



November 12th, 2020

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 18th November 2020** at **10:00 am** in **Boardroom Monaghan Row Newry** and via **Microsoft Teams**.

**Committee Membership:**

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

# Agenda

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

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## *Minutes for Confirmation*

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### 4.0 Minutes of Planning Committee Meeting held on Wednesday 21 October 2020. (Attached)

 *Planning Committee Minutes 21.10.2020.pdf*

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## *For Discussion/Decision*

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

 *Addendum list - 17-11-2020.pdf*

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

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

#### REFUSAL

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

 *LA07-2019-1221-F-TullyB\_Recon.pdf*

*Page 16*

 *Item 6 - LA07-2019-1221-F.pdf*


*Page 20*

### 7.0 LA07/2019/1279/F - new access and laneway to serve dwellings 27, 29 and 31 Islandmoyle Road - Lands adjacent to 27 Islandmoyle Road Cabra Newry. (Case Officer report

**attached).**

REFUSAL

- As per the updated Operating Protocol no further speaking rights are permitted on this application (agent in attendance as an observer)

 *LA07-2019-1279 Islandmoyle rd.pdf*

*Page 22*


 *Addendum Report LA07 2019 1279 f.pdf*

*Page 30*

## **8.0 LA07/2020/0492/F - proposed infill dwelling - 40m north west of 100 Kilbroney Road Rostrevor. (Case Officer report attached).**

REFUSAL

- As per the updated Operating Protocol no further speaking rights are permitted on this application (agent and applicant in attendance as observers)

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

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

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## **9.0 LA07/2019/1502/O - proposed site for dwelling with associated site works - lands approx. 15m North of 115 Greencastle Pier Road Greencastle. (Case Officer report attached).**

REFUSAL


- A request for speaking rights has been received from Michael Holmes in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from Paul Cunningham, applicant and Tim Cousins of Lisbane Consultants, in support of the application. **(Submission attached).**

 *LA07-2019-1502-Greencastle.pdf*

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 *Item 9 - LA07-2019-1502 (objection).pdf*

*Page 46*


 *Item 9 - LA07-2019-1502-0.pdf*

*Page 47*

## **10.0 LA07/2019/1551/O - proposed 1 1/2 storey dwelling & garage immediately east of 15 Mill Road Hilltown Newry BT34 5UZ. (Case Officer report attached).**

APPROVAL

- Addendum list

 *LA07-2019-1551 Mill Rd.pdf*

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 *Addendum Report la07-2019-1551.pdf*

*Page 56*


## **11.0 LA07/2020/0608/O - site between 8 Tullydonnell Road and 2 O'Callaghans Road, Silverbridge, Newry. (Case Officer report attached).**

REFUSAL

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

 *LA07-2020-0608-O.PDF*

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 *Item 11 - LA07-2020-0608-0.pdf*

*Page 64*

## **12.0 LA07/2017/0546/F - proposed indoor amenity area, cafe and event rooms and associated car parking for use in conjunction with existing tourist facility (Golf Centre) - 39 Castlewellan Road Newcastle Co Down BT33 0JY. (Case Officer report attached).**

REFUSAL

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

 *LA07-2017-0546-F Castlewellan Rd Newcastle.pdf*

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 *Item 12 - LA07-2017-0546.pdf*

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

REFUSAL

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

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

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 *Item 13 - LA07-2020-0372F.pdf*

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**14.0 LA07/2019/1202/DCA - demolition of existing spar retail unit with petrol filling station and demolition of the existing adjacent dwelling at 6 Downpatrick Road and demolition of the modern rear extension at 1-3 Irish Street in Killyleagh to enable construction of a proposed replacement of the Spar retail unit and petrol forecourt - 2-6 Downpatrick Road and 1-3 Irish Street, Killyleagh. ( Case officer report attached).**

APPROVAL

- A request for speaking rights has been received from Brian Cassidy in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from David Mountstephen, agent; Ashley Lamont from Whittaker and Watt Architects, and Mark Adrain, Henderson Group, in support of the application. **(Submission attached).**

 *LA07\_2019\_1202\_DCA Downpatrick Road Killyleagh.pdf*

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 *Items 14 and 15 (objection).pdf*

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 *Items 14 and 15 - LA07-2019-1186 & 1202.pdf*

*Page 94*

**15.0 LA07/2019/1186/F - proposed demolition of existing spar retail unit with petrol filling station and demolition of the existing adjacent dwelling at 6 Downpatrick Road and demolition of the modern rear extension at 1-3 Irish Street in Killyleagh to enable construction of a proposed replacement of the Spar retail unit and petrol forecourt- 2-6 Downpatrick Road and 1-3 Irish Street, Killyleagh. ( Case officer report attached).**

APPROVAL

- A request for speaking rights has been received from Brian Cassidy in objection to the application. **(Submission attached).**
- A request for speaking rights has been received from David Mountstephen, agent; Ashley Lamont from Whittaker and Watt Architects, and Mark Adrain, Henderson Group, in support of the application. **(Submission attached).**

 *LA07\_2019\_1186\_F\_Hendersons Killyleagh (1).pdf*

*Page 95*

**16.0 LA07/2020/0440/0 - change of use from offices on first and second floor to two apartments (amended description) - McGrath Centre 1 Margaret Street Newry. (Case Officer report attached).**

APPROVAL

- Addendum list

LA07-2020-0440 margaret st.pdf

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**17.0 LA07/2020/0313/F - Environmental improvements to include: New granite kerbs, trims and dished channels, asphalt footpath with stone chippings, new street lightning and removal of overhead wires - Dundalk Street from 42 Dundalk Street the Cosy Bar to 56 Dundalk Street, Dundalk Street from 43 Dundalk Street to 55 Dundalk Street, Newtownhamilton. (Case Officer report attached).**

APPROVAL

- Addendum list

LA07-2020-0313-F.PDF

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

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**18.0 LA07/2020/0760/F - 2 storey extension - 47 Bearn Park Meigh Newry. (Case Officer report attached).**

REFUSAL

- A request for speaking rights has been received from Michael McKeever, NIHE Project Manager, in support of the application. **(Submission to follow under separate cover).**

This item is deemed to be restricted by virtue of Paragraph 1 of Part 1 of Schedule 6 of the Local Government Act (NI) 2014, information relating to any individual and the public, may, by resolution, be excluded during this item of business.

LA07-2020-0760-F.PDF

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***Items deemed to be exempt under paragraph 3 of Part 1 of Schedule 6 of the Local Government Act (NI) 2014***

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

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

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

Not included

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**20.0 Historic Actions Tracking Sheet. (Attached).**

 *Planning HISTORIC TRACKING SHEET - Updated 04-11-2020.pdf*

*Page 126*

**21.0 Planning Committee Performance Report - October 2020.  
(Attached).**

 *OCTOBER 2020 Planning Committee Performance Report.pdf*

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**22.0 October Planning Appeals and Decisions. (Attached).**

 *Appeals and Decisions issued in October 2020.pdf*

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**NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

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**Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 21 October 2020 at 10.00am in Council Offices Monaghan Row Newry and via Microsoft Teams**

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**Chairperson:** Councillor R Burgess

**In attendance: (Committee Members)**

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

**(Officials)**

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

**Others:**

Mr S Stevenson	DfI Roads
Mr J Killen	DfI Roads

**P/085/2020: APOLOGIES AND CHAIRPERSON'S REMARKS**

Apologies were received from Councillor G Stokes.

Councillor Burgess advised Members that Item 6 - LA07/2020/0372 - change of use of first floor storage to 4 self-contained residential units first floor to rear of 71-73 Main Street Castlewella had been removed from the addendum list and item 7 - P/2013/0189/F - Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works. had been removed from the agenda. Mr McKay clarified these applications had been removed at the request of Councillor Doran.

**P/086/2020: DECLARATIONS OF INTEREST**

Councillor Tinnelly declared an interest in Item 11 – LA07/2020/0492.

**P/087/2020: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 25 – MEMBER TO BE PRESENT FOR ENTIRE ITEM**

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

There were no declarations.

**MINUTES FOR CONFIRMATION**

**P/088/2020: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 23 SEPTEMBER 2020**

Read: Minutes of Planning Committee Meeting held on Wednesday 23 September 2020. **(Copy circulated)**

Councillor Brown proposed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 23 September 2020 as a true and accurate record, however as he was not present at the meeting, his proposal could not be accepted.

**AGREED:** On the proposal of Councillor McAteer seconded by Councillor Doran it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 23 September 2020 as a true and accurate record.

**FOR DISCUSSION/DECISION**

**P/089/2020: ADDENDUM LIST**

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

**AGREED:** On the proposal of Councillor Hanna seconded by Councillor McAteer it was agreed to approve the Officer recommendation in respect of the following application listed on the addendum list for Wednesday 21 October 2020:

- Item 8 - LA07/2020/0667/LBC - undertake remedial works to the existing Annalong North Pier, including removal and rebuilding of sections of existing masonry wall, anchoring of rock outcrops, filling voids with concrete. Undertake masonry remedial works to the North East Quay - Annalong Harbour. **APPROVAL**

**DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION**

**P/090/2020: PLANNING APPLICATIONS FOR DETERMINATION**

The following applications were determined by the Committee:-

**(1) LA07/2019/0585/O**

**Location:**

9 Derryleckagh Road, Newry

**Proposal:**

Detached house and garage

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

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

**Speaking rights:  
(via Teams)**

In support:

Nigel Cathers, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

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

**Issues raised:**

- **The applicant considered he had complied with requests regarding the submission of maps / drawings.**
- **Planning had issued a letter to the applicant in February 2020 advising that DfI Roads considered the drawings submitted by him to be unacceptable. The letter also referred the applicant to the policy test, PPS21, and afforded an opportunity to provide comment/justification regarding the principle, but no comment in policy terms was received.**
- **Planning were not aware of the medical and farming needs that had been raised by the applicant during his presentation.**
- **No pre planning meetings had taken place with the applicant.**
- **Although the applicant was in possession of six acres of land within the red line, there was only a small portion that was positioned alongside the road.**
- **Planning had written to the applicant requesting more detail but had not received a response.**
- **The applicant stated he had not been made aware he should have been in contact with Planning Officers regarding his application.**
- **DfI requirements were 2.4m x 80m and the access widened to 4.8m.**
- **The applicant considered the site lines were adequate stating they were 10cms narrower than DfI Roads required.**

Councillor Larkin proposed to issue a refusal in respect of Planning Application LA07/2019/0585/O, as per the information and recommendation contained in the Case Officer report presented to Committee. Councillor McAteer seconded the proposal saying, by way of advice to the applicant that he had not had any professional representation and this was something he, perhaps should have considered.

Councillor Taylor requested to speak at this point, however Ms Largey advised that as per Standing Orders, a vote on the proposal would have to be taken first.

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

FOR:	6
AGAINST:	4
ABSTENTIONS:	1

Councillor Taylor was then given the opportunity to speak. He said he was very disappointed with the outcome, unfortunately he had become involved very late on in the application process and there was insufficient time to give any additional information.

**AGREED: On the proposal of Councillor Larkin seconded by Councillor McAteer it was agreed to issue a refusal in respect of Planning Application LA07/2019/0585/0 as per the information and recommendation contained in the Case Officer Report presented to Committee.**

## **(2) LA07/2019/1228/F**

### **Location:**

60m SE of 29 Leitrim Road, Kilkeel

### **Proposal:**

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

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

Refusal

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

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

### **Speaking rights: (via Teams)**

#### In support

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

### **Issues raised:**

- **Access to the site had been constructed and the old dwelling demolished in 2009, in accordance with planning guidance at the time.**
- **Planning had referred to other similar previous applications in determining this planning application.**
- **An existing CLUD had been submitted for the application which was for works that were existing at that time.**
- **In response to a comment that the issue of whether works had commenced on site was a matter of opinion, Mr McKay advised Members it was a statement of fact and not an opinion.**
- **The original 2009 application would now have expired.**

- **Ms Largey advised Members the comments that had been made by the Commissioner were material considerations and should not be disregarded.**
- **Ms Largey stated the pre-commencement conditions had been complied with but the question for the Committee was to determine if they considered further construction work had taken place following the pre-commencement conditions.**
- **Pre-commencement conditions were a regular feature of planning applications historically and those relating to access issues with regard to DfI Roads may be due to safety concerns.**

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2019/1228/F contrary to Officer recommendation on the basis that he considered the works carried out including the demolition of the dwelling constituted commencement of works. Councillor Hanna seconded the proposal.

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

FOR:	10
AGAINST:	0
ABSTENTIONS:	1

The proposal was declared carried.

**AGREED:**                      **On the proposal of Councillor Larkin seconded by Councillor Hanna it was agreed to issue an approval in respect of Planning Application LA07/2019/1228/F contrary to Officer recommendation on the basis that the works carried out including the demolition of the dwelling constituted commencement of works.**

**It was also agreed that a five year time limit be imposed for completion of works and that Officers be delegated authority to impose any relevant conditions.**

### **(3)            LA07/2020/0492/F**

(Councillor Tinnelly withdrew from discussions/decision)

#### **Location:**

40 m NW of 100 Kilbroney Road, Rostrevor

#### **Proposal:**

Proposed infill dwelling

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

Refusal

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

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

#### **Speaking rights:**

**(via Teams)**

In support

Aaron Tinnelly, applicant and Colin D'Alton, 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 advised they would be happy to look at the design of the house if approval was agreed**
- **Is there access from the lane through the yard and around the entire lane – frontage and where the lane stops.**

Councillor Larkin proposed to hold a site visit in respect of Planning Application LA07/2020/0492/0. Councillor Trainor seconded the proposal.

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

FOR:	10
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

**AGREED:**                      **On the proposal of Councillor Larkin, seconded by Councillor Trainor, it was agreed to hold a site visit on planning application LA07/2020/0492/0.**

(Councillor Tinnelly re-joined the meeting).

**(4)            LA07/2020/0674/F**

**Location:**

100m NE of 47 Mayo Road, Mayobridge

**Proposal:**

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

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point presentation:**

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

**Speaking rights:**

**(via Teams)**

In support:

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

**Issues raised:**

- **Receipts had been submitted by the agent on behalf of the applicant showing there was electrical ducting laid on the site of the proposed dwelling.**
- **The Planning Department accepted the visibility splays were in place, however the agent has confirmed there were no foundations.**
- **In the opinion of Planners the totality of the work done did not constitute commencement.**

Councillor McAteer proposed to issue an approval in respect of Planning Application LA07/2020/0674/F contrary to Officer recommendation on the basis that he considered evidence of commencement had been submitted and there was evidential correspondence from various Planning Officers which would support the view that commencement had taken place. Councillor Larkin seconded the proposal.

Ms. Largey advised that the general letters from Planning Officers referred to pre-dated the advice given by the Department in relation to this application. She said these letters could not carry more weight than what would have been official Departmental guidance at the time.

Councillor Tinnelly said there were different interpretations regarding commencement and it was clear that in all cases applicants and agents regarded entrances being put in place as a material start to the application. He suggested that much more water tight conditions should be put in applications.

In response Mr McKay said that in the vast majority of these applications, submitted by agents on behalf of applicants, the Case Officers were reflecting case law and a legally defined condition when bringing such applications to Committee, and were not just relying on opinion.

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

FOR:	10
AGAINST:	0
ABSTENTIONS:	1

**AGREED:** **On the proposal of Councillor McAteer, seconded by Councillor Larkin, it was agreed proposed to issue an approval in respect of Planning Application LA07/2020/0674/F contrary to Officer recommendation on the basis that it was considered evidence of commencement had been submitted and there was evidential correspondence from various Planning Officers which would support the view that commencement had taken place.**

**It was also agreed that a five year time limit be imposed for completion of works and that Officers be delegated authority to impose any relevant conditions.**

#### **(5) LA07/2019/1221/F**

##### **Location:**

Land 10m NW of 180 Tullybrannigan Road, Newcastle, Co. Down

##### **Proposal:**

Proposed Guest House Tourist Accommodation and associated site works assessed under PPS16 TSM3

**Noted:**

This application was removed from the schedule for a site visit to be re-run and it will be taken back to Committee.

**FOR NOTING**

**P/091/2020: HISTORIC ACTION SHEET**

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

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

**P/092/2020: SEPTEMBER 2020 PLANNING COMMITTEE PERFORMANCE REPORT**

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

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

**P/093/2020: CURRENT APPEALS AND DECISIONS**

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

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

**P/094/2020: LOCAL DEVELOPMENT PLAN (LDP) PROGRESS UPDATE, NEXT STEPS AND REVISED TIMETABLE**

It was noted this item had been removed from the agenda.

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

Item 19 is deemed to be exempt under 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.

**On the proposal of Councillor McAteer, seconded by Councillor Brown, it was agreed to exclude the public and press from the meeting during discussion on this item.**

**P/095/2020: PROPOSED AMENDMENTS TO THE PLANNING OPERATING PROTOCOL AND MICROSOFT TEAMS OPERATING PROTOCOL**

**Read:** Report dated 21 October 2020 from Mr Fearghal O'Connor, Head of Legal Administration (acting) re: proposed amendments to the Planning Committee Operating Protocol and the Microsoft Teams Meeting Protocol for Planning Committee.

Councillor Brown proposed and Councillor Larkin seconded to come out of closed session.

When the Committee was out of closed session it was reported the following had been agreed:-

**AGREED:** **On the proposal of Councillor Brown, seconded by Councillor Hanna, it was unanimously agreed to approve the proposed amendments to the Planning Committee Operating Protocol.**

**On the proposal of Councillor Trainor, seconded by Councillor Hanna, it was unanimously agreed to approve the proposed amendments to the Skype/Microsoft Teams protocol for the Planning Committee.**

**P/096/2020: DETERMINATION OF PLANNING APPLICATION  
LA07/2018/0001/O**

**Location:**

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

**Proposal:**

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

**Conclusion and Recommendation from Planning Official:**

Approval

At the outset of the presentation Ms. Largey advised very late representations were received that had been looked at by officers and has also been forwarded to the applicant. The document that was received was a submission in relation to the drawings which accompanied this application and alleged a number of inaccuracies particularly in relation to the main Lidl entrance and where that abutted onto the Bryansford Road. There had been a suggestion that there has been a splicing together of a topographical survey and an ordnance survey map. This information had been shared with the applicant and with DfI Roads and both were content that the matter could proceed today and Members may wish to address those issues with them but undoubtedly the objector would address these issues in their representations to Committee.

**Power-point presentation:**

Annette McAlarney, Senior Planning Officer gave a power point presentation via Teams on the application with supporting information including a site location plan, an aerial view of the site and photographs from various critical views of the site; acceptability of the site in terms of the PPS which adopts a town centre first approach then order of preference if a town centre site was not available; assessment of need provided by the applicant for the choice of site; retail impact assessment.

**Speaking rights:**

**(via Teams)**

In objection:

Conleth Rooney BL, Mark Donnelly and Johnny Keenan, on behalf of Don Holdings Ltd and Andy Stephens, Matrix Planning presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

In support:

Dermot Monaghan, agent and Tim Cousins, traffic engineer, Lisbane Consulting presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Also in attendance:

Jason Killen and Sid Stevenson, Dfi Roads were in attendance

**Issues raised:**

Ms McAlarney said consultations have been carried out and all consultees had returned with no objections subject to conditions, which as always were subject to change by the Committee if they so wished. On this case the Planning Office had recommended approval.

Mr Rooney, Counsel appointed by Don Holdings Ltd accompanied by Mark Donnelly, Director and Johnny Keenan, Consultant Roads expert. He said this application was teeming with issues but they were concentrating today on issues raised by objectors relating to road safety; significant traffic congestion; glaring interference on residential amenity and that the Bryansford Road entrance/exit was unsafe for both pedestrians and road users and the sight lines were inadequate for a development of this size and could only be justified using incorrect data and the reduced sight lines could not even be achieved as there were relevant third party interests when it came to sight splays.

He said regarding traffic congestion the applicant had presented figures based on impossible sight lines, incorrect place for its store and traffic that did not account for a new reliance on one entrance and exit. He added peak traffic figures taken from October which was the wrong time for a seasonal seaside town like Newcastle.

Mr Rooney said it was important to raise the prominent issue of residential amenity. Members would be aware that Don Holdings successfully judicially reviewed the previous approval of this permission on the basis of the outstanding nature of their planning permission of the neighbouring development which had not been considered properly. Unfortunately the development as it stood still had a significant detrimental effect on the development of the apartments next door. He said the Lidl development as proposed sat at nearly 3.8 m from the south boundary which joined their land which was totally inadequate.

Mr Rooney said Members were being asked to make a decision based on both outdated and inaccurate information.

Mr Stevens, speaking in objection, said he wished to draw members attention to two points. He said the existing town centre store for Lidl, the Case Officer said she had regard to the SPPS in terms of town centres first where possible. The SPPS at para 6.29 indicated that applicants were required to show flexibility in terms of potential town centre sites or ones on a constrained footprint and it fell to the applicant to demonstrate why town centres sites were not suitable, available and viable and the applicant has failed to demonstrate why this new edge of town centre was required.

Mr Stevens said the second point which he wished to make related to the conditions it would be normal practise to put a pre-occupation condition in place if the store were to move.

Mr Monaghan, speaking in support said there were no other sites large enough and suitable for the store in and around Newcastle Town Centre until the application site became available. He said it was only 80m from the town centre and the retail report demonstrated that the proposal complies with the sequential test. He said the report showed that Newcastle Town Centre had a very low proportion of vacant units, well below the NI average, and any pre-occupancy condition would be unreasonable and unnecessary.

He said traffic impact and access issues have been considered at length and a transport assessment had been submitted with the application and revised three times. He said an access report had also been submitted and DfI Roads confirmed they considered the proposal to be acceptable.

Mr Monaghan said the access report demonstrated that the size of the visibility splays shown on the applicant's drawing were adequate and this was confirmed in the consultation response from DfI Roads dated 9 September 2020. He said as this was an outline application the imposition of conditions would mean there would be no harm to road safety. Access to the proposed development was a reserved matter and the detail of this could be agreed at reserved matter stage. He said Don Holdings had suggested that the provision of the access including visibility splays should be subject to a pre-commencement condition and Don Holdings Solicitors, had agreed with this approach. The implementation of this condition would mean there would be no harm to road safety.

Mr Monaghan said the third issue was that the proposal as shown on the applicant's illustrated drawings and the transport assessment were prepared taking account of the existing access on the Bryansford Road which was well over 30m from the access to the objectors site and it was considered this would be adequate separation and there would be no conflict with traffic from this or any other nearby access. He added that the illustrative drawings showed a footway at the side access 2m wide connected to a new pedestrian crossing over Bryansford Road and it was considered these measures would improve pedestrian safety in the area and the proposal would not prejudice pedestrian safety.

Mr Monaghan said the transport assessment submitted in January 2020 included traffic surveys from August 2018 and October 2019 and demonstrated that the proposal would not have an adverse traffic impact even during the summer period. He added that this application complied with PPS3 because following consultation with DfI Roads it was deemed that access could not reasonably be taken with access from Shanslieve Drive.

Mr Monaghan also responded to issues raised in relation to the proposal to develop apartments at Roslyn Place which was granted in 2009.

Mr Stevenson, DfI Roads said they were satisfied with this outline application and they checked the submission earlier about the inaccuracy of the drawings. He said regarding the access the case officer had been out on site and checked that the site lines agreed were deliverable within the red line that has been inspected on site. In general terms DfI were happy with the access, layout, parking and transport assessment that was done and while it would create a significant amount of traffic on the Bryansford Road this had been deemed acceptable by their independent data section that reviewed the transport assessment.

Mr Keenan, responding on factual inaccuracies, said he felt that the sight lines agreed at 2.4 x 70 by DfI Roads had been grossly reduced. He said the accuracy of drawings could be confirmed as they were done through a topographical survey which set out the proposed

access and he was 100% convinced third party lands were required for the 2.4 x 70 visibility splays.

He said the number of trips generated by this site pushed it into the category in Table A with access with flow over 1000 vehicles per day and in this category the desirable minimum access was 6 m and he could not understand why the Department reduced it to 2.4. He also expressed issues regarding pedestrian safety and said it was a factual inaccuracy that sight lines were available without third party lands.

Mr Stevens, responding to factual inaccuracies, referred to the statement that it was unreasonable and unnecessary to place any pre-occupancy condition and said this was a proposal to move an existing and established Lidl store from the town centre to an edge of town centre site would fly in the face of the SPPS which advocates a town centre first approach. Given the vacancy in the town and the prominence of the site their proposition that a pre-occupancy condition was necessary stands good.

Mr Cousins, responding to factual inaccuracies, referred to the 2.4 sight lines and said they were appropriate in this proposal and could be used in a development that generated up to 1000 trips per day. He said to get this 2.4 surveys were done at the existing store in Newcastle and the amount of traffic using the existing store was measured and it was pro-rata based on the increase in the floor space compared to the new store and even at that the amount of trips was still less than 1000 so 2.4 sight line was appropriate within the red line for this development.

Mr Stevenson Dfi then outlined why Dfi were content that 2.4 was acceptable.

Councillor Hanna said he had significant reservations around traffic issues, residential traffic and concerns there will be a huge traffic bottleneck on the Bryansford Road which was the main road from Belfast to Kilkeel. He said traffic would have to cross a lane of traffic to get to where they want to go and even at the best of times the Bryansford Road was down to one lane due to cars being parked on the road. He expressed concerns about a further pedestrian crossing will be put in and there was already 10 in Newcastle and about the proposed junction.

Councillor Trainor referred to the traffic assessment and the measurement of trips to the store via the stores car park and it was confirmed that car journeys, pedestrian journeys and cycle journeys were all measured during the surveys.

In response to Councillor Trainor, Ms McAlarney said the view of the Planning Department was that there were very few, if any, vacant sites within the town centre.

In response to a query on progression of traffic and the potential of seeing upwards of 500 vehicles on this road creating potential delays and increasing the risk of accidents, Mr Stevenson said the transport assessment, whilst recognising there would be an increase in traffic, had been modelled and they did not see any significant delay that would significantly inconvenience the flow of traffic or create a road safety issue.

Councillor Brown said knowing this particular part of Newcastle he had significant reservations around the issues regarding traffic and in particular concerns regarding the residential traffic flow from Tullybrannigan and Shanslieve Drive. He asked the applicants what the rationale for was doing the traffic survey in October instead of a busier summer period in Newcastle. He also asked if the applicant accepted that as this was an edge of town location that this would have a disproportionate number of customers having to drive to or park around the site when compared with the current store. He said he was concerned

there may be parking issues with cars over-spilling into the already busy Council owned Donard car park and surrounding residential areas.

In response Mr Monaghan said the surveys were originally done in October in accordance with published transport assessment guidelines that set out the procedures for doing such an assessment. He said Newcastle was a seaside town and it was raised by objectors and residents that traffic in the summer was substantially higher and as a result there was a sensitivity test done in August to ascertain the summer time traffic flows and the model was done both for the summer and the neutral period of October and showed all the junctions within the transport assessment network operated fine, with little or no queuing. In relation to the parking he said the level of parking provided at the store was in accordance with the published guidelines and would be more than adequate to service this development.

Councillor Tinnelly referred to the trips data on projected vehicle movements was based on surveys taken at two other stores and he asked if there was any reason why this survey was not directed to the current store in Newcastle as there was a big gap between the figures given by Don Holdings Ltd and those given by the applicant.

In response Mr Keenan said the reason the junctions operated with the transport assessment submitted was because the base line information was flawed as they had used the Lidl in town to get their figures, where there was not enough parking and most customers were pedestrians, and in DECAN 15 where there was a dispute, you went to the trips data base and the figures for Ulster Discount Food Stores showed the results of two surveys taken from Lidl stores. The figures showed 114 trips over 1000 sq m and this proposal had over 2000 sq m and when calculated out this was over 2000 trips which meant then going into the higher bracket for the sight lines.

Tim one of the stores was at junction one in Antrim, a store that people could not really walk to so it had a much higher percentage of people coming to the store via their car. He also said Antrim had a much bigger catchment than Newcastle so there will not be the same amount of people going to Newcastle as there would be to Antrim. He said having worked with Lidl they knew exactly what the parking levels and trip generation were, and their traffic assessment reflected what was going to happen in Newcastle.

Councillor Larkin proposed to issue an approval in respect of planning application LA07/2018/0001/0, as per the information and recommendation contained in the Case Officer Report presented to Committee. Councillor McAteer 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:	4
ABSTENTIONS:	1

The proposal was declared carried.

**AGREED:**                      **On the proposal of Councillor Larkin, seconded by Councillor McAteer, to issue an approval in respect of planning application LA07/2018/0001/0, as per the information and recommendation contained in the Case Officer Report presented to Committee.**

The Meeting concluded at 2.15 pm.

For confirmation at the Planning Committee Meeting to be held on Wednesday 18 November 2020.

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

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

## Item 5 – Addendum List

### Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 18 November 2020

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

- LA07/2019/1551/O - proposed 1 1/2 storey dwelling & garage immediately east of 15 Mill Road Hilltown Newry BT34 5UZ. **APPROVAL**
- LA07/2020/0440/O - change of use from offices on first and second floor to two apartments (amended description) - McGrath Centre 1 Margaret Street Newry. **APPROVAL**
- LA07/2020/0313/F - Environmental improvements to include: New granite kerbs, trims and dished channels, asphalt footpath with stone chippings, new street lightning and removal of overhead wires - Dundalk Street from 42 Dundalk Street the Cosy Bar to 56 Dundalk Street, Dundalk Street from 43 Dundalk Street to 55 Dundalk Street, Newtownhamilton. **APPROVAL**

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



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

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

#### **RECONSIDERATION FOLLOWING COMMITTEE DEFERRAL AND SITE VISIT**

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

1. The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement and Policy TSM 5 of Planning Policy Statement 16, Sustainable Development in the Countryside, in that the proposal does not meets any of the specified criteria.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the width/visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Departments Development Control Advice Note 15.

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

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

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

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

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



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

Further plans submitted 06 May 2020 including

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

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

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

- Lisbane Consultants (Supporting Statement)

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

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

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

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

#### Drawings considered

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

The reasons for refusal offered are as follows

1. The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement and Policy TSM 5 of Planning Policy Statement 16, Sustainable Development in the Countryside, in that the proposal does not meets any of the specified criteria (a) (b) or (c).
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since adequate forward sight distance (of 33 metres) is not available, on the public road, at the proposed access in accordance with the standards contained in the Department's Development Control Advice Note 15.
4. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

**Appointed Officer:** Annette McAlarney

**Date:** 07 October 2020



BF / J550 / 09 November 2020

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

**REF: LA07 2019 1221 F**

Dear Sir

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

1. The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement and Policy TSM 5 of Planning Policy Statement 16, Sustainable Development in the Countryside, in that the proposal does not meets any of the specified criteria (a) (b) or (c).
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since adequate forward sight distance (of 33 metres) is not available, on the public road, at the proposed access in accordance with the standards contained in the Department's Development Control Advice Note 15.
4. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15.

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

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

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

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

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

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

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

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

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

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

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

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

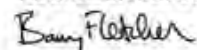
The above are all factors which should be taken into consideration in the determination of the above planning application.

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

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

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

Yours sincerely



**Barry Fletcher RIBA**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1279/F

**Date Received:** 20 August 2019

**Proposal:** New access and laneway to serve dwellings 27, 29 and 31 Islandmoyle Road

**Location:** The application site is located at lands adjacent to 27 Islandmoyle Road, Cabra, Newry BT34 5ET

**Site Characteristics & Area Characteristics:**

The site is located along Islandmoyle Road adjacent to No. 27. The site is comprised of a long strip of land cut out of a larger agricultural field which runs from Islandmoyle Road at the North to an existing dwelling – No.27 Islandmoyle Road at SW. The south eastern boundary is undefined as it is cut out of an agricultural field. The southwestern boundary consists of a post fence with some trees scattered. The topography of the site is sloping with the land at road level at 49m and lands at the top of the proposed laneway at 94m. The site therefore rises considerably as it transverses from north to south. The general area is under a lot of development pressure with a number of single dwellings with individual accesses located along this part of Islandmoyle Road. The HED map viewer indicates two sites and monuments (DOW042:033, DOW042:032) to the west of the application site outside the red line.



*Image 1 Application Site*

### Site History:

No planning history on application site. The following applications were granted on lands adjacent:

LA07/2015/1367/F Proposed farm dwelling and garage.  
Lands 50M east of 27 Islandmoyle Road Cabra.  
Permission granted 27 June 2016.

(Known on address checker as 31 Islandmoyle Road)

*Note: Access granted via existing farm lane serving dwellings 25, 27 and 29 Islandmoyle Road.*

P/2004/3193/F Two storey dwelling.  
Dwelling now known as No. 29 Islandmoyle Road, Cabra.  
Permission granted 5 April 2005

### Planning Policies & Material Considerations:

- The Banbridge, Newry and Mourne Area Plan 2015,
- Strategic Planning Policy Statement (SPPS) for Northern Ireland,
- PPS21 - Sustainable Development in the Open Countryside,
- PPS 3 Access, Movement and Parking
- PPS 15 Planning and Flooding
- Building on Tradition Sustainable Design Guide

### Consultations:

DFI Roads No objection subject to conditions

Rivers Agency FLD 1- Development in Fluvial (River) and Coastal Flood Plains  
*Whilst DfI Rivers Flood Map (NI) do not indicate a floodplain associated with the undesignated historic watercourses and bog in the immediate location of the proposed laneway, the bog area is floodplain. The area is not mapped as floodplain only because falls below the threshold in terms of catchment area for River Modelling. Normally in such circumstances the applicant appoints a competent company to carry out a Flood Risk Assessment. However in this case, the most likely outcome would only confirm floodplain and also have to assess at least 2 culvert capacities to both undesignated watercourses. Policy dictates that the finished laneway level would have to be raised and constructed with the design levels a min 600mm above the established Q100 flood plain level. Any development (including the laneway) within the floodplain is contrary to this sub-policy FLD 1. The applicant is advised to consider an alternative route outside of the floodplain.*

### FLD 2 – Protection of Flood Defence and Drainage Infrastructure

*It is noted that there are at least 2 undesignated watercourses within the site to be traversed. PPS 15, policy FLD2 states planning authority will not permit development that would impede the operational effectiveness of flood defence and drainage infrastructure or hinder access to enable their maintenance. Also paragraph 6.32 states where a new development proposal is located beside watercourse it is essential that an adjacent working strip is retained to facilitate future maintenance by the riparian owners. The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times.*

### FLD 3 - Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains.

*Planning Authority has confirmed by email on 16/10/2019 the area of impermeable surface area does not exceed the threshold requiring a Drainage Assessment.*

### FLD 4 – Artificial Modification of Watercourses.

*There are at least 2 undesignated watercourses within the site to be traversed. Policy FLD 4 states that "The planning authority will only permit the artificial modification of a watercourse, including culverting or canalisation operations, in either of the following exceptional circumstances:*

- Where the culverting of short length of a watercourse is necessary to provide access to a development site or part thereof;*
- Where it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action".*

### FLD5 - Development in Proximity to Reservoirs.

*Dfl River's reservoir inundation maps indicate that this site is in a potential area of inundation emanating from Lough Island Reavy Reservoir. Dfl Rivers is in possession of information confirming that Lough Island Reavy Reservoir has 'Responsible Reservoir Manager Status'. Consequently Dfl Rivers has no reason to object to the proposal from a reservoir flood risk perspective.*

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

### **Objections & Representations**

Six neighbour notifications were issued on 18 September 2019. The application was advertised in the local press on 4 September 2019. No third party objections or representations were received.

### **Consideration and Assessment:**

#### **The Banbridge, Newry and Mourne Area Plan 2015**

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside the development limits of a designated settlement as illustrated on map 3/01. There are no specific policies in the Plan relevant to the determination of the application which directs the decision maker to the operational policies of the SPPS, PPS 3, PPS 15 and the retained policies within PPS21.

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

There is no change to the policy requirements for new accesses in the countryside following the publication of the SPPS and it is arguably less prescriptive the retained policies of PPS21, PPS 3 and PPS 15 will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS.

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

Policy CTY 1 states a range of types of development which in principle are considered to be acceptable in the countryside, although it does not set out a specific policy for new accesses in the countryside. However, the policy headnote states "***all proposals*** (my emphasis) *for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for access and road safety.*"

Criterion (d) of Policy CTY13 indicates that ancillary works should integrate with their surroundings, Paragraphs 5.71- 5.74 of the Justification and Amplification text deals specifically with accesses. Paragraph 5.72 reiterates that access to a new building should be taken from an existing laneway wherever possible. However, where a new access drive is required, it goes on to say that the laneway should, as far as practicable, run unobtrusively along existing hedgerows and be accompanied by landscaping measures.

Criterion (e) of Policy CTY 14 indicates that ancillary works (with the exception of necessary visibility splays) should not damage rural character. Paragraph 5.82 of the Justification and Amplification text deals specifically with ancillary works such as accesses. This paragraph states access arrangements can often raise awareness of and draw attention to new development when read in conjunction with other existing or approved accesses can have a combined impact damaging to the rural character of an area.

This planning application is for a new access to serve two existing dwellings 27 and 29 Islandmoyle Road and an approved dwelling (LA07/2015/1367/F) 31 Islandmoyle Road. The original laneway serves four dwellings two of which are farm businesses associated with - No. 25 and 27 Islandmoyle Road and one is to be built – No.31. The original laneway is constructed of concrete and enclosed on the eastern boundary by a stone wall traversing the length of the laneway and a hedgerow to the opposite side (southwestern boundary). The existing laneway is visible in the landscape particularly the eastern boundary which consists of a wall which can be seen when travelling from the east. However, the existing laneway cannot be seen for the entire length of the laneway due to screening from farm buildings and existing dwellings and the topography of the land also aids in providing broken views of the existing lane. The key test is how visible the additional laneway will be in the landscape and whether or not it is unduly prominent.

The end of the proposed laneway is located immediately northeast of No. 27 Islandmoyle Road, it then transverses 210m northeast to meet Islandmoyle Road. The topography of the site is rising as it transverses from Islandmoyle Road at the North (49m) to the dwellings 27 and 31 Islandmoyle Road at the Southeast (94m). The proposed laneway fails to preserve the existing field pattern as it is cut out of a larger agricultural field and therefore does not run along existing boundaries and requires new boundary treatment for its entire length along the eastern boundary. The proposed laneway will be clearly visible when travelling in both directions along Islandmoyle Road as it will take time for new planting to mature and in the short term would not provide the degree of integration necessary to overcome the lack of integration in its rural surroundings. The existing boundary treatment on the western boundary is a post fence which provides little screening. The laneway is to be constructed of concrete for its entire length until it links in with farm buildings and existing farm yard at No.27, and I consider this will also draw attention to the laneway. There are several other accesses (including the existing access which I consider is perfectly good), in the immediate area of the site and the proliferation of these combined with the proposal negatively impacts on the rural character of the area. I consider the proposal would fail to integrate into the rural landscape and be detrimental to the character of the countryside.

In summary I consider the proposal is contrary to Policy CTY 1 in that the access is not sited and designed to integrate sympathetically with the surrounding area and

the proposal also fails CTY13 (d) and CTY 14 (e) of PPS21 for the reasons discussed in the previous paragraph.

The applicant's agent contends there a number of factors which necessitate the need for a new access:

- Increased risk of collision due to the number of vehicles including farm vehicles using the lane.
- Visitors to existing dwellings impacting on persons within farm yard and pedestrians have to travel through existing farm at No.25 and
- Use of two farms on the one laneway could increase risk of disease to applicant's farm and vice versa if there was an outbreak of disease on one farm.
- Disturbance due to applicant having to pass through adjacent farm yard with heavy plant and equipment.

I have not been presented with any information which demonstrates collisions have occurred in past on the existing farm lane. The road safety concerns particularly the disturbance caused from heavy plant and equipment within the neighbouring farm yard are common factors associated with third party dwellings sharing laneways in the countryside. The safety concerns expressed about increased risk of disease from one farm to another along the same laneway could be applicable to many farms in the countryside. No evidence of previous disease outbreaks has been presented. In summary I consider these factors are not persuasive material considerations in this case and are therefore not sufficient grounds to justify a separate access road.

## **PPS 15 Planning and Flooding**

### **FLD 1- Development in Fluvial (River) and Coastal Flood Plains**

Rivers Agency have indicated any development within the floodplain is contrary Policy FLD 1. A section of the proposed site is within an area an area of flooding on the eastern boundary showing on the following map (see image 2). I consider the proposal fails to meet one of the exceptions listed under FLD 1, therefore the Planning Authority will not be requiring the submission of a Flood Risk Assessment. The Rivers Agency maps also show that the lower section of the proposed laneway would have surface water depths exceeding 1 metre (see image 3). An alternative route is not possible due to the extent of the red line of the application site. Accordingly, the proposal is contrary to Policy FLD 1.



Image 2 Rivers Agency Q100 Flooding Map

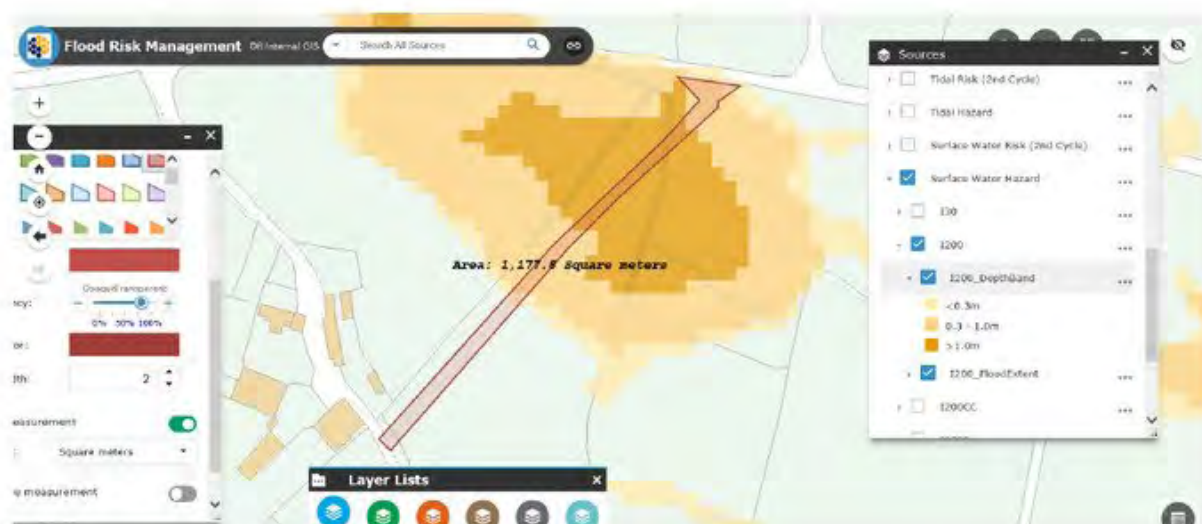


Image 3 Rivers Agency Surface Water Map

## **Recommendation: Refusal**

### **Reasons for Refusal:**

The proposal is contrary to the SPPS for Northern Ireland and Policy FLD 1 of Planning Policy Statement 15 Planning and Flood Risk in that the application site is within the 1 in 100 year fluvial flood plain as shown on the Strategic Flood Map (NI) and it has not been demonstrated that the proposal constitutes an exception to the policy.

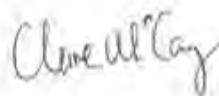
The proposal is contrary to the SPPS for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed access is not sited and designed to integrate sympathetically with the surrounding countryside.

The proposal is contrary to the SPPS for Northern Ireland and Policy CTY 13 (d) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the ancillary works do not integrate into their surroundings.

The proposal is contrary to the SPPS for Northern Ireland and Policy CTY 14 (e) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the impact of the ancillary works (with the exception of necessary visibility splays) would damage rural character.

**Case Officer Signature:**

**Date:** 8 April 2020



**Authorised Officer Signature:**

**M Keane**

**Date:** 01-05-2020



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District Council

### **Addendum to Case Officer Report LA07/2019/1279/F**

#### **Background information:**

Having been recommended for Refusal, this application was called in from a weekly Delegated List on 4 May 2020 by Cllr Doran and referred to the Call in Panel on 12 May 2020. The application was then presented to call in panel on 19 May 2020, at which time it was referred to the Planning Committee on 1 July 2020.

The refusal reasons included:

1. The proposal is contrary to the SPPS for Northern Ireland and Policy FLD 1 of Planning Policy Statement 15 Planning and Flood Risk in that the application site is within the 1 in 100 year fluvial flood plain as shown on the Strategic Flood Map (NI) and it has not been demonstrated that the proposal constitutes an exception to the policy.
2. The proposal is contrary to the SPPS for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed access is not sited and designed to integrate sympathetically with the surrounding countryside.
3. The proposal is contrary to the SPPS for Northern Ireland and Policy CTY 13 (d) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the ancillary works do not integrate into their surroundings.
4. The proposal is contrary to the SPPS for Northern Ireland and Policy CTY 14 (e) of Planning Policy Statement 21, Sustainable Development in the Countryside in that the impact of the ancillary works (with the exception of necessary visibility splays) would damage rural character.

#### **Consideration and Assessment:**

At July's Planning Committee, the application was deferred for a site visit and also to allow river modelling to be undertaken to establish the extent of any flood plain. A site visit has since taken place by Councillors, while a Flood Risk Assessment

(FRA) and Drainage Assessment have also been submitted by the agent.

Rivers Agency were re-consulted on these documents and have provided no further objection based on additional the information submitted. The first reason for refusal in relation to flood risk is now no longer applicable and is now removed.

The Planning Authority's reasons for refusal 2,3 and 4 in relation to unsympathetic siting, integration and damage to rural character remain a concern.

As such the application continues to be recommended for these reasons.

This report should be read in conjