of No. 30 Levallyreagh Road Rostrevor

**Proposal:**

Erection of replacement dwelling and garage with associated ancillary site works

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point Presentation:**

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

**Speaking rights:**In support

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

**Issues raised:**

- Mr O'Callaghan advised the applicant did not own the existing access, he only had a right of way to his own land, and he said the lane led to another farm not owned by the applicant.
- Mr O'Callaghan said the applicant did not intend to replace the dwelling for a considerable amount of time, however if he was permitted to build a garage on the site it would ensure he had a lawful planning permission.
- Mr Rooney said it was permitted, under agricultural permitted development to open an access, however, he said that did not negate the need to properly assess an access to serve a private dwelling.
- No local objections had been received.
- Mr Rooney said DfI Roads had concerns as there was the potential to use the substandard access, and one of the stipulations of planning policy for replacement dwellings was that road safety would not be prejudiced.
- Ms Largey said the issue with the proposed application was that a condition could not be imposed to close up a lane that was used by others.
- Ms Largey said DfI Roads had raised concerns regarding access and she said Members should ask themselves if they would be content to set aside DfI Roads concerns.
- Mr Rooney said the purpose of an informative was to advise and it would not be possible to achieve a condition via an informative in this case.

Councillor Hanna proposed and Councillor Lewis seconded to issue a refusal as per Officer recommendation.

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

FOR:	3
AGAINST:	7
ABSTENTIONS:	2.

The proposal was lost.



**Issues raised:**

- Mr Rooney said Planning considered the proposed application would be very prominent, being sited on an open, sloping field and would be highly visible from the Commons School Road. He said there was no enclosure and the existing boundaries to the north and west of the site represented the extent of the existing cluster, and he said the proposal would break new ground and intrude into the countryside.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2022/0751/F contrary to Officer recommendation saying whilst he accepted there was some intrusion into the countryside, he said it was minimal and he considered it did constitute a cluster, all buildings were in close proximity to the crossroads, there was a focal point, it was enclosed on at least two sides, and he considered it would round off the development and would have no adverse effect on neighbouring dwellings.

Councillor Larkin seconded the proposal saying he accepted there was a slight intrusion into the countryside, however he did not consider it was enough to have a negative effect on the countryside.

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

FOR:	10
AGAINST:	2
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 LA07/2022/0751/F contrary to Officer recommendation on the basis that it did constitute a cluster, all buildings were in close proximity to the crossroads, there was a focal point, it was enclosed on at least two sides, it would round off the development and have not adverse effect on neighbouring dwellings.**

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

**(5) LA07/2022/0096/RM****Location:**

Land West of No.1 Crieve Road Newry

**Proposal:**

Dwelling and garage

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point Presentation:**

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

**Speaking rights:**In support

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

**Issues raised:**

- The agent said commercial businesses could be considered when determining the character of an area.
- Mr Rooney accepted the character of an area was made up of all buildings that existed within the area both commercial and residential, but the issue to consider was if it was appropriate to justify the design of a residential building based on the design of a non-residential building.
- Mr Rooney said a design that fitted with the overall dominant residential character of the area would be more acceptable in deflecting from the NIE substation located to the west of the application site.
- Mr Rooney said policy required adequate provision for usable and private open space, he said most of the open space at the application site was to the front, which lacked privacy, and the site was too tight to provide it to the rear.
- Mr Rooney said the application would fail QD1C and the agent could take into account other buildings.
- The agent said there was a rear open space of 140 sq. meters and a roof terrace of 40 sq. meters which, he said was in excess of the minimum requirements as set out in 'Creating Places'.
- The agent said the application site was located on a prominent corner and as per 'Creating Places' it offered an opportunity to provide an interesting building of visual interest. He said as it was not a typical housing development site it should be allowed a degree of flexibility in assessment.
- The agent said if permission was granted, it may be possible to move the building forward by one meter.
- Mr Rooney said Planning considered the open space arrangement was not sufficient.
- Ms Largey said there was nothing to preclude the committee from considering the open roof space in their assessment.
- Mr Rooney said a judgement call was needed when considering the immediate context of the area, which, he said was traditional form with pitched roofs and he said the proposed application would jar in terms of scale and massing.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2022/0096/RM on the basis that he considered it would be provide quality residential accommodation, it would integrate well into the surrounding area and there was adequate open amenity space. Councillor Larkin seconded the proposal.

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

FOR:

11

AGAINST: 0  
 ABSTENTIONS: 1

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 LA07/2022/0096/RM on the basis that it would provide quality residential accommodation, it would integrate will into the surrounding area and there was adequate open amenity space.

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

**(6) LA07/2022/1066/O**

**Location:**

Lands approx. 45m South East of 33 Ardnabannon Road Castlewellan

**Proposal:**

Dwelling and Garage on a Farm

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point Presentation:**

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

**Speaking rights:**

In support

Mr Declan Rooney, agent and Mr John McKibbin, 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 there was a judgement call to be made in terms of determining clustering and visual linkage and he said the assessment had been made given the separation by the public road of the farm holding and the application site.
- Mr McKibbin said the alternative site as outlined by Planning would result in the loss of good agricultural ground.
- Mr McKay said normally diversification or expansion would be in terms of buildings, however, he said there was no reason why the use of the land could not be considered if there was strong planning argument for doing so.
- The agent said given the 33m separation distance from the farm holding, he considered the application site did cluster with the farm holding.
- Mr McKay said the application had initially been assessed under CTY 10 for a dwelling on a farm, however, he said officers had also explored CTY 2A and CTY 8.
- The agent said the crossroads was known locally as 'Four Roads' and he considered it was a staggered crossroads.

- Mr McKay said he accepted the road layout constituted a staggered crossroads, however he said it was a judgement call for the Committee to determine if it was a visual entity.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/1066/O on the basis that he considered it complied with CTY 2A, there was an established cluster and it complied with all required criteria. Councillor Devlin seconded the proposal.

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

FOR:	9
AGAINST:	0
ABSTENTIONS:	3

The proposal was carried.

Mr McKay said the application had been for a dwelling on a farm and asked if that was what Members were approving. Councillor Larkin said the application had also been assessed under CTY 2A by Planning Officers, and it was under CTY 2A that approval was being granted.

**AGREED:**                    **On the proposal of Councillor Larkin seconded by Councillor Devlin it was unanimously agreed to issue an approval in respect of Planning application LA07/2022/1066/O contrary to Officer recommendation on the basis that it complied with Planning Policy CTY 2A.**

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

(Lunch break: 1.25pm – 1.55pm)

**(7) LA07/2022/0578/O**

**Location:**

Approx. 55m North-west of 61 Dromore Road Ballynahinch

**Proposal:**

New Dwelling and Domestic Garage

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point Presentation:**

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

**Speaking rights:**

In support

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

**Issues raised:**

- Mr McKay said a key issue to note was that the boundaries of No. 61 as shown on the Location of Development drawing included in the Case Officer report was probably much changed now as it had been the subject of enforcement action and the curtilage was now much reduced.
- Mr Burgess said the owner of No. 61 Dromore Road had sub-divided his garden with a fence, but it was all maintained in the same manner.
- Mr McKay said the fence was not a sub-division of the garden but had been erected in response to an enforcement order and the fence-line now outlined the approved curtilage. He said, what was outside of the fence- line was countryside and therefore the application site was not bounded on two sides as the barn could not be considered.
- Mr McKay clarified to have a cluster of development, it had to lie outside the farm and therefore there could be no reliance on farm buildings.
- Mr McKay said at the time of the application, Officers were not aware of the hall and its rôle and that was new information and if Members wanted to rely on that in their consideration that was a judgment call for them, however he said, the application site was divorced from the existing cluster and was therefore contrary to policy.
- The agent said a cluster had to be made up of four buildings, three of which had to be dwellings and he considered the agricultural building which bounded it to the NE of the site was the fourth building.
- Mr McKay said a cluster of development must sit outside of a farm and as the agricultural building was located on a farm it could not be included in the assessment.
- Ms Largey concurred with Mr McKay in that the starting point was that a cluster of development must lie outside a farm and therefore farm buildings could not be considered.
- Mr Burgess said the barn had been used for both domestic and agricultural purposes.
- Mr McKay said the agent had previously referred to the barn as being used only for agricultural purposes and to extend the cluster out to include it would not be acceptable in planning terms. He said as a result of the curtilage of No. 61 having been altered in response to an enforcement order, it had made the barn even more remote from the application site.

Councillor Byrne proposed to defer Planning Application LA07/2022/0578/O for a site visit, Councillor Devlin seconded the proposal.

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

FOR:	6
AGAINST:	6
ABSTENTIONS:	0

The Chairman using his casting vote, voted for the proposal.

The proposal was carried.

**AGREED:**

**On the proposal of Councillor Byrne seconded by Councillor Devlin it was agreed to defer Planning Application LA07/2022/0578/O for a site visit, so Members could assess the site in more detail.**

(2.30pm - Councillor Harte left the meeting at this point)



**(8) LA07/2022/0995/O****Location:**

Between 27 and 31 Lessans Road Saintfield

**Proposal:**

New Storey and half dwelling under PPS21 CTY8.

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point Presentation:**

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

**Speaking rights:**In support

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

**Issues raised:**

- M McKay said the building to the rear of the sand school filled the gap and if that building was not there, there would be a gap and therefore in terms of planning policy it failed and should be refused.
- The Chairman said it was his understanding that once a building did not appear within the red line it could be ignored. In response, Mr McKay said what the red line encapsulated was not the issue and there was a danger of reading extracts of policy and justification and amplification and not getting the complete picture. He said, quite simply, if there was a gap, you could see through it.
- To provide more clarity, Mr McKay read from the policy saying: 'a substantial and built up frontage includes three or more buildings along a road frontage without accompanying development to the rear', and as there was development to the rear of the sand school he considered it did not comply with policy.

**AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2022/0995/O contrary to Officer recommendation on the basis that it would not be detrimental to the area and complied with policy as interpreted in the past by Committee.**

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

(2.50pm - Councillors Burgess, Hanna and Lewis left the meeting at this point)

**(9) LA07/2022/1115/O****Location:**

## 2 Rathcuan Heights Downpatrick

### **Proposal:**

New Split Level Dwelling.

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

Refusal

### **Power-point Presentation:**

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

### **Speaking rights:**

#### In support

Mr Gary Hunt, agent and Mr Chris Smith, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

### **Issues raised:**

- Mr Smith confirmed the proposed site was part of the existing site at No. 2 Rathcuan Heights which he had purchased as a new build 27 years ago.
- Mr Hunt said the private amenity space was marginally smaller than that of the five adjoining plots, but nothing to suggest it was totally out of character with that end of the site.
- Mr Hunt said the topography of the area was very steep from the mini roundabout approaching the Saul Road. He said all the properties were split level in design and all had retaining structures.
- Mr McKay said the amenity space would be predominately to the side of the dwelling as opposed to neighbouring properties which all had more amenity space to the rear of their dwellings, and he considered there was a deficiency of really private amenity space with the proposed application.
- Mr McKay said the rear area of the garden of No. 2 Rathcuan Heights would be unaffected by the proposed application.
- Mr Hunt said the five adjacent plots were all somewhat limited to the rear of their sites.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/1115/O contrary to Officer recommendation on the basis that it was an outline planning application, and the Reserved Matters would ensure an appropriate design for the site. Councillor McEvoy seconded the proposal.

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

FOR:	6
AGAINST:	0
ABSTENTIONS:	1

The proposal was carried.

### **AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor McEvoy it was agreed to issue an approval in respect of Planning Application LA07/2022/1115/O contrary to Officer recommendation on the basis that as it was an outline planning**

**permission, the Reserved Matters could ensure a suitable design for the site.**

**P/007/2023: HISTORIC ACTION SHEET**

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

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

**P/008/2023: PLANNING COMMITTEE PERFORMANCE REPORT – NOVEMBER 2022**

Mr McKay advised that due to teething problems with the IT system, it had not been possible to generate the Planning Committee Performance Report.

**P/009/2023: CURRENT APPEALS AND DECISIONS**

Mr McKay advised that due to teething problems with the IT system, it had not been possible to generate the Current Appeals and Decisions Report.

The meeting concluded at 3.14pm.

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

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

## Item 5 – Addendum List

### **Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 08 February 2023**

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

- LA07/2022/1438/F - Proposed single storey side and rear extension, and new patio area - 25 Main St Bessbrook. **APPROVAL**
- LA07/2022/1586/LBC - Proposed single storey side and rear extension, and new patio area - 25 Main St Bessbrook **APPROVAL**

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



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2022/0273/F

**Date Received:** 11.02.2022

**Proposal:** The application is for a change of use from existing shop (use Class A1) to proposed amusement arcade.

**Location:** The application site is known as 54 Market Street, Downpatrick.



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

The site in question is a single storey building that has a shop front to the front façade and is a terrace building. The walls are plastered walls that are painted and there is a slate roof to the front section. The building is a long narrow building with an access also to the rear of the premises out into a shared yard area.

The site is within the settlement development limits of Downpatrick as defined in the Ards and Down Area Plan 2015 and the site is also within Downpatrick's Primary Retail core and within the defined Town Centre. The site is also within the Strangford and Lecale Area of Outstanding Natural Beauty and within an area of archaeological potential and an area liable to flooding. There are also listed buildings within the town centre, including the former bank building on the corner of Market Street and St Patrick's Avenue.

**Site History:**

R/1982/0516 – 52 Market Street, Downpatrick – change of use from shop to café extension – granted – 06.10.1982

**Planning Policies & Material Considerations:**

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

- The Ards and Down Area Plan 2015
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 3: Access Movement and Parking
- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage
- Development Control Advice Note 1 Amusement Centres.

**Consultations:**

Consultation issued to Environmental Health in relation to the application and they have responded with no objections but advise that should the proposal proceed separate licenses will be required from the Council.

While other constraints have been noted on the site given the nature of the application it is not considered that any further consultations are required.

**Objections & Representations**

In line with statutory requirements the application was advertised in the local press on 02.03.2022 which expired on 16.03.2022. Neighbour notification issued on 18.03.2022 which expired on 01.04.2022. to date 6 representations have been received including 1 letter of support from the applicant. A summary of the content of the objections is summarised below.

- The change of use away from a retail unit to an amusement arcade conflicts with the strategic priorities of the Councils Regeneration and Economic Development Strategy 2020-2025, as the vision of this document is to *promote the revitalisation of our city, towns, villages and rural communities*. Objectors believe that to allow the change of use to occur it would conflict with adjacent land uses.
- Objectors raise concerns that the proposed use, if implemented, could potentially deter future development within the town and would have an impact on footfall.
- One objector believes that the proposal would be against the policy requirements of PPS 6 given the proximity to listed buildings.
- Neighbouring businesses have also objected to the proposed use and raise issues such as late-night opening and safety of staff and the likely impact on the shared yard to the rear of the site. One objector also notes the clientele that such places attract and

does not believe this will benefit the town in any way and don't believe this would be an appropriate neighbouring business.

- One objector claims there are inaccuracies with the P1 form and drawings but has not elaborated on this comment.

### **Consideration and Assessment:**

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

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

The Strategic Planning Policy Statement states the aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions consistent with the Regional Development Strategy. Any development needs to be appropriate and needs to ensure the vibrancy of town centres is retained.

In terms of the reference to the SPPS, the SPPS does allow for leisure, entertainment and businesses within the town centre and this point is not disputed however the SPPS clearly states within point 6.269 that planning should encourage development of an appropriate scale in order to enhance the attractiveness of the town centre.

The Ards and Down Area Plan 2015 and the SPPS are given consideration in assessing this proposal noting the cancellation of PPS 5 with the introduction of the SPPS.

In relation to the Ards and Down Area Plan 2015 the site is within the town centre of Downpatrick and also noted as being within the primary retail core (PRC). The area plan notes that the purpose in identifying the PRC is to allow control to be exercised over development inside that area to ensure the continuance of a compact and attractive shopping environment offering both choice and convenience. The Area Plan also notes that the main focus of retail is towards the lower end of Market Street, where the site in question is located. The plan also notes that a proliferation of office uses at street level within shopping frontages can displace significant amounts of retail floorspace, reduce shopper activity, and affect the commercial viability of retailing.

The previous use of the building was that of a hardware store, this use ceased late 2021. The use as a hardware store fell under class A1: Shops in The Planning (Use Classes Order) 2015. The proposed use as an amusement arcade is Sui Generis or no specified class.

Plans submitted show that there is a small front office proposed to the front of the building facing out onto Market Street offering approx. 8sqm floor space, a small lobby would allow access to the remainder of the unit with approx. 86m devoted to the amusement arcade with

approx 28 Slot Machines (AWP Machines). These machines will largely be located close to both walls with toilets and an access to the rear of the building. The front of the shop will remain the same in appearance as the current building front with the proposed premises having full length glass window to the front. Any signage would be subject to a separate advertisement consent.

Within the existing retail core there are a mix of uses, whilst the predominant use is retail there are also retail services and office space at ground floor level. There is a good level of footfall presently through this section of the town. It is also noted that the site is in close proximity to a square where public events are held throughout the year.

A Retail and Commercial Capacity Study undertaken as part of the Area Plan Review found that there are 201 units in the centre, a reduction of seven units since the previous Study was undertaken in 2019. The composition of the centre shares similarities to the UK national averages.

Convenience shopping is slightly lower than the average at 8.0% compared to 9.2% and remains comparable to the previous survey. Comparison shopping is slightly above the average at 27.9% compared with 27.1%. The offer available within the town centre includes a mix of national multiples (New Look, Argos and Halfords) as well as independent retailers.

There is a lower proportion of leisure services (20.9% compared to 24.6%) which remains consistent since 2019. There is also a lower proportion of retail services (13.4% compared to 15.6%), although there has been a minor increase since the previous health check. Financial and business services exceed the average at 10.9% compared to 9.1%, with several banks located in the centre, although the Bank of Ireland has become vacant since the previous study and is now the subject of a change of use application to an amusement arcade/adult gaming centre.

Initial health checks undertaken in 2019 and then updated in March 2022 show that whilst there have been some changes in terms of the composition of the centre, Downpatrick is performing broadly in line with UK national averages and functions well as a centre, catering for the majority of retail and service needs expected to be found in a settlement of this size.

The level of vacant units in the centre is 19.4% and exceeds the UK national average of 14.2%. The overall level of vacancy has increased by one unit since the previous health check was undertaken. Vacancies are spread throughout Downpatrick, although concentrations of vacant units can be found in Market Lane and Scotch Street.

The Retail and Commercial Capacity Study undertaken by Nexus as part of the Councils Area Plan Preparation has recommended that the Primary Retail Core be removed from Downpatrick town centre. The retail consultants considered that there was some danger in being closed to the idea of non-retail uses at ground floor level within the heart of major town centres.

### **DCAN 1 Amusement Centres**

This is an advice and guidance document and not policy.



The factors which call for consideration on a planning application for an amusement centre are its effects on the amenity and character of its surroundings, and its effects on road safety and traffic flow.

The latter merit special consideration where the premises front on to a busy traffic route or are near an awkward road junction or are so sited that many visitors arriving on foot will have to cross a busy road or use an inadequate footway. The highways effects will depend to some extent on the activities to be carried on. For example, large concentrations of people at the beginning and end of bingo sessions held at an amusement centre would have a different effect from the same number of people arriving and departing over a longer period.

The applicant has noted that there would not be any classes for example bingo operating from the building. It is not anticipated that the proposal will result in a detrimental impact on traffic flow or road safety.

The effects on amenity and the character of the surroundings are more diverse. They will usually depend on the location of the proposed amusement centre in relation to other development, its appearance, the kind of amusement to be provided, the noise likely to be produced and the hours of operation.

As regards the location, amusement centres are not normally acceptable near residential property nor are they good neighbours for schools, churches, hospitals, or hotels. They are out of place in conservation areas or other places of special architectural or historic interest, except perhaps where these cover a really wide area. In areas where one amusement centre may not be out of place, it would be permissible to take into account the effect of larger numbers on the character of a neighbourhood.

The proposed development is not located close to residential property, EHO have commented on the proposal and have no objections in respect of noise or amenity. It is noted that anti-social behaviour generally associated with such places is not a matter for planning but for the PSNI and licensing and ultimately safe and sensible gambling is a matter for the business operator.

The proposed development is not located within the Downpatrick Conservation Area, it is however located within close proximity to the Listed Bank on the corner of Market Street and St Patricks Ave. Given the nature of the proposal, with no physical changes being proposed, it is not considered that there will be a negative impact on the listed building or its setting as a result of the change of use element of the proposal.

It is noted that there is a currently undetermined application with the Council for a change of use of a former redundant bank building (A2) to an adult gaming centre at 80-82 Market Street within the PRC. There is an existing amusement centre called Carousel Casino Slots to the rear of Sports Direct on St Patricks Ave outside the PRC but within the Town Centre. The Council will continue to deal with applications for non-retail in the town centre on a case by case basis.

In towns where there is no provision for areas for amusement or entertainment, amusement centres are usually best sited in districts of mixed commercial development. In areas where shopping is the predominant use, the likely effect of the development on the character of the shopping centre is relevant. An important consideration will be whether an amusement centre would break up an otherwise continuous shopping frontage; and although this can be mitigated

by attention to the design of the facade and entrances, it may nevertheless be a serious objection in some shopping streets.

The premises previously operated as a Hardware shop, there is a diversity of frontages and mixed uses along this stretch of Market Street including offices within the Primary Retail Core. It is noted that the proposed change of use will involve a front office element of 8sqm to the street frontage. It is acknowledged that the proposed change of use will result in a loss of GF retail at this location.

It is not considered that this change of use will have a disruptive effect on the shopping frontage, as previously stated there are a range of retail uses, services and office premises located within the retail core.

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

Having account to Planning policy and guidance, having considered the objections received and have regard to the findings of the Commercial Study commissioned by the Council for input to the Area Plan preparation, whilst it is acknowledged that the proposal involves the loss of a GF retail unit, the current health of the town centre is considered to be able to cope with this loss without detriment to the vibrancy, vitality and viability of the town centre.

It is not considered that the proposed change of Use will result in a loss of retail such that the vitality and viability of Downpatrick Town Centre is detrimentally affected and as such a recommendation of approval is made.

### **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: **7001 and 7002.**

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

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

Reason: In the interests of residential amenity.

**Informative**

1. The applicant will need to consult with the Licensing Section of the Council in regard to obtaining an Amusement Permit.

**Case Officer: Fionnuala Murray**

**Appointed Officer: A.McAlarney**

**Date: 05.08 2022**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

## ADDENDUM REPORT

**Application Reference:** LA07/2022/0273/F

**Date Received:** 11.02.2022

**Proposal:** The application is for a change of use from existing shop (use Class A1) to proposed amusement arcade.

**Location:** The application site is known as 54 Market Street, Downpatrick.

The application was scheduled for presentation to the 24 August 2022 meeting of NMDDC Planning Committee with a recommendation to approve. The application was removed to allow for consideration of a late representation that had been received from Matrix Planning on the 16<sup>th</sup> August 2022 following formal consideration of the proposal on the 5<sup>th</sup> August 2022.

Since then a number of representations have been received. A letter of objection was also received on the 24 August 2022 from Patrick Brown MLA.

A letter of rebuttal was received from C. McIlvar on 30 August 2022 in response to the Matrix Planning representation of 16<sup>th</sup> August 2022 and a further representation from Matrix Planning of the 22 November 2022.

This addendum will address the matters raised in the representations received since 5<sup>th</sup> August 2022.

Matrix Planning raises the following policy matters

- Assessment contrary to the Area Plan DK 23 and DK 24 and the SPPS.
- The proposed use is non-retail and results in a loss of retail in PRC
- Assessment of need required
- DCAN1 non compliance

- Cumulative assessment required
- Break in Continuous shopping frontage

#### Patrick Brown MLA

- Significant change of use, incompatible with regeneration efforts in Downpatrick in particular the Regeneration and Economic Development Strategy 2020-2025 incompatible with the Area Plan, SPPS, and DCAN 1
- area is already well served by significant non retail uses in the form of bookmakers and adult amusement and gaming.
- long opening hours
- extra noise and footfall in direct conflict with long established Downpatrick businesses in retail, shopping and hospitality, this is potentially off putting for any future investors.

In consideration of the matters raised in the Matrix letter of objection and Patrick Brown MLA the following is offered.

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

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

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

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

Reference is made to a recent PAC decision Ref: 2020/A0076, a non-determination appeal for a change of use from a Bank (Class 2) to an amusement arcade and adult gaming at High Street Newtownards. The commissioner found town centre uses to include cultural and community facilities, retail, leisure, entertainment, and businesses. An amusement arcade and gaming centre comprises a form of leisure and entertainment. This case was similar with the current proposal in that both proposals were located

within the designated Town Centre and the PRC. The commissioner found that the proposal was policy compliant with the SPPSs and the Area Plan.

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

General guidance and advice is provided by DCAN 1. Paragraph 3 of DCAN 1 indicates that one of the factors to be considered in relation to a planning application for an amusement centre are its effects on the amenity and character of its surroundings. Paragraph 4 points out that the effects on amenity and the character of the area will usually depend on the location of the proposal in relation to other development, its appearance, the kind of amusement to be provided, the noise likely to be produced and the hours of operation.

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

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

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

The building subject to this application is located on the southern side of Market Street, it is not within the Downpatrick Conservation Area or other place of special architectural or historic interest. It is not located near residential property or any schools, churches, hospitals or hotels, which DCAN 1 states are not normally acceptable locations for amusement centres.

There is currently an application for a change of use of a former bank to an amusement arcade at 80-82 Market Street, this is subject to a non-determination appeal with the PAC at present. However this application can be differentiated from the current proposal as it represents a change of use from a non-retail to a retail use in the PRC. As always, individual applications will be determined upon their individual merits and no decision has as yet been forthcoming on this application. There are no other amusement arcades in the PRC. Casino Slots and Carousel Casino Slots are located in the town centre but set in back street locations off the main shopping street of St Patricks Avenue.

The property at the time of writing has reopened as a Hardware store and sits within a linear frontage comprising a range of shops and bookended by 2 banks one of which is currently vacant (Northern Bank Building). The proposal as already alluded to represents a town centre use in the PRC. It is considered that the proposed development would not break up an otherwise continuous shopping frontage, retail would remain the predominant use along Market Street and the main concentration of retail floor space within Downpatrick would continue to be located within the PRC as required by the ADAP.

The proposed drawings show that the front of the shop will remain the same in appearance as the current shop front with the proposed premises having full length glass window to the front. Any signage would be subject to a separate advertisement consent. There will be no perceivable detriment visually to the retail frontage whether it be used as a hardware shop or an amusement arcade. It is interesting to note that from the referenced appeal judgement the commissioner held that in the interest of visual amenity, the front windows of the premises were required to permanently contain a display. If this were deemed necessary, this could be conditioned as such in agreement with the applicant.

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

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

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

**Signed**

**A.McAlarney**

**Date: 29 November 2022**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

<b>Application Reference:</b>	LA07/2020/1651/F
<b>Date Received:</b>	10/11/2020
<b>Proposal:</b>	Erection of dwelling (Change of house type from that previously approved under P/2006/2002/F) (Amended description).
<b>Location:</b>	75m north of 18 Ballinasack Road, Mullaghbawn, Newry

#### **1.0. Site Characteristics & Area Characteristics:**

- 1.1.** The site is located on the elevated and minor Ballinasack Road. The site currently encompasses foundational work and steel caging and is currently located below the level of the road (approximately 3 metres below) but is situated above the level of the dwelling at No.18 (approximately 5m, to a maximum of 10m in parts) and is approximately 45 metres to the north of No.18. The site is bounded by post and wire fences with low hedges to the front of the site. The surrounding area is rural in character and is characterised by farm groups and single houses.
- 1.2.** The site is located in the open countryside outside of any settlements and within the Ring of Gullion Area of Outstanding Natural Beauty (AONB) as designated in the Banbridge Newry and Mourne Area Plan 2015.

#### **2.0. Site History:**

P/2003/0168/O

- Site for dwelling and garage
- Immediately north of number 18 Ballinasack Road, Mullaghbawn, Newry
- Permission Granted 20.06.2003



P/2006/2002/F

- Erection of dwelling
- Immediately north of number 18 Ballinasack Road, Mullaghbawn, Newry
- Permission Granted 11.01.2008

P/2010/0904/F

- Erection of farm dwelling to include retention of existing foundations
- 45m north of 18 Ballinasack Road, Mullaghbawn
- Application withdrawn

### **3.0. Consultations:**

Transport NI – DfI Roads has no objection in principle to this application.

NI Water – Generic response to routine planning application

HED – On the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

### **4.0. Objections and Representations:**

One neighbour was notified of the proposal on 15/12/2020. The proposal was also advertised in local press 12/01/2021.

Two items of correspondence were received from an objector on 27 January 2021 and 25<sup>th</sup> March 2021. Issues raised are summarised below:

- Address of site conflicts with footprint of proposed dwelling
- Non-compliance of previous approval with planning law
- Proportion of site covered by run-off area (in relation to septic tank emptying consultation response).
- Personal circumstances should not take precedence over other planning and development considerations.

### **5.0. Planning Policies and Material Considerations:**

Strategic Planning Policy Statement for Northern Ireland

Banbridge Newry Mourne Area Plan 2015

Planning Policy Statement 21 – Sustainable Development in the Countryside

Planning Policy Statement 2 – Natural Heritage

### **6.0. Site context/Background**

- 6.01.** There is a long and complex planning history related to this application site, which is a material consideration for this planning application.
- 6.02.** By way of background, outline approval was granted on the site for a house on 20<sup>th</sup> June 2003 under reference P/2003/0168/O. This was subsequently followed, on 11<sup>th</sup> October 2006, by a full application for the erection of a dwelling

under reference P/2006/2002/F. This was granted approval on 11 January 2008 with a one-year time limit to commence development.

- 6.03.** On 19<sup>th</sup> February 2010, the previous planning authority, Department of Environment (DoE Planning), initiated an enforcement investigation, under file reference P/2010/0108/CA, in response to complaints regarding the alleged unauthorised commencement of works on the site. On 20<sup>th</sup> May 2010, DoE Planning served a planning contravention notice on the landowner and in response, the applicant stated he had started work, on the site, in Autumn 2009. This date was beyond the time limit of the previous approval which should have commenced by 11<sup>th</sup> January 2009. On the 19<sup>th</sup> July 2010, the DoE Planning subsequently received an application, P/2010/0904/F, for the erection of a farm dwelling to include the retention of the existing foundations.
- 6.04.** This application was considered over a period from July 2010 to November 2011, whereby numerous objections, amended plans and additional information was submitted. On 8<sup>th</sup> December 2011, the application was presented to the legacy Council, Newry, Mourne & Down District Council, as an approval and was subsequently deferred. The application was reconsidered, and it was concluded that there was no evidence to prove that works had started in accordance with the previous approval. A recommendation for refusal was presented to Council and deferred on 10<sup>th</sup> February 2012. A meeting was held between the Department and the applicant/agent in May 2012, whereby it was contended the applicant had an active farm and it was proposed to submit farm map and a P1C form for consideration as an application under a farm dwelling under Policy CTY 10 of PPS 21.
- 6.05.** These documents were submitted to DoE Planning in May 2012. Following consultation with DARD, it confirmed the Business ID had been in existence for more than 6 years, but payments or allowances had not been claimed in the last 6 years. It was considered by the planning authority that there was an established farm and that the application complied with the requirements of Policy CTY 10 of Planning Policy Statement 21 (PPS 21) and approval was recommended.
- 6.06.** This recommendation was subsequently deferred by the Council on 7<sup>th</sup> March 2013. A meeting was held between the Department and the objectors in May 2013. The information raised in the meeting was considered and a further assessment made. The application was again recommended for approval. This decision did not issue due to a further review by the former planning authority.
- 6.07.** Jurisdiction for the planning application then passed to Newry Mourne & Down District Council, following the transfer of planning powers in April 2015. On 7<sup>th</sup> September 2016, a meeting took place between the Council's Planning Department, the planning agent, applicant and a local elected representative. The complex history of the site was reviewed. The agent put forward reasons in support of an approval for consideration.

- 6.08.** On 24<sup>th</sup> November 2016, the planning agent submitted an amended proposed site layout and existing site layout survey and cross section for consideration by the Planning Department. The application was then further assessed by the Planning Department, and it was concluded that it was contrary to a number of statutory planning policies, including: the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 10, Policy CTY 8, Policy CTY 13 and Policy CTY 14 of PPS 21 'Sustainable Development in the Countryside'; and Policy NH6 of Planning Policy Statement 2, 'Natural Heritage.' This was on a number of planning grounds including: it had not been demonstrated that the farm business was active or established; the proposed dwelling did not visually link or cluster with established buildings on the farm; and that the proposed dwelling would lead to inappropriate ribbon/suburban development in the countryside.
- 6.09.** The application was tabled for the Planning Committee on Wednesday, 26th June 2019 with a recommendation to refuse, as outlined above. The Planning Committee voted to overturn the case officer's recommendation on the grounds that significant excavation works had taken place and the applicant believed he had complied with regulations by commencing works. It was agreed officers be delegated authority to impose any relevant conditions.
- 6.10.** The Planning Department then issued a formal approval notice, on 2 July 2019, subject to a number of planning conditions.
- 6.11.** A formal application for leave to apply for a Judicial Review was then lodged by an objector in respect of the decision by Newry, Mourne & Down District Council to issue planning permission for the application on 2 July 2019. This was on the grounds that the decision was unlawful and of no effect. Legal advice was sought by the Planning Department, following the application for leave to apply for a Judicial Review, in line with normal procedure.
- 6.12.** Members of the Planning Committee were advised of the application for leave to apply for a Judicial Review at its meeting on 16 October 2019. The Committee voted to accept the legal advice given by Counsel and legal advisors and to concede the application on one ground, namely the 'reasons' issue.
- 6.13.** The application was returned to the Planning Committee on 29 July 2020 with a similar recommendation to refuse. Members voted to defer the planning application to allow for a site visit to take place so the Committee could assess the site in more detail.
- 6.14.** The application was subsequently formally withdrawn by the agent on 16th September 2020 and members of the Planning Committee were subsequently advised of this, at its meeting on Wednesday, 23rd September 2020.
- 6.15.** The applicant has now submitted a further application on the site for the 'Erection of dwelling (Change of house type from that previously approved under P/2006/2002/F) (Amended description).' This application must now be assessed.

## **7.0. Planning Consideration and Assessment.**

- 7.1.** This application seeks approval for a change of house type from that previously approved under P/2006/2002/F. The Planning Department has carefully assessed the application against prevailing planning policies and in the context of all relevant material considerations.

### **Banbridge/Newry and Mourne Area Plan 2015**

- 7.2.** Section 45 of the Planning (NI) Act 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. There are no specific policies in the Plan relating to the proposed use, therefore this application will be assessed against regional planning policy.

### **Strategic Planning Policy Statement (SPPS)**

- 7.3.** As there is no significant change to the policy requirements for the change of house type following publication of the SPPS, the retained planning policy is PPS 21 – Sustainable Development in the Countryside. This policy will be given substantial weight in assessing the proposal in accordance of para 1.12 of the SPPS.

### **PPS21 – Sustainable Development in the Countryside**

- 7.4.** This proposal is for a change of house type to that previously approved under P/2006/2002/F. As outline above, the previous approval did not lawfully commence within the period prescribed by the formal approval. In the light of this fact, this change of house type is unacceptable, as the approval P/2006/2002/F, the subject of this application, has now lapsed, (also refer to Para 7.7).
- 7.5.** The Planning Department advised the agent via email 22<sup>nd</sup> January 2021 that it was not considered that the previous permission P/2006/2002/F commenced lawfully, and this permission has lapsed. An opportunity to provide any additional information was offered.
- 7.6.** The main points offered in response are listed below:
- *A decision-maker is lawfully entitled to attach as much or as little weight to an individual material consideration as it sees fit. Any planning decision involves the careful balancing of a number of material considerations, of which planning policy is but one. It follows that a site's planning history (owing to a history of planning approvals) could be attributed greater weight than the failure to comply with a planning policy that arose after that decision was taken.*
  - *Decision-makers are lawfully entitled to take account of an individual's circumstances, in endeavouring to ascertain whether that individual believed that he had exercised due care and attention in the implementation of an earlier planning permission.*

- *In this case, a combination of personal and domestic circumstances were at play in the period when the applicant ought to have been implementing his planning permission.*
- *Various factors can be taken together to justify a departure from planning policy, and are as follows:*

*The long history of planning approvals on this site and the legitimate expectation that there would always be a dwelling thereon;*

*The applicant's genuine endeavours to implement a permission, however ineffective;*

*The applicant's personal circumstances in the period when development was to have commenced;*

*The fact that the applicant was prejudiced to the extent that his permission was to be implemented in a more stringent timeframe than many others of that time (even to this day there is inconsistency of approach with some applicants receiving 5 years and others receiving only one year); and*

*To this day, the NI Planning Portal states that the applicant's time limit was not in fact curtailed beyond the standard 5-year period, another indicator of the confusion that reigned.*

- 7.7.** The Planning Department has considered the points raised above and within the supporting statement provided. The previous full permission P/2006/2002/F was granted 11<sup>th</sup> January 2008 with condition 1 requiring development shall hereby permitted shall be begun before the expiration of 1 year from this date. The amount of time specified to commence a development is at the discretion of the planning authority. In the case of a full application for a dwelling on the foot of a previous outline approval, it was often standard practice to seek to link the time period as close as possible to the period specified in the original outline approval. In this case the previous planning authority judged that a period of one year was reasonable to enable the development to commence on site. The Planning Department do not consider that the issues raised, by the agent, are of sufficient weight to overcome the time requirements attached to the formal approval notice issued in respect of P/2006/2002/F.
- 7.8.** Condition 4 of the formal approval notice also required that the vehicular access including visibility splays and any forward sightline shall be provided in accordance with the approved plans, prior to the commencement of any other works or other development hereby permitted.
- 7.9.** This pre-commencement condition 4 was not complied with, as the access, splay and forward sightline have not been completed or implemented on the site. Failure to comply with condition 4 means that the permission has lapsed and has not commenced.
- 7.10.** Furthermore, aerial photography as well as superimposed drawings provided by the former agent show that the foundational work, carried out on the site, is built in the wrong position and is not in accordance with the approved plans. The permission has not commenced. Additionally, the applicant has previously stated that he started work on the site in autumn 2009 - after the one-year expiry

date of the previous approval (which would have been 11th January 2009). The Planning Department consider that the previous approval on the site was not commenced and this permission has lapsed.

- 7.11.** At a meeting in May 2012 the applicant and former agent appeared to accept that the previous approval had not commenced and said that had a small active farm and Business number and subsequently a P1C form and farm map were submitted for consideration and assessment in May 2012 and the proposal was also amended to the erection of farm dwelling to include retention of existing foundations.
- 7.12.** In the light of the above, the Planning Department remains of the same opinion, as outlined above, that the previous approval P/2006/2002/F has not commenced lawfully. There is no basis on which this application for a change of house type to that previously approved can be approved. In the interests of completion, it has assessed the application against prevailing planning policy.

#### **Policy CTY1 of PPS 21**

- 7.13.** Policy CTY1 of PPS 21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development.
- 7.14.** Policy CTY1 states that planning permission will be granted for an individual dwelling house in the countryside in the following cases:
- *A dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;*  
The proposal is not located at an existing cluster of development.
  - *A replacement dwelling in accordance with Policy CTY 3;*  
The proposal does not relate to a replacement dwelling.
  - *A dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;*  
No personal or domestic circumstances information has been provided with this application.
  - *A dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;*  
No evidence of a non-agricultural business enterprise has been provided with this application.
  - *The development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY 8;*  
The application site does not represent a small gap within an otherwise substantial and continually built up frontage.
  - *A dwelling on a farm in accordance with Policy CTY 10.*

No evidence has been provided with this application to qualify for a dwelling on a farm.

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

#### **CTY 13 - Integration and Design of Buildings in the Countryside**

- 7.16. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is an appropriate design. A new building is unacceptable if any of the Criteria A to G are applicable.
- 7.17. It is considered that the proposal will be a prominent feature in the landscape, the site lacks long established boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, it relies primarily on the use of new landscaping for integration and ancillary works do not integrate with their surroundings. The site is open and exposed with little in the way of screening and is elevated in nature in relation to the surrounding topography.
- 7.18. Furthermore, it is the proposed intention to infill/ raise the levels in the site, further exacerbating issues of prominence on the site, any little screening that there is will be removed and it will not be possible for the proposal to integrate if approved. Sight splays, access and forward sight line work will be required to the front of the site which will further expose the issues of integration and prominence and primarily new landscaping would be required and relied upon for integration of the entire site. The ancillary works which would be required to facilitate the proposal, particularly the infilling, would not integrate with their surroundings.

#### **CTY 14 – Rural Character**

- 7.19. Under Policy CTY 14, planning permission will be granted for a new building in the countryside where it does not cause demonstrable change to, or further erode the rural character of the area.
- 7.20. It is considered that the proposal is contrary to this policy as the building would, if permitted be unduly prominent in the landscape, result in a suburban style build-up of development when viewed with existing and approved buildings, creates a ribbon of development and the impact of ancillary works would damage the rural character.

#### **CTY 8 – Ribbon Development**

- 7.21. As the proposal is contrary to criteria D of CTY 14 in that it creates a ribbon of development then the proposal is also contrary to Policy CTY 8 of PPS 21 which is the primary policy for assessing ribbon development. The proposal would, if

permitted, result in the creation of ribbon development along the Ballinasack Road.

#### **CTY 16 – Development relying on non-mains sewerage**

- 7.22.** Foul sewage will be disposed of via septic tank. The proposal complies with CTY 16. A condition should be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

#### **Planning Policy Statement 2 – Natural Heritage**

##### **Policy NH 6 - Areas of Outstanding Natural Beauty**

- 7.23.** 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.

The siting of the proposal is not sympathetic to the special character of the AONB and the particular locality.

#### **8.0. Recommendation:**

The application is recommended for refusal in the light of the above and for the reasons outlined below.

##### **Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Ballinasack Road.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
  - The proposed building is a prominent feature in the landscape;



- The site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
  - The proposal relies primarily on the use of new landscaping for integration; and
  - Ancillary works do not integrate with their surroundings;
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, the building, would, if permitted:
- Be unduly prominent in the landscape;
  - Result in a suburban style build – up of development when viewed with existing and approved buildings;
  - Create a ribbon of development, and
  - The impact of ancillary works would damage rural character.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is not sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

**Case Officer:**

E.Moore.

Date: 28/09/2022

**Authorised Officer:**

P Rooney

Date: 28/09/2022



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2022/0578/O**

**Date Received: 06/04/2022**

**Proposal: New dwelling and domestic garage**

**Location: Approx. 55m NW of 61 Dromore Road, Ballynahinch**



#### **Site Characteristics and Area Characteristics:**

The application site comprises a portion of an agricultural field which is fairly flat in topography and which rises toward the rear north east of the site where a stone barn sits to the rear of the site. The site sits on the Edenvaddy Road opposite a dwelling at no. 24 and the access fir Rockmount Day Nursery. The south eastern and south western boundaries of the site are defined by hedging. There is an access track flanking the south eastern boundary of the site, which serves the stone barn.

The site lies outside the settlement of Ballynahinch and therefore lies in the countryside as identified in the Ards and Down Area Plan 2015.

**Site History**

No site history for this specific site but history for the adjacent replacement dwelling

R/2014/0670/F - Opposite 22 Edenavaddy Road, Ballynahinch

Proposed replacement dwelling

Granted 09.11.2015

**Planning Policies and Material Considerations:**

In assessment of this proposal, regard shall be given to the Regional Development Strategy (RDS) 2035, Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS3, 6 and 21 (CTY1, 2a, 8, 13, 14, 15), Building on Tradition (Guidance Document), in addition, to the history and any other material consideration.

**Consultations:**

DFI Roads – no objections..

NI Water – generic response - no objections

Rivers Agency – No objections

**Objections & Representations:**

The application was advertised in the local press on which expired on 04.05.2022 and neighbour notification expired on 23/05/2022.

To date there have been no letters of representation received.

**Consideration and Assessment:**

This application seeks outline permission for the erection of a dwelling and domestic garage,

The policy context for this application is provided for by Planning Policy Statement 21 'Sustainable development in the countryside' (PPS21). Policy CTY1 of PPS21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The applicant has submitted the application on the basis that he considers the proposal to comply with CTY2a of PPS 21 (new dwelling in existing cluster)

Policy CTY2a states that Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- the cluster appears as a visual entity in the local landscape;

- the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,
- the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- development would not adversely impact on residential amenity

In consideration of the above, the site sits opposite no. 24 Edenavaddy Road and the access to Rockmount Day Nursery. The stone barn to the rear of the site does not count as a cluster building, as buildings of an agricultural nature are discounted. There is a small paddock between the site and no. 61 Dromore Road along with an access track to the rear stone barn. There is no development to the north of the site. Officers therefore consider that the site is only bound by development on one side – the dwelling no. 24 across Edenavaddy Road, and is somewhat removed from the bulk of the development along Dromore Road.

Officers do not consider that the cluster appears as a visual entity in the landscape. While travelling along Dromore Road, only no's 61 and 67 are readily visible. When travelling from Dromore road onto Edenavaddy Road past the site, only no. 61 is visible along with the stone barn beyond. Eventually the hall and no. 24 Edenavaddy Road present themselves, but it is not considered that all buildings on the cluster can be read together from any perspective. A cluster of development is somewhat evident from aerial photos and on the Location Plan submitted however this is not obvious on the ground.

The site is not located at a crossroads. There is no focal point. There is a small hall beside no. 24 but there is no history to it as being used as a social/community facility.

The site does not have a suitable degree of enclosure and is not bounded on at least two sides with other development in the cluster, the site lies outside the cluster.

The proposed development would not round off or consolidate development as it lies outside the cluster. It would extend development and visually intrude into the open countryside.

Officers are satisfied that a suitably designed dwelling would not result in any harmful impact upon adjacent residential amenities given the separation distances between the site and the neighbouring properties.



Given the above, that the proposal offends 4 of the list of 6 criteria above the proposal is not considered acceptable under CTY2a of PPS21.

Officers consider it reasonable to consider the policy under any other potentially relevant policy. Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of the size, scale, siting and plot size etc.

In assessment of this application, it is noted that the site would be accessed off Edenavaddy Road. There is no substantial and continuously built up frontage along this side of the road given that the dwelling at no. 61 Dromore Road (which has a dual frontage to both roads) and the small stone building in the garden are the only buildings that could potentially be considered to have frontage onto the Edenavaddy Road. The stone barn to the rear of the application site has an intervening field between it and the road and so has no frontage. There is no development to the north of the site to create the 'bookend.' As such, officers consider that there is no line of three buildings and therefore no gap to be infilled and that rather, the proposal would result in the creation of ribbon development contrary to Policy CTY8.

Officers consider that the site does not comprise a small gap site within a substantial and continuously built up frontage. The proposal fails to comply with Policy CTY8 of PPS21.

The proposal must further be considered against CTY13 and CTY14.

CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

A new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

The proposed dwelling would offend (b) and (c) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape as the site is currently open to roadside views and does not have long established boundaries to help integrate it, this would require new landscaping to achieve any degree of integration.

CTY14 – Rural Character, states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

A new building will be unacceptable where:

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

As stated above, the proposal would result in the creation of ribbon development and would therefore conflict with CTY8 and CTY14.

Policy AMP2 of PPS3 states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access onto a public road where:

- (A) Such access will not prejudice road safety or significantly inconvenience the flow of traffic and
- (B) The proposal does not conflict with Policy AMP3 – Access to protected Routes (which is not applicable in this case).

In assessment of this policy requirement, DfI Roads were consulted and have responded with no objections to the proposal subject to compliance with the attached RS1 at reserved matters stage.

Having assessed the proposal against the relevant planning policies and material considerations which apply to the application, it is determined that this proposal is not in accordance with either Policy CTY2a, CTY8, CTY13 and CTY14 of PPS21 and therefore refusal is recommended.

**Recommendation:**

Refusal is recommended.

**Refusal Reasons:**

1. The proposal fails to comply with the SPPS and Policy CTY2a of PPS21 in that the cluster which the site is associated with is not associated with a focal point, is not considered a visual entity in the landscape, is not bounded on at least 2 sides by development and cannot be absorbed into the existing cluster through rounding off and consolidation therefore visually intruding into the open countryside.
2. The proposal is contrary to the SPPS and PPS 21 CTY 8 and CTY14 in that the application site cannot be considered a gap site for development in that there is not a substantial and built up frontage and would therefore result in the creation of ribbon development.

3. The proposal is contrary to the SPPS and PPS 21 CTY 13 as the site lacks long established natural boundaries to provide a suitable degree of enclosure for the building to integrate into the landscape and relies primarily on the use of new landscaping for integration.

### Informative

The drawing number to which this decision relates is A 5640.

<b>Case officer:</b>	<b>J McMullan</b>
<b>Authorised by:</b>	<b>A.McAlarney</b>
<b>Date:</b>	<b>14 November 2022</b>

### Committee Application

Development Management Officer Report	
<b>Case Officer:</b> Claire Cooney	
<b>Application ID:</b> LA07/2020/1043/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed residential development of 22 no two storey dwellings, detached garages and associated site works	<b>Location:</b> Land 30m north of 4A Tollymore Road Newcastle Co Down
<b>Applicant Name and Address:</b> KCD Homes Ltd 4A Tollymore Road Newcastle BT33 0JL	<b>Agent Name and Address:</b> 25 Main Street Castlewellan BT31 9DF
<b>Date of last Neighbour Notification:</b>	20 July 2022
<b>Date of Press Advertisement:</b>	10 August 2020
<b>ES Requested:</b> No	
<b>Consultations:</b> The following bodies were consulted regarding the proposal  DfI Rivers Environmental Health DfI Roads NIW NIEA SES (Informal)	
<b>Representations:</b>	
Letters of Support	0.00
Letters of Objection	15
Petitions	0.00
Signatures	0.00
Number of Petitions of Objection and signatures	
<b>Summary of Issues:</b>  The mains issues for consideration are the proposals Acceptability in principle	



- Compliance with Policy QD 1 of PPS 7
- Design
- Layout
- Amenity
- Impact on neighbouring properties
- Parking
- Natural Heritage & Environment

**Site Visit Report**

**Site Location Plan:**



**Date of Site Visit:**

**Characteristics of the Site and Area**

The site is located along Tollymore Road Newcastle and is comprised of a vacant site which previously contained a dwelling, out-buildings and open fields. The site a present appears as shown below and is accessed directly from Tollymore Road via gated entrance.



The site lies immediately adjacent and south of the residential development known as Strathearn Manor and immediately east of the residential development currently under-construction known as Clanbrasil.

The site slopes upwards from Tollymore Road in an east to west direction and is bound on all side by mature vegetation.

### **Description of Proposal**

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

### **Planning Assessment of Policy and Other Material Considerations**

Ards and Down Area Plan 2015  
 Strategic Planning Policy Statement (SPPS)  
 PPS 2 Natural Heritage  
 PPS 3: Access Movement and Parking  
 PPS 7: Quality Residential Environments  
 DES 2 Townscape (Planning Strategy for Rural Northern Ireland PSRNI)  
 Creating Places  
 DCAN 15

### PLANNING HISTORY

#### Enforcement

Application Number: R/2007/0204CA Decision: Decision Date:

Proposal: Operational Devt

Application Number: LA07/2016/0320/CA Decision: Decision Date:

Proposal: Alleged unauthorised wall blocking sight splays  
 Planning

R/2008/0256/F – 53 Bed Nursing Home & 24 Assisted Living Units

R/2010/0936/F 53 Bed Nursing Home & 20 Assisted Living Units

R/2013/0505/F New access to nursing home previously approved under  
 R/2008/0286/F and R/2010/0936/F

LA07/2017/0587/F Decision: Permission Granted Decision Date: 25 May 2017  
 Proposal: Single storey, double height, extension to the rear of existing dwelling

LA07/2017/1368/F Decision: Permission Granted Decision Date: 17 November  
 2017 Proposal: Change of house type from previously approved LA07/2016/1653/F

R/2014/0499/RM Decision: Permission Granted Decision Date: 27 April 2018

Proposal: Proposed housing development including alterations to existing junction on Middle Tollymore Road and Tollymore Road, 56 units in total. (Amended site location plans received)

: LA07/2018/1786/NMC Decision: Consent Granted Decision Date: 30 November 2018 Proposal: Proposed erection of detached two storey dwelling, detached garage & associated site works

LA07/2022/0754/F Decision: Permission Granted Decision Date: 06 September 2022 Proposal: Rear dormer, roof space conversion and internal alterations to ground floor

### SUPPORTING DOCUMENTS

In support of the proposal the following accompanied the proposal

- Design & access Statement
- Bio-Diversity Checklist
- Badger Survey
- Protected Species management Plan
- Drainage Assessment
- TPO map

### CONSULTATIONS

DfI Rivers –	No objections subject to conditions
Environmental Health –	No Objections
DfI Roads	No objections subject to conditions
NIW –	No objections
NIEA –	No objections subject to conditions
SES (Informal) –	No objections

### REPRESENTATIONS

John Mc Burney Solicitor on behalf of Hanna Development re ownership of visibility splays

Gordon Bell Solicitor on behalf of Laurence Hamilton re ownership of visibility splays

Fiona Barneston concerned about the impact of the proposal on TPO trees

Marguerite Johnston– objections to the potential impact of the proposal on traffic within the area particularly along the Tollymore Road and at junction with Castlewellan Road

Gordon & Elizabeth Kendall – Object to the proposals impact on their privacy and impact on TPO trees. They consider the amendments received do not address their previously raised concerns.

William Harvey – objections to the impact of the proposal on privacy, security, TPO trees, traffic, natural environmental and potential for increased pollution

Laurence Hamilton– Objects to the proposal impact on property in terms of proximity, overlooking, loss of light

Michael Harrison –concerned about the density of the development and height of the dwellings proposed along with the loss of amenity, privacy and light should the development be approved. Concerns are also raised about the increased nuisance during construction.

Noel Willis Concerned about the impact of the proposal on privacy and security of dwellings within Strathern Manor, along with concerns regarding increased traffic flow.

John Wilson unsure regarding zoning of the site, but considers the proposal would impact the AONB, wildlife, TPO trees and cause overlooking

Mare McKay concerned about the privacy and security of properties within Strathern Manor and the environmental impact of the proposal along with its impact on TPO trees and pollution

Michael Harrison considers the amendments to the proposal do not address previous concerns.

## EVALUATION

### **EIA Determination**

The proposed development falls within Category 10 Schedule II Development as contained in The Planning (Environmental Impact Assessment) Regulations (NI) 2017 due to the size of the site. An EIA determination has been carried out and it has been concluded that an Environmental Statement is not required.

### **RDS**

RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. The SPPS sets out core planning principles to be employed in the pursuit to achieve sustainable development and aims to support good design and positive place making, while preserving and improving the built and natural environment. 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.

### **Area Plan**

The Ards and Down Area Plan 2015 operates as the current local development plan for this area and identifies the site as being located within the development limits of Newcastle. Site is unzoned and backs onto NE12 an area zoned for housing accessed off Middle Tollymore Road on which development has commenced.

### **SPPS**

The Strategic Planning Policy Statement for Northern Ireland (SPPS), which sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area, retains certain existing planning policy documents and amongst these are: Planning Policy Statement 7: Quality Residential Environments (PPS 7); and the Addendum to PPS 7: Safeguarding the Character of Established Residential Areas and Planning Policy Statement 12. Creating Places also provides relevant planning guidance.

The SPPS states that the Local Development Plan process is the primary focus for assessing future housing land requirements and managing housing growth to achieve sustainable patterns of residential development, as well as fulfilling other SPPS objectives.

### **Principle of development**

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

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

### **Policy DES 2 of the PSRNI**

This policy requires development proposals in towns to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials.

The below assessment of land use, design and amenity, shows that the proposal is in keeping with the thrust of DES 2 and approval of the proposal would not have a detrimental impact on the setting, character, townscape of this part of Newcastle.

### **PPS 7**

Policy QD 1 of Planning Policy Statement 7 'Quality Residential Environments' (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 design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.

In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. All proposals will be expected to conform to nine stated 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;**

Criterion (a) of Policy QD1 requires that 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, landscaped and hard-surfaced areas. The proposal seeks permission for 22 dwellings

The immediate context of this part of Newcastle is residential, either private housing developments or single dwellings on individual plots. A variety of dwelling types, styles and designs are noted within the immediate area of the site.

The proposal therefore respects character of the area in terms of its use. There is a mix of housing in the area and the proposal will provide additional variety.

In terms of layout the proposal provides a spacious development with large detached family homes on generous plots. There are reasonable separations distances between the proposed dwellings and those existing at Strathern Manor both to the north and west.

In consideration of topography, it is noted at the entrance point to the site levels are 23.11OD while to rear and western boundary the levels rise by approximately 16m to approximately 39OD. The dwellings have been designed so as to front onto the road

serving the development and will therefore appear to step up through the gradient of the site.

As described above the dwellings are large family homes comprising 4 bedrooms. They are two -storey dwellings finished so as to be in keeping with the character of the area – typically rendered walls with stone cladding to main projections of the dwelling. The dwellings will display some traditional elements – pitched roof, with chimneys expressed centrally on the ridge. Three house types have been proposed providing a variety of accommodation layouts. House Type C has been modified for those at front both the development internal road and the Tollymore Road (C Special).

With regard to landscaping, the scheme has been amended to ensure that the streetscape through the development is softened with a mix of heavy standard trees including cherry, alder, silver birch and apple.

There are a number of TPO trees which adjoin the site along its northern boundary. The submitted plans indicate that these trees will be retained and no development will occur within their crown spreads.

On this basis of the above assessment the proposal is considered to be complies satisfactorily with Criteria A of Policy QD 1.

**(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;**

As indicated above the site is affected by TPO trees. The submitted plans indicate that these trees will be retained and protected.

**(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 with its integration with the surrounding area;**

Public open space is not a requirement in this development given the number of dwellings proposed and the size of the site as per PPS 8: Open Space.

Paragraph 5.19 of the guidance document 'Creating Places' states on green field sites and lower density developments all houses should have an area of private open space behind the building line. The overall design concept for the development will determine the setting for houses. To promote choice for residents a variety of different garden sizes should be provided and back garden provision should therefore be calculated as an average space standard for the development as a whole, and should be around 70sqm per house or greater.



In this proposal back garden sizes exceed the minimum 70sqm providing generous private amenity spaces for these 4 bedroom dwellings.

The proposal is considered to comply satisfactorily with this criterion.

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

Neighbourhood facilities are not required as part of this development. Development is within the settlement limits of Newcastle.

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

The development is accessed directly onto the public road and footpath. Public transport is readily available within walking distance

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

Each plot has in-curtilage parking space for 2 cars. The dwellings will also benefit from a detached garage. There is therefore considered to be adequate and appropriate provision for parking within the development.

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

As described above development draws upon traditional elements of form materials and detailing. The dwellings are considered to be in keeping with the character of development within the area. The proposed palette of materials to be used is relatively simple.

Shown below are House Types B and C as examples



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

The proposal has been assessed against Creating Places: Achieving Quality in Residential Environments. The protection of the privacy of the occupants of residential properties is an important element of the quality of a residential environment and is a key consideration where new development is proposed adjacent to existing properties.

The proposed layout indicates that each new dwelling will be separated from the boundary it shares with a neighbouring property by a minimum of 10m. Paragraph 7.16 of the guidance document Creating Places states that where the development abuts the private amenity area 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.

The proposed plans indicate that each dwelling will be separated from the neighbouring boundary by a minimum of 10m.

Several of the neighbours within the adjacent Strathern Manor development have objected to the proposal, concerned that their privacy will be affected by overlooking from this development. Those dwellings 1-6 Strathern Manor currently enjoy uninterrupted views of the Mourne. The most recently submitted proposals show that the development is in compliance with standard guidance in this regard. While the Planning Authority appreciate the occupants of neighbouring properties will experience a change in their outlook should this proposal be approved and built, there is no right to a view. In addition, the proposals have made provision of adequate separation so as not to have a detrimental impact on those neighbouring properties. There is not anticipated to be any loss of light which has been raised by a number of local residents.

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

The proposal complies with this satisfactorily. The proposed plans show that each plot within the development will be secured with fencing. Many of the objections submitted against this proposal have raised the issue of security. Unfortunately, they have not elaborated on their concerns in sufficient detail to assess any further.

In summary of the above assessment the proposal is considered to be compliant with the policy criterion contained with Policy QD1 of PPS 7.

**PPS7 Addendum – Safeguarding the Character of Established Residential Areas.**

Policy LC1 guides that 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 (a) to (c) set out under LC1 are met:

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

The application site is noted to be approximately 1.584 hectares in size. The proposed 22 dwellings would result in a density of 13.88. When compared to that immediately adjacent at Strathern Manor it is noted that the area occupied by housing in this development is approx. 1.3hecatres. It is considered that the proposal would have a comparable / lower density and is therefore acceptable in this regard

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

As described in the assessment above in Polcicy QD1 it is considered that the pattern of development is in keeping with overall character and quality of the area.

and

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

All 22 units are proposed to be built in adherence to the details as set out in Annex A.

### **PPS 3 – Access Movement & Parking**

The proposal seeks to use the existing access onto Tollymore Road. In assessment of this the Planning Authority have consulted with Dfl Roads who, following a lengthy consultation have no objections on the grounds of road safety.

Several objectors have raised concerns about road safety and traffic increase. Dfl Roads have been made aware of these concerns and offered no objections in this regard.

Issues have been raised regarding the ownership of the visibility splays. The issue has been investigated in detail and the agent has advised the Planning Authority that the applicant is in control of all that required. No further consideration of this issue is required. The matter is considered to be one solely for those parties involved. However, parties should be aware that in the event planning permission is approved ownership is not conferred. The vehicular access, including visibility splays and any forward sight distance will be conditioned to be implemented prior to commencement.

**PPS 2 – Natural Heritage Interests**

In assessment of the natural heritage interests of the site, the Planning Authority consulted with NIEA: Natural Environment Division and Shared Environmental Services (SES).

SES has reviewed available documents on the NI Planning Portal and checked the location of the proposal against NIEA's Environment Map Viewer and other available GIS datasets and advise the Planning Authority that the proposal is located approximately 1.1 km from Murlough SAC and 1.2km from Eastern Mourne SAC at the nearest boundary.

Marsh fritillary larval web zone is indicated as a potential hazard by NIEA, which is relevant to Murlough SAC. The Biodiversity Checklist / PEA confirms that the nature of the development site is such that it does not provide supporting habitat for this feature.

Habitat loss, fragmentation or disturbance can all be objectively ruled out as a potential source of impact to these, or any more distant European sites.

Given the location, nature and scale of the development aerial emissions can be objectively ruled out as a potential source of impact.

There are no open watercourses within or adjacent to the RLB that would provide any pathway for effects to any European site.

Murlough SAC is associated with a groundwater dependent terrestrial ecosystem, 1km is considered a sufficient distance to prevent the establishment for any pathway for groundwater impacts.

The site is not in an area of fluvial flood risk.

NI Water has confirmed that there is available capacity at the receiving wastewater treatment works to serve the proposal, subject to PDE, and has not indicated any potential network constraints. Likely significant effects from foul sewage can be objectively ruled out.

Due to the location, scale and nature of proposal, it is considered unlikely that there could be any effects on any European site due to a lack of viable pollution pathways.

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

In addition to the above a lengthy consultations was carried out Northern Ireland Environment Agency: Natural Environment Division (NIEA:NED) to assess the impact of the proposal on protected habitats and species. It has been noted that badgers are present within the vicinity of the site.

NED have advised the Planning Authority that they have considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommendations.

Using the information submitted, NED acknowledges that hand planting only is to occur within 25 metres of the badger sett, as detailed within the amended site drawing. NED is content and advises that hand planting is only carried out between the months of June – November. and a condition should be attached to the decision notice to ensure this.

NED notes that some vegetation may require removal and advises that the vegetation on the site may support breeding birds. All wild birds and their nests are protected under the Wildlife (Northern Ireland) Order 1985 (as amended), known as the Wildlife Order. NED thus advises that any removal of buildings/structures and vegetation on site should be undertaken outside the bird breeding season which occurs from 1st March to 31st August, or checked by a suitably qualified ecologist with protective measures undertaken if any active nest is found.

### **PPS 15 Planning & Flood Risk**

In assessment of this policy the Planning Authority consulted with DfI Rivers who have advised that there are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site, however, the site may be affected by undesignated watercourses of which we have no record.

DfI Rivers Planning Advisory Modelling Unit having considered the proposal in line with the current Revised Planning Policy Statement 15 "Planning and Flood Risk" dated September 2014. Advise the following with regard to those policies contained within PPS 15.

Policy 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.

Policy FLD2 - Protection of Flood Defence and Drainage Infrastructure – There are no watercourses which are designated under the terms of the Drainage (Northern Ireland) Order 1973 within this site. The site may be affected by undesignated watercourses of which we have no record, in the event of an undesignated watercourse being discovered, Policy FLD 2 will apply.

FLD3 - Development and Surface Water – Dfl Rivers have reviewed the Drainage Assessment and the additional information by Lisbane Consultants, and our comments are as follows: The DA has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates that the 1 in 100 year event could be contained in the online attenuation system, when discharging at existing green field runoff rate, and therefore there will be no exceedance flows during this event. Further assessment of the drainage network will be made by NIW prior to adoption. However, in order ensure compliance with PPS 15, Dfl Rivers requests that the potential flood risk from exceedance of the network, in the 1 in 100 year event, is managed by way of a condition.

Policy FLD4 - Artificial Modification of watercourses – Not applicable to this site based on information provided, in the event of an undesignated watercourse being discovered, Policy FLD 4 will apply.

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

**Other Matters**

NIW have advised the Planning Authority that there is available capacity at the receiving Waste water Treatment Works and that applications to connect to the relevant public water, surface water and foul sewers will be required.

**Drawings**

The drawings considered in this assessment are as follows

Site Location Plan	J513 / P01 Rev A
Site Layout Plan	J513 / P02 Rev E
House type A Elevations & Floor Plans	J513 / P03
House Type B Elevations & Floor Plans	J513 / P04
House Type C Elevations & Floor Plans	J513 / P05
Garage Plans	J513 / P06
Private Streets	J513 / P10 Rev B
House Type C (Special) Elevations & Floor Plans	J513 / P13
Longitudinal Section	20-152-A2

<b>Neighbour Notification Checked</b>	Yes
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<b>Summary of Recommendation</b>
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<b>Conditions:</b>
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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 J513/P01 Rev A, J513/P02 Rev E, J513/P03, 20-152-A2, J513/P04, J513/P05, J513/P06, J513/P10 Rev B, J513/P13. Figure 1 of the Badger Survey Report Version 2

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

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

The Department 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. J513 / P10 Rev B Dated 6th July 2022

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.

4. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. J513 / P10 Rev B Dated 6th July 2022 **prior to the commencement** of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

5. No dwellings 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

6. No dwellings shall be occupied until provision has been made and permanently retained within the curtilage of the site for the parking (and turning) of private cars as shown on the approved plan.

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

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 and agreed in writing with the Council.

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's 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. The existing vegetation of the site as indicated on Drawing J513 / P02 Rev E shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

10. All hard and soft landscape works shall be carried out in accordance with the approved details as shown on Drawing No J513 / P02 Rev E. The works shall be carried out prior to the occupation of any part of the development. 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.

11. Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event.

Reason – In order to safeguard against surface water flood risk

12. No development shall proceed beyond sub-floor construction until an extension to the existing surface water network to serve the development is provided. The



applicant may requisition NI Water in accordance with Article 154 of the Water and Sewerage Services for this purpose.

Reason: To ensure a practical solution to the disposal of surface water from this site.

13. **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.

14. 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.

15. All services within the development shall be laid underground.

Reason: In the interests of visual amenity.

16. 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.

17. 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.

18. All planting proposed within a 25-metre radius of the badger sett shown on figure 1 of the Badger Survey Report Version 2, shall be carried out by hand and only between the months June – November.

Reason: To ensure protection of Protected Species.

<b>Case Officer Signature: Claire Cooney</b>
<b>Date: 24 January 2023</b>
<b>Appointed Officer Signature: A.McAlarney</b>
<b>Date: 24 January 2023</b>

**Development Management Consideration**

**Details of Discussion:**

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

**Group decision:**

**D.M. Group Signatures** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Date** \_\_\_\_\_

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Co. Down, BT31 9DF  
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BY EMAIL

J513 / BF / 01 February 2023

Newry, Mourne & Down District Council  
Planning Office  
Downshire Civic Centre  
Downshire Estate  
Ardglass Road  
Downpatrick  
BT30 6GQ

FAO Democratic Services

**Re: PROPOSED RESIDENTIAL DEVELOPMENT OF 22 NO TWO STOREY  
DWELLINGS, DETACHED GARAGES & ASSOCIATED SITE WORKS AT LAND  
30M NORTH OF 4A TOLLYMORE ROAD, NEWCASTLE, CO. DOWN**

**REF: LA07/2020/1043/F**

Dear Sir

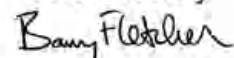
I refer to the above planning application, which is to be discussed at the Council's planning committee meeting on Wednesday 08 February 2023. The application has been recommended for approval.

The application is for full planning permission in relation to a residential development on the Tollymore Road, Newcastle.

All planning and consultee issues have been addressed to include NI Water, DFI Rivers, Ecology, Environmental Health and DFI Roads.

We therefore welcome the planning department's recommendation to approve and trust the planning committee agree.

Yours sincerely



**Barry Fletcher** RIBA  
Director, Architect

FLETCHER ARCHITECTS (N.I.) Ltd

## Committee Application

<b>Development Management Officer Report</b>	
<b>Case Officer:</b> Claire Cooney	
<b>Application ID:</b> LA07/2021/1995/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed 2no Detached Dwellings with associated Car Parking and Landscaping ( Amended Plans)	<b>Location:</b> Lands to North West of 26-34 Boulevard Park and South West of 59 Boulevard Park Newcastle
<b>Applicant Name and Address:</b> Windsor Developments Ltd 6 Saintfield Road Lisburn BT27 5BD	<b>Agent Name and Address:</b> 122 Upper Lisburn Road Finaghy Belfast BT10 0BD
<b>Date of last Neighbour Notification:</b>	19 August 2022
<b>Date of Press Advertisement:</b>	15 November 2021
<b>ES Requested:</b> No	
<b>Consultations:</b>	
DfI Roads – No objections	
NIW – No objections	
<b>Representations:</b>	
Letters of Support	0.00
Letters of Objection	6
Petitions	0.00
Signatures	0.00
Number of Petitions of Objection and signatures	
<b>Summary of Issues:</b>	
Main issues for consideration are whether the following are acceptable	
<ul style="list-style-type: none"> <li>• The sites location outside the settlement limit of Newcastle but within an existing residential development – in terms of policy considerations and the ADAP</li> <li>• The design, layout, parking and amenity of the proposal</li> <li>• The impact on neighbouring properties</li> <li>• Road Safety</li> </ul>	

**Site Visit Report**

**Site Location Plan:**



**Date of Site Visit:**

**Characteristics of the Site and Area**

The site is located within the existing residential development known as Boulevard Park, positioned off Dundrum Road Newcastle. The site is comprised of a flat, vacant portion of land, which is currently defined by a timber fence as shown below.



The site is positioned to rear of those properties at 26 – 34 Boulevard Park and opposite Nos 59 and 97 Boulevard Park. To the west of the site lies a Caravan Park. The site is therefore located in a predominantly residential area, characterised by two-storey terraced and semi-detached dwellings.

**Description of Proposal**

Proposed 2no Detached Dwellings with associated Car Parking and Landscaping (Amended Plans)

**Planning Assessment of Policy and Other Material Considerations**

SPPS – Strategic Planning Policy Statement for Northern Ireland  
 Ards and Down Area Plan 2015  
 PPS21  
 PPS 12 – Housing in Settlements  
 PPS7 – Quality Residential Environments  
 Planning Policy Statement 3 – Access Movement and Parking  
 Planning Policy Statement 15 – Planning and Flood Risk  
 Planning Strategy for Rural Northern Ireland  
 Planning Policy Statement 2 – Natural Heritage  
 Creating Places

### PLANNING HISTORY

#### Enforcement

LA07/2018/0027/CA Alleged unauthorised storage of topsoil – CASE CLOSED

LA07/2019/0208/CA The alleged unauthorised use of land as a builders compound. CASE CLOSED

#### Planning

R/2003/0888/F Decision: Allowed Proposal: Development of 60 houses.

R/2000/0509/F Decision: Permission Granted Decision Date: 26 July 2002  
 Proposal: Residential development - Amended scheme (29 town houses and 36 apartments).

: R/2003/0886/F Decision: Withdrawal Decision Date: 19 December 2005  
 Proposal: Development of 71 houses.

R/2010/0883/F Decision: Permission Granted Decision Date: 09 June 2011  
 Proposal: Part change of road in front of units 20-23 from adopted parking to incurtilage owner parking

Application Number: R/2014/0145/F Decision: Permission Granted Decision Date: 26 February 2016

Proposal: Erection of 50 dwellings (12 detached and 38 semi-detached) (change of house types from that previously approved under 2004/A563 and R/2003/0888/F), including car parking and landscaping. (Amended proposal/plans received)

LA07/2016/1504/F Decision: Withdrawal Decision Date: 09 March 2017

Proposal: Proposed residential development of 5no residential units comprising 1 detached, 2 semi detached and 2 apartments with associated car parking, landscaping and entrance pillars

LA07/2016/1455/F Decision: Permission Granted Decision Date: 08 September 2017

Proposal: Installation of 2 new calor bulk liquefied petroleum gas (LPG) storage tanks and protective compound

LA07/2021/1191/NMC Decision: Consent Refused Decision Date: 23 September 2021

Proposal: Demolition of existing semi detached dwellings and construction of 8 apartments along Main Road, and 10 apartments to the rear of the site, with associated amenity and parking (18 units in total).  
(Amended plans received)

LA07/2021/1189/DC Decision: Approval Decision Date: 23 September 2021

Proposal: Discharge of condition 6 of planning approval LA07/2017/0332/F

#### SUPPORTING DOCUMENTS

Site Location Plan  
Site Layout Plan  
Landscaping Plan  
Elevations and Floor Plans  
Contextual Elevations

#### CONSULTATIONS

DfI Roads – No objections

NIW – No objections

#### Principle of Development

The site lies immediately adjacent but outside the settlement limit of Newcastle as defined in the Ards and Down Area Plan 2015.

The principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built-up area and surrounding countryside. However, in this case, the site is very clearly within the existing development of Boulevard Park and is noted to be served by the existing road layout within the residential development.

This positioning of the site and its clearly defined separation from the adjacent caravan park (which lies outside the development limit) lends the site to development as part of the existing residential scheme. The development of the site in keeping with Boulevard Park, would not undermine the Development Plan or set a precedent given the unique set of circumstances that are present.

The use of this vacant site is considered to be sustainable given its unique location and would therefore align with the overall principles of the RDS and SPPS.

The Planning Authority therefore consider that despite its designation within the rural area, the Development Plan can be set aside in this instance and the proposal for housing, is considered acceptable in principle.

#### Design & Layout



The proposal seeks approval for two detached dwellings and has been amended from initial submission to be more in keeping with the character and existing layout present in Boulevard Park.

House Type A is to be located along the western boundary of the site and will be a two storey dwelling with a 6.8m frontage, a 12.1m gable (not including the ground floor return) and a ridge height of 8.6m. the dwelling will be finished with grey 'slate like' roof tiles, upvc rainwater goods, facing brick with smooth render where shown, upvc windows and black hardwood external doors.

House Type B is a substantial family dwelling and will be finished as above albeit with zinc to the 2<sup>nd</sup> floor dormers. This dwelling will have an overall frontage of 13.4m, a gable depth of 12.1m (not including the ground floor return) and a ridge height of 9.9m. House type B will be positioned within the site so that the gable presents to the access road within the development.



Boulevard Park typically positions dwellings facing southwards with gables presenting to the road as is shown in the current development. The design and layout of the proposal is considered to be in keeping with the character of the existing development.

#### Residential Amenity

The Planning Authority raised concerns regarding the initial layout of the development with the agent / developer on the grounds that it would have had an impact on the residential amenity of the adjacent dwellings, particularly those at Nos 26-34. Subsequently the scheme has been re-orientated to ensure that there is sufficient separation distance between the existing and proposed i.e. the proposed dwellings are now located approx. 16m from those at Nos 26-34 and are presenting to each other with front elevations. The arrangement ensures that there is minimal overlooking into the existing and proposed properties and also ensures that the private amenity spaces of the proposed dwellings are not overlooked by existing properties as was initially the case.

The separation distance, taking into consideration the sun-path means that existing dwellings will not appear dominant, nor is there considered to be any loss of light to existing properties.

Overall the proposal is considered to respect the residential amenity of the existing neighbouring properties.

In terms of provision of private amenity space within the proposal, each dwelling has been afforded an area of private garden to the rear of the properties. House Type A will have 72sqm while House Type B will have 98sqm both are considered to be satisfactory. A 1.8m high brick garden wall will provide the necessary screening for each garden area, in addition to provide a pleasing aesthetic for the development.

#### Landscaping

A detailed landscaping scheme has been provided – see Drawing 13-19-90-P04 Rev B. The proposed development will be defined with a mix of boundary treatments e.g., timber and estate fencing and brick walls, all of which will be softened with tree, shrub and ornamental planting all of which is considered to be acceptable.

#### Road Safety & Parking

The proposal intends to create a new access onto the public road serving Boulevard Park. PPS 3 – Access, Movement & Parking is therefore applicable.

Policy AMP 2 – Access to Public Roads states planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

(A) Such access will not prejudice road safety or significantly inconvenience the flow of traffic; and

(B) The proposal does not conflict with Policy AMP 3 Access to Protected Routes

In consideration of this matter a lengthy consultation was undertaken with DfI Roads, to which no objections have been received subject to a number of conditions which are detailed below.

In assessment of the parking provision, 8 spaces have been provided 2 each per dwelling and 4 visitors spaces. This is considered to be adequate and appropriate.

#### DES 2 – Townscape (PSRNI)

While the site is not located within the settlement limit of Newcastle, the principle of housing on this site is considered acceptable given the unique circumstances of the site and its current relationship to the surrounding lands uses. As such, the proposal will have an impact on the townscape of the Newcastle and DES 2 is therefore considered material.

The above assessment of land use, design and amenity, shows that the proposal is in keeping with the thrust of DES 2 and approval of the proposal would not have a detrimental impact on the setting, character, townscape of this part of Newcastle.

#### Flooding

A review of DfI Flood Maps NI indicates that the site is not located within an area known for flooding. Any issues with surface water should be addressed by the developer. Given the scale of the development a drainage assessment is not considered to be necessary.

#### Natural Environment

There are no known protected habitats or species associated with the site that would be compromised by the development if permitted. The proposal appears in general compliance with this policy criteria.

The proposal site is approximately 190m from the boundary of Murlough SAC.

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

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

There are no pollution pathways to the designated site.

#### Northern Ireland Water – Sewer Network and Water Supply

In assessment of this, the Planning Authority consulted with NIW who have advised that they have no objections to the proposal subject to conditions.

#### Assessment of Objections

#### Summary of issues raised

Objectors to the proposal are concerned about the impact of the proposal on their residential amenity, in terms of overlooking, loss of privacy and light.

In addition, there are concerns that the proposal is out of character with the existing street scape.

Neighbouring objectors were of the understanding that the site was to be used for parking / amenity areas within the development and are aggrieved that this is not now proposed.

In terms of parking and road safety, residents are concerned that the approval of this development will exacerbate existing problems.

As detailed above, the proposal, as amended, is considered to be in keeping with the character, design and layout of Boulevard Park. The dwellings have been amended to ensure that there is sufficient separation distance between them and the existing dwellings so as not to create any detrimental impact in terms of overlooking for both. The dwellings are also sufficiently separated so as not to result in any loss of light.

In assessment of the impact of the proposal on road safety the Planning Authority consulted with DfI Roads, who following a detailed consideration of the case, found no objections.

In terms of car parking, sufficient provision has been made for residents and visitors attracted to this site. The proposal should not therefore affect the existing parking provision within the development.

In assessment of the resident's assumption that the site would not be developed for additional housing and would in fact be amenity or additional parking for the development, a review of the planning history of the site reveals that this assumption is unfounded. The previous approvals made no reference to this area being used for either of the assumed uses and residents must be aware that, as with all matters, circumstances may change with time.

#### Drawings

The drawings considered as part of this assessment and those that are recommended for approval are as follows

Site Location Plan	001
Concept Statement Plan	13-190-P02 Rev B,
Site Layout Plan	13-190-P03 Rev B,
Landscape Proposal	13-190-P04 Rev B,
House Type Elevations & Floor Plans	13-190-P08 Rev A,
House Type A Elevations	13-190-P09 Rev A,
House Type B Elevations	13-190-P10,
House Type B Floor Plans	13-190-P11,
House Type B Elevations	13-190-P12

#### **Summary of Recommendation**

Having assessed the proposal against the various planning policies and material considerations which apply to the application and taking into account the input of the Councils

consultees and the objections from neighbours, it is determined that the proposal is acceptable in planning terms.

The application is referred to the Planning Committee for determination under the Councils Scheme of Delegation given the number of objections received and the recommendation to approve.

### Conditions

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans 001, 13-190-P02 Rev B, 13-190-P03 Rev B, 13-190-P04 Rev B, 13-190-P08 Rev A, 13-190-P09 Rev A, 13-190-P10, 13-190-P11, 13-190-P12

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

3. **NO WORK SHALL COMMENCE** on site until the appropriate Abandonment Order has been agreed in writing with DfI Roads and a copy of the Order has been provided to the Planning Authority.

Reason: To ensure an orderly development of the site

4. **PRIOR TO THE COMMENCEMENT OF ANY OTHER DEVELOPMENT HEREBY PERMITTED** the vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 13-190 P03 Rev B bearing the date stamped 04/08/2022.

The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

5. The access gradient(s) to the dwelling(s) hereby permitted shall not exceed 8% (1 in 12.5) over the first 05 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

6. All hard and soft landscape works shall be carried out in accordance with the approved details as shown on drawing No 13-190-P04 Rev B. The works shall be carried out **PRIOR TO THE OCCUPATION OF ANY PART OF THE DEVELOPEMNT**. 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.

7. **NO DEVLEOPMENT SHALL BE COMMENCED** 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).

8. **PRIOR TO OCCUPATION** a formal water / sewer connection application must be made for all developments, 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).

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

Reason: In the interests of visual amenity.

10. **DEVELOPMENT SHALL NOT BE OCCUPIED** until the surface water drainage works **AND** 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: To safeguard the site and adjacent land against flooding and standing water and in the interest of public health

**Case Officer Signature: Claire Cooney**

**Date: 20 January 2023**

**Appointed Officer: A.McAlarney**

**Date: 20 January 2023**





Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

Newry, Mourne  
and Down  
District Council

**Application Reference:** LA07/2022/1069/F

**Date Received:** 27.06.2022

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

**Location:** 80-82 Market Street, Downpatrick



### Site Characteristics & Area Characteristics

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

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



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

**Site History:**

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

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

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

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

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

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

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

**Planning Policies & Material Considerations:**

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

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

**Consultations:**

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

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

### **Objections & Representations**

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

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

### **Consideration and Assessment:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

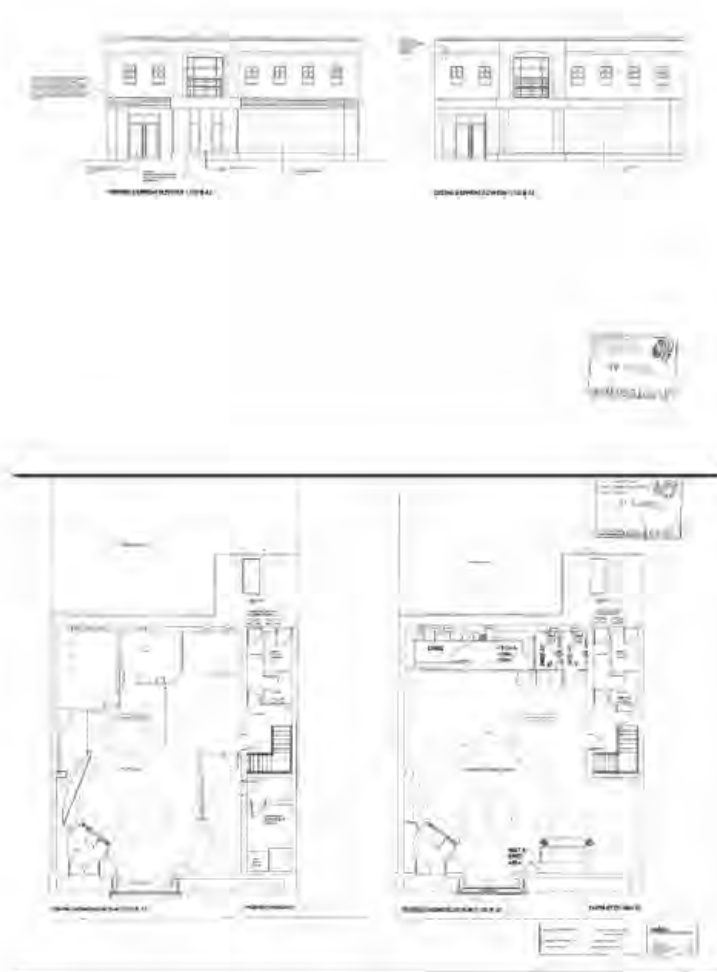
The proposal building stands between Lidl at 98-100 Market Street and the junction of Market Street and St Patricks Avenue. It sits within a block that comprises approximately 11 units.

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

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

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





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

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

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

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

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

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

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

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

**Recommendation:**

Approval

**Conditions**

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

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

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

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

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

Reason: In the interests of residential amenity.

**Case Officer: Sean Maguire**

**Appointed Officer: A.McAlarney**

**Date: 24.01 2023**



Objection on behalf of Downpatrick Town Committee (DTC) in respect of application  
**LA07/2022/1069/F**

The assessing officer references paragraph 6.271 of the SPPS as a basis for their decision making. DTC would argue that the officer has failed to provide clarity and relevant evidence in their report.

**SPPS NI 2015 Regional Strategic Objectives**

**6.271 The regional strategic objectives for town centres and retailing are to:**

- **secure a town centres first approach for the location of future retailing and other main town centre uses** <sup>58</sup>
- **adopt a sequential approach to the identification of retail and main town centre uses in Local Development Plans (LDPs) and when decision-taking;**
- **ensure LDPs and decisions are informed by robust and up to date evidence in relation to need and capacity;**
- **protect and enhance diversity in the range of town centre uses appropriate to their role and function, such as leisure, cultural and community facilities,**

Footnotes: 58 Includes cultural and community facilities, retail, leisure, entertainment and businesses.

The officer's assessment that: ***Footnote 58 of the SPPS confirms that town centre uses "includes cultural and community facilities, retail, leisure, entertainment and businesses". An amusement arcade and gaming centre comprises a form of leisure and entertainment.***

In the assessing officers report under the **Consideration and Assessment section, paragraph 6**, there are **3** different terms used to describe the proposed establishment, gaming arcade, amusement arcade and gaming centre. The submitted application clearly indicates a proposal for an **'Adult Gaming Centre'** which is consistent with the applicant, Oasis Retail Services current business model. So, DTC would seek clarity on what the proposal is for, as there seems to be a degree of ambiguity in the planner's report. Will the establishment consist of family friendly amusements enhancing leisure provision, or will it consist of, Amusements With Prize (AWP) and Fixed Odds Betting Terminals (FOBT) machines. If the latter, I would like to draw attention to the **2022 NI Assembly All Party Group, Reducing Harm Related to Gambling Inquiry, 'Gaming Machines in Northern Ireland'**. The inquiry report states that:

*FOBTs have often been referred to as the "crack cocaine" of gambling – both due to their relative addictiveness, and how quickly users can develop gambling-related problems following initial exposure. A 2016 study concluded that they account for more than half the UK's gambling harm.*

Additionally, Clinical Lead and Consultant Psychologist for The NHS Northern Gambling Service, Dr Matt Gaskell told the inquiry that

*'gaming machine usage is the number one landbased gambling activity undertaken by patients presenting at his clinics: Playing continuous gambling products, like slot machines, is the single biggest risk factor for gambling problems. It's a bigger risk factor than any individual factor. As far as we're concerned, in the clinics that I oversee'*

DTC would argue that given the impact Adult Gaming Centres have on individuals, the application cannot be considered a form of recreation or leisure contrary to the officer's recommendations the application is compatible to Footnote 58 and 6.271 objectives:

- to ensure LDPs and decisions are informed by robust and up to date evidence in relation to need and capacity
- protect and enhance diversity in the range of town centre uses appropriate to their role and function, such as leisure, cultural and community facilities

The officer has also determined that the proposal is in accordance with policy and, as such, an assessment of need is not considered necessary with regard paragraph 6.279 of the SPPS. Paragraph 6.279 detailed below states:

**Retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted. However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities. Such retail facilities should be required to be located within existing buildings. All policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment, and meet the requirements of policy elsewhere in the SPPS.**

Again, DTC would seek clarity on the function of a 'recreational facility' as the proposal is for an **Adult Gaming Centre**. Furthermore, the officer has failed to take into consideration the ongoing collaboration by Newry Mourne and Down Council (NMADDC), Dept for Communities (DFC), Ministerial Advisory Group for Built Architecture (MAG) and the Downpatrick Regeneration Working Group (DRWG). The collaboration is seeking to secure Downpatrick as the first Town in Northern Ireland to roll out the 'Living High Streets Craft Kit' (LHSCK). Public consultation to support securing LHSCK is, at this very moment half way through delivery via public workshops and evidence collated to date indicates:

- Vacant premises should be used to support local business and develop a circular economy 'keeping money in the town'
- There should be more green space to encourage outdoor activity for a healthier active lifestyle
- We should increase family friendly activity to encourage town centre footfall
- There is a desire to create Downpatrick into a town that does not host of a high volume of betting/gaming establishments, fast food outlets and charity shops.

The application is contrary to the needs of the public and as such will have an **unacceptable adverse impact on the vitality and viability of the existing town centre.**

The officer has determined that DCAN 1 advisory Notes on Amusement Arcades is not relevant and has stated: ***'The bad neighbour issues relating to residential areas, churches, schools etc do not apply in this case. This is particularly true in the current case given its Town Centre location. It is acknowledged the presence of the SERC close to the proposal, however this is a third level education facility and not a school.'***

The officer has failed to recognise the majority of SERC students are school leavers 16+ and as such would be vulnerable to gambling given the proximity to SERC's Downpatrick Campus. The officer has also failed to recognise proximity to Journey Community Church, 11 Market St, Youth Initiatives Downpatrick, 49 – 51 Market St and Life Change Changes Lives (LCCL), 41 Market St. LCCL is a charity supporting those affected by mental health, addiction and social isolation through Counselling. This evidence clearly demonstrates the application is contrary to DCAN1 and the officer has not considered these factors in their assessment.

Dear Democratic Services & Chairman

I note the above item is being presented to Planning Committee on 8<sup>th</sup> February 2023 with an officer recommendation to grant permission.

I would please request speaking rights in opposition to come before Planning Committee to speak against the officer's recommendation.

The application is presently under the jurisdiction of the Planning Appeals Commission (PAC), as the applicant engaged their right to appeal the application on 23<sup>rd</sup> September 2022 in default of a decision (non-determination appeal), after 8 weeks. They did this as they could see the lack of cross-party support or any support from the community. Paragraph 1, Section 1 of the Planning Act (Northern Ireland) 2011, seeks the orderly and consistent development of land, whilst furthering sustainable development and improving well-being.

The Planning Committee made their position clear in rejecting the officer's recommendation on LA07/2022/0273/F – 54 Market Street and this retail unit has been occupied and retained in positive retail use within the Primary Retail Core (PRC) by Teggart & Sons Hardware Store, which will have a positive impact on the vitality and vibrancy of Market Street and Downpatrick Town Centre. The decision to refuse has demonstrated the positive impact in rejuvenating Market Street and the Primary Retail Core with a much needed independent hardware store providing benefit to the community.

I would strongly encourage members to be consistent and vote to overturn and refuse the recommendation, so that the appellants and the PAC know the Council is opposed to inappropriate land uses in the PRC, which will have a negative impact on the vitality and vibrancy, by simply diverting money from traders into AWP slot machines.

I would be grateful if you could please confirm if speaking rights have been granted and any other speakers in opposition, so that we can ensure we liaise with each other.

Kind regards

*Andy Stephens*

Matrix Planning Consultancy  
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14 Balloo Avenue  
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BT19 7QT

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**Ref – LA07/2022/1069/F – 80-82 Market Street - Change of Use of the former bank (Class A2) to an amusement arcade/adult gaming centre facility**

This proposal claims to provide the provision of public services, but it is not a bank, health centre, post office or hairdressers. It is not a family amusement arcade like those in Newcastle, but a gambling emporium, which caters for those with a form of addiction.

It will operate from 9am-12midnight (15hrs per day) Monday to Saturday and 11.30am – 12midnight on a Sunday (12.5hrs) does not accord with DCAN 1. To put this in context, the operating hours and conditions are more generous than most hot food takeaways and licenced premises.

The proposal will not result in “linked trips” with other shops in the Primary Retail Core (PRC), nor will it enhance footfall or the vitality and viability. It will result in less money spent in the PRC and town centre, as it will divert expenditure into the AWP Slots. This is note in accordance with ADAP 2015.

The applicant claims that the proposal will “complement” the existing shopping in Downpatrick, but the dictionary definition of “complement” is completes or makes better or perfect. A gambling emporium that makes the town centre better is a pioneering concept.

The Case Officer is entirely wrong to claim that appeal 2022/A0076 is considered on “*all fours with the current proposal*” and this is a complete misdirection.

Firstly, each site is considered on its own merits or demerits and such a simplistic approach fails to consider the cumulative impacts in Downpatrick PRC and Town Centre and the proliferation of non-retail (offices) uses at steel level within shopping frontages.

Secondly it fails to consider the cumulative impacts on multiple gambling facilities and bookmakers within Downpatrick town centre on the vitality and viability or the diversion of expenditure from existing shops to make this scheme viable.

Oasis Retail Services Ltd turnover for the last year end (31<sup>st</sup> December 2021) was **£8,485,299** (See Appendix 1) across 14 locations or approximately £606k per unit. This will not be new income, but will simply be diverted from other town centre shops in Downpatrick. No assessment or analysis has been carried out by the planning officer to reach the conclusion there will be no unacceptable adverse impact on the vitality or viability.

**Strategic Planning Policy Statement (SPPS) for Northern Ireland**

Paragraph 4.3 of the SPPS states that the planning system has an active role to play in helping to better the lives of people and communities in Northern Ireland and in supporting the Executive’s key priority of improving health and well-being.

The critical matter is the enhancement of the attractiveness of Downpatrick town centre and PRC and to sustain the vibrancy and vitality.

The Collins dictionary definition of “enhance” is to improve its value, quality, or attractiveness. An amusement arcade / **gaming centre will not attract footfall to the town centre or PRC, nor will it enhance the attractiveness of Downpatrick** sustaining its vitality and vibrancy.

I note the Downpatrick Regeneration Plans for the Pilot Living High Streets Initiative with collaboration from the Ministerial Advisory Group (MAG) for Architecture and the Built Environment

Paragraph 6.282 states that; "In the absence of a current and up-to-date LDP, councils should require applicants to prepare an assessment of need, which is proportionate to support their application". The wording of this policy requirement is clear and unambiguous and goes on to state that "it is envisaged that this may incorporate a quantitative and qualitative assessment of need taking account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites"

There is a needs test embedded in the SPPS and it is noted that the applicant has not provided an assessment of need and the Council has not identified that an assessment of need is a policy requirement of the SPPS. This is a significant and alarming oversight, given the proliferation of non-retail uses (including gambling and gaming) within and on the edge of the PRC and Downpatrick town centre and the cumulative impacts.

#### Development Control Advice Note (DCAN) 1 – Amusement Centres

Whilst containing guidance DCAN 1 is a material consideration until the Council adopts its Plan Strategy.

The proposal is located in close to Journey Community Church (10/11 Market Street), Downpatrick Youth Initiatives (49-51 Market Street) and SERC.

Paragraph 4 of DCAN 1 states that amusement arcades are not normally acceptable near residential property nor are they good neighbours for schools, churches, hospitals or hotels. Whilst this is not an exhaustive list it highlights public buildings used for general assembly.

The proposal is clearly near several of these buildings. There is also a cumulative assessment to be applied if a needs assessment took place. It is noted where one amusement centre may not be out of place it would be permissible to take account of the effect of a concentration.

#### Precedent

Officers identify other existing adult gaming centres in Downpatrick town centre, but do not consider the proliferation or saturation of such uses in the PRC or Downpatrick town centre and how this will undermine the retail function of the town centre. There is no consideration as to how this precedent would be limited and to permit the proposal would clearly pose an unacceptable threat to the vitality and viability of Downpatrick town centre.

Paragraph 1, Section 1 of the Planning Act (Northern Ireland) 2011, seeks the orderly and consistent development of land, whilst furthering sustainable development and improving well-being. The Planning Committee made their position clear in rejecting the officer's recommendation on LA07/2022/0273/F – 54 Market Street and this retail unit has been occupied and retained in retail use with Teggart & Sons Hardware Store, which will have a positive impact on the vitality and vibrancy of market street. I would please ask that a consistent approach is taken on this application.

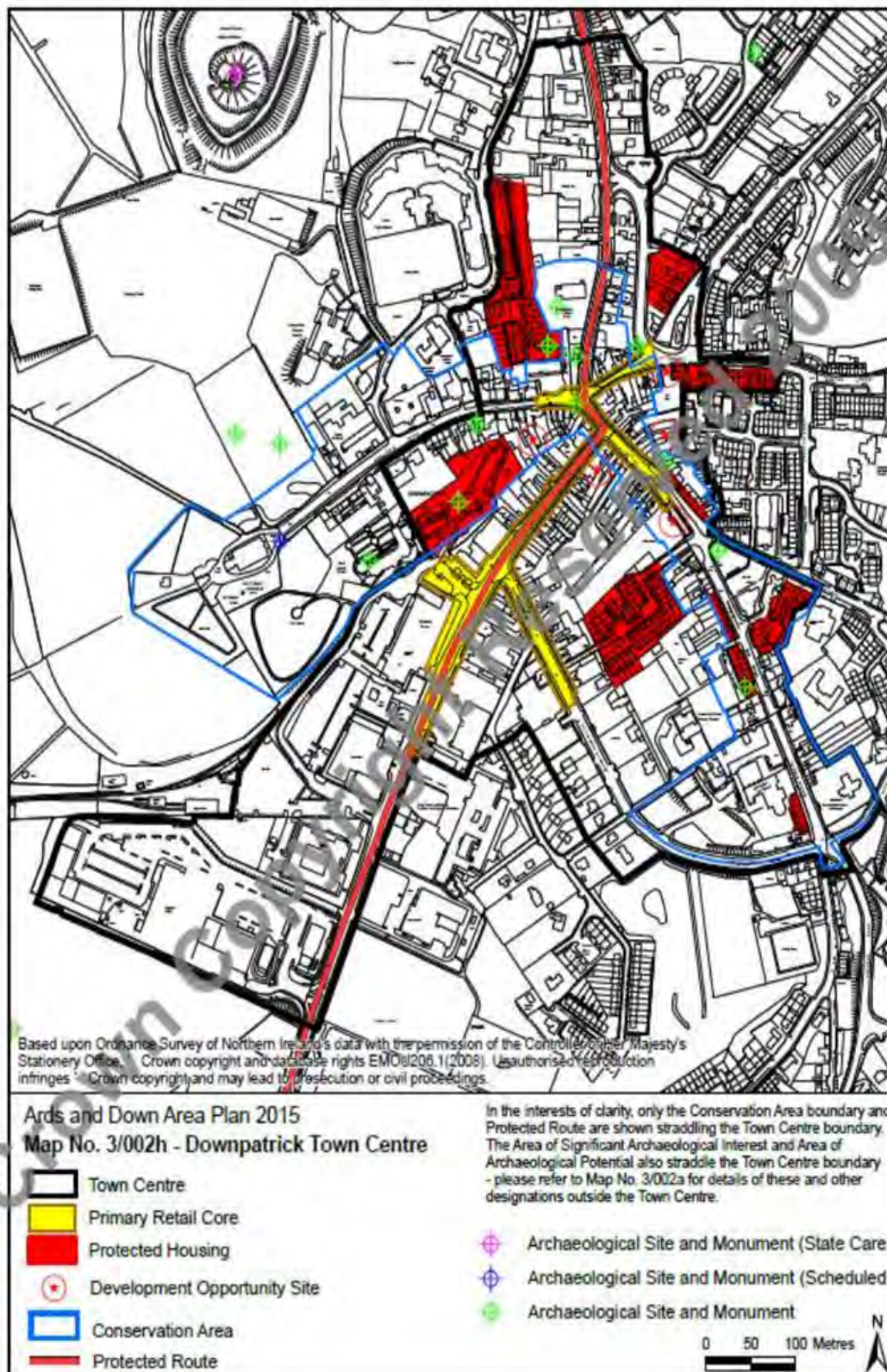
## Appendix 1 – Accounts for Oasis Retail Services @ Companies House

**OASIS RETAIL SERVICES LIMITED****PROFIT AND LOSS ACCOUNT****FOR THE YEAR ENDED 31 DECEMBER 2021**

		year ended 31 December 2021 £	period ended 31 December 2020 £
	<b>Notes</b>		
<b>Turnover</b>	<b>2</b>	8,485,299	3,828,758
Administrative expenses		(6,249,922)	(4,674,003)
Other operating income		1,052,700	1,243,567
		<hr/>	<hr/>
<b>Operating profit</b>	<b>4</b>	3,288,077	398,322
Interest receivable and similar income	7	177,534	282,529
Interest payable and similar expenses	8	-	(553)
Amounts written off investments	9	-	(1)
		<hr/>	<hr/>
<b>Profit before taxation</b>		3,465,611	680,297
Tax on profit	<b>10</b>	(622,371)	(231,889)
		<hr/>	<hr/>
<b>Profit for the financial year</b>		2,843,240	448,408
		<hr/> <hr/>	<hr/> <hr/>

The profit and loss account has been prepared on the basis that all operations are continuing operations.

Appendix 2 – Primary Retail Core (PRC) – Ards & Down Area Plan – 2015



## Appendix 2 – Map of Gaming Entertainment & Bookmakers



Whether “Slots o Fun” is derelict or not is irrelevant and I would direct the Council to the legal principles in ***Panton and Farmer v. SSETR [1999] JPL 46***, which conformed that while a use may decline, become inactive and lie dormant it **can still exist** in the sense that it has not been abandoned.

There is nothing to prevent “Slots o Fun” re-opening tomorrow (See Appeal 2015/E0001 – Dublin Road – Newry, Mourne and Down District Council) and I note the signage, shutters all remain intact.

On that basis it remains a material consideration to be weighed in the overall cumulative assessment and proliferation of use.



## SCHEDULE OF PLANNING APPLICATIONS

### Planning Committee Meeting on 8 February 2023

Application Reference Number	Site Location	Proposal	Officer Recommendation
LA07/2022/0578/O	Approx. 55m North-west of 61 Dromore Road Ballynahinch	New Dwelling and Domestic Garage	Refusal
LA07/2022/1069/F	80-82 Market Street Downpatrick	Change of Use of the former bank (Class A2) to an amusement arcade/adult gaming centre facility and alterations to shop front	Approval
LA07/2022/1438/F	25 Main St Bessbrook	Proposed single storey side and rear extension, and new patio area	Approval
LA07/2022/1586/LBC	25 Main St Bessbrook	Proposed single storey side and rear extension, and new patio area	Approval



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference: LA07/2022/1438/F**

**Date Received: 24/08/2022**

**Proposal: Proposed single storey side and rear extension to dwelling to accommodate sun lounge and extension to kitchen, and new patio area.**

**Location: 25 Main Street, Bessbrook.**

**Site Characteristics & Area Characteristics:**

The application site is located within the settlement limits of Bessbrook as defined within the Banbridge / Newry and Mourne Area Plan 2015. The site is located within the curtilage of a listed building and is set just outside the boundary of Bessbrook Conservation Area.

The site contains a single storey detached dwelling which has its gable facing the public road. The property is set just off the public road, a driveway and lawn are located on the road edge. The main garden area is enclosed and to the side and rear of the property, the area to the rear is set at a lower level and is accessed via steps.

The site is located within a residential area, surrounding properties vary in their size, scale and design including the listed buildings set to the north west of the site.

**Site History:**

LA07/2022/1586/LBC - 25 Main Street, Bessbrook - Proposed single storey side and rear extension, and new patio area – Currently under consideration.

**Planning Policies & Material Considerations:**

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

- Strategic Planning Policy Statement (SPPS)
- Banbridge/ Newry and Mourne Area Plan (2015)
- Planning Policy Statement 6- Planning, Archaeology and the Built Heritage
- Planning Policy Statement 7- 'Residential Extensions and Alterations' (The Addendum)

**Consultations:**

**Historic Environment Division** - HED (Historic Buildings) is content with the proposal, when assessed under Paragraphs 6.12 of Strategic Policy Planning

Statement for Northern Ireland and Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

**Objections & Representations:**

The application was advertised on 28/09/2022 and two neighbouring properties were notified on 05/10/2022, no representations or objections have been received.

**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 where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The application site is located within the settlement limits of Bessbrook, the Banbridge/ Newry and Mourne Area Plan contains information showing the site is set just outside Conservation Area.

The policy context is provided by the first Addendum to Planning Policy Statement 7- Quality Residential Environments (PPS7), entitled 'Residential Extensions and Alterations' (The Addendum) and for the Conservation Area and Listed Building Curtilage within Planning Policy Statement 6, Planning, Archaeology and the Built Heritage

Policy EXT 1 of the Addendum to Planning Policy Statement 7 is applicable for all residential extensions. Policy states that any extension should be subordinate in scale and similar in style to the existing property, taking account of materials and the local character of the area.

The proposal seeks planning permission for an extension to the side and rear of the property, the extension will provide additional living space within the small property. The proposal also includes a new patio area and a paved area to the rear which is set at a lower level.

The extension is relatively small in its size and scale with the ridge level set below that of the existing property. The extension will allow for a separate utility area, sun lounge and an increased kitchen / dining area.

The extension considered subordinate to the existing property with the size being quite modest, the overall design is seen as sympathetic to the existing property.

The size, scale and design of the proposed development are considered to be in keeping with the existing property and it is also considered that the proposal will not detract from the character or appearance of the area. The proposed development is to be finished with materials to match the existing dwelling.

The proposed patio area and paved area are considered in keeping with the property, cross sections have been provided to show how the lower paved area is to fit within the site.

The size, scale and design of the proposal are considered acceptable in this case.

The proposal will not unduly affect the privacy or amenity of any adjoining neighbours as the proposal will not result in a loss of light or overshadowing. The proposal will not result in any overlooking given the small single storey design. The new proposed patio

area will not overlook any surrounding properties. It is considered that the proposal will not unduly impact on the privacy or amenity of any neighbouring properties.

The proposal will not cause unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality.

The proposal will result in an increase in the amount of formal amenity space, parking provisions will not be altered.

It is considered that the proposal meets the policy criteria set out in EXT1 of the Addendum to PPS7.

### **PPS6**

HED have been consulted given the site being positioned within the curtilage of a listed building, as outlined above their response raised no concerns and the proposal is considered in line with PPS6.

### **Conservation Area**

Although the site is located just outside the conservation area limits consideration will be given to any potential impacts. Given the small size and scale of the proposed development it is not considered that proposal would result in any detrimental impact on Bessbrook Conservation Area.

### **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's LM/01, SK/01 R, SM/01 R and 01 R.

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

3. The materials to be used in the construction of the external surfaces of the development hereby permitted, shall be in accordance with those detailed on the approved drawing No SK/01 R.

Reason: In the interest of visual amenity and to ensure the proposal is in keeping with the surrounding area.

**Case Officer:** Wayne Donaldson

**Date:** 18/01/2023

**Authorised Officer:** Gareth Murtagh

**Date:** 18/01/2023



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agus an Dúin

Newry, Mourne  
and Down  
District Council

**Application Reference:** LA07/2022/1586/LBC

**Date Received:** 07/10/2022

**Proposal:** Proposed single storey side and rear extension, and new patio area.

**Location:** 25 Main Street, Bessbrook.

**Site Characteristics & Area Characteristics:**

The application site is located within the settlement limits of Bessbrook as defined within the Banbridge / Newry and Mourne Area Plan 2015. The site is located within the curtilage of a listed building and is set just outside the boundary of Bessbrook Conservation Area.

The site contains a single storey detached dwelling which has its gable facing the public road. The property is set just off the public road, a driveway and lawn are located on the road edge. The main garden area is enclosed and to the side and rear of the property, the area to the rear is set at a lower level and is accessed via steps.

The site is located within a residential area, surrounding properties vary in their size, scale and design including the listed buildings set to the north west of the site.

**Site History:**

LA07/2022/1438/F - 25 Main Street, Bessbrook - Proposed single storey side and rear extension to dwelling to accommodate sun lounge and extension to kitchen, and new patio area – Currently under consideration.

**Planning Policies & Material Considerations:**

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

- Strategic Planning Policy Statement (SPPS)
- Banbridge/ Newry and Mourne Area Plan (2015)
- Planning Policy Statement 6- Planning, Archaeology and the Built Heritage

**Consultations:**

**Historic Environment Division** - HED (Historic Buildings) is content with the proposal, when assessed under Paragraphs 6.12 of Strategic Policy Planning Statement for Northern Ireland and Policy BH 11 (Development affecting the Setting

of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

**Objections & Representations:**

No neighbours were notified for this application given that it is for consent, the application was advertised on 26/10/2022, no objections or representations have been received.

**Consideration and Assessment:****SPPS**

The application relates to a listed building and seeks Listed Building Consent. The SPPS states that development proposals impacting upon listed buildings and their settings are assessed, paying due regard to these considerations, as well as the rarity of this type of structure and any features of special architectural or historic interest which it possesses.

**PPS6**

HED (Historic Buildings) is content with the proposal, when assessed under Paragraphs 6.12 of Strategic Policy Planning Statement for Northern Ireland and Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

Given the information provided within the response from HED it is considered that the proposal is acceptable and will not result in an impact on the listed building when considered against relevant policy PPS6, the proposal is considered acceptable.

**Recommendation: Approval****Conditions**

1. The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011.

2. The development hereby permitted shall take place in strict accordance with the following approved plans: Drawing No's LM/01, SK/01 R, SM/01 R and 01 R.

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

3. The materials to be used in the construction of the external surfaces of the development hereby permitted, shall be in accordance with those detailed on the approved drawing No SK/01 R.

Reason: In the interest of visual amenity and to ensure the proposal is in keeping with the surrounding area.

**Case Officer:** Wayne Donaldson **Date:** 18/01/2023

**Authorised Officer:** Gareth Murtagh **Date:** 19/01/2023

**TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS**

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
<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 Consultee response.</b>	N
<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	<b>Removed from the schedule at the request of Planners – to be brought back to Committee</b>	Patricia Manley		N
LA07/2017/0978/F and LA07/2017/0983/LBC	Demolition of side and rear extension. New rear and side extensions and rear dormer 50 Hilltown Road Bryansford Newcastle	<b>Defer back to officers to see if agreement on design can be reached and delegate decision to officers</b>	Annette McAlarney	<b>Agent to submit revisions following meeting.</b>	N
<b>PLANNING COMMITTEE MEETING</b>					

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
<b>06 APRIL 2022</b>					
LA07/2021/1824/F	Replacement Dwelling House - 34 Ringdufferin Road Downpatrick	<b>Removed from the schedule at the request of Planners</b>	Annette McAlarney	<b>Under consideration by Planning Office</b>	N
<b>PLANNING COMMITTEE MEETING 29 JUNE 2022</b>					
LA07/2019/0868/F	Proposed commercial development comprising ground floor retail unit and first floor creche with associated site works - 107 Camlough Road, Newry, BT35 7EE.	Removed from the schedule at the request of Planners	Pat Rooney	<b>On agenda for December 2022 meeting - deferred</b>	
LA07/2021/2010/O	Farm dwelling and garage - Approx 100m West of 42 Crawfordstown Road Downpatrick	<b>Defer for further consideration by Planners and take back to Planning Committee</b>	Annette McAlarney	<b>Under consideration by Planning Office</b>	
<b>PLANNING COMMITTEE MEETING 27 JULY 2022</b>					
LA07/2021/0987/F	Section 54 application seeking planning permission to vary condition no. 17 of P/2013/0242/F - Lands at Watsons Road/Dorans Hill Newry including lands to the east of Watsons Road	<b>Defer – Dfi to attend Planning Committee Meeting when application is next scheduled</b>	Anthony McKay	<b>On agenda for Special meeting on 08-09-2022 – meeting cancelled and to be reconvened</b>	
LA07/2020/1864/F	Proposed barbers shop / hairdressers - Between no.39	<b>Defer for a site visit</b>	Pat Rooney	<b>Site visit 10-08-2022 – on agenda for meeting on 24-08-</b>	



Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	Church Street Rostrevor & no. 2 Water Street Rostrevor			<b>2022 – defer to allow for further discussions to take place with the agent, applicant and planners</b>	
<b>PLANNING COMMITTEE MEETING 16 NOVEMBER 2022</b>					
LA07/2020/1651/F	Erection of dwelling (Change of house type from that previously approved under P/2006/2002/F) (Amended description) 75m north of 18 Ballinasack Road, Mullaghbawn, Newry.	<b>Defer for a site visit at December Planning meeting</b>	P Rooney	<b>Site visit – 18-01-2023 – return to Planning Committee on 08-02-2023</b>	Y
LA07/2022/0210/F	Retention of existing outdoor customer seating area - Ground floor unit 12 Seaview Warrenpoint BT34 3NJ	<b>Removed from the schedule at the request of Councillor McAteer as the representative from objectors is unable to attend the meeting</b>	P Rooney/M Keane	<b>On agenda for December 2022 meeting - deferred</b>	
LA07/2022/0226/F	This is a category 11 section 54 application - Ground Floor Unit 12 Seaview Warrenpoint BT34 3NJ	<b>Removed from the schedule at the request of Councillor McAteer as the representative from objectors is unable to attend the meeting</b>	P Rooney/M Keane	<b>On agenda for December 2022 meeting - deferred</b>	
<b>PLANNING COMMITTEE MEETING 11 JANUARY 2023</b>					
LA07/2022/0030/F	Approximately 265 metres west of No. 30 Levallyreagh Road Rostrevor Erection of	<b>Defer</b>	P Rooney/M Keane		

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	replacement dwelling and garage with associated ancillary site works				
LA07/2022/0578/O	Approx. 55m North-west of 61 Dromore Road Ballynahinch - New Dwelling and Domestic Garage	Defer for a site visit	A McKay/A McAlarney	<b>Site visit 18-01-2023 – return to Planning Committee 08-02-2023</b>	Y
<b>END</b>					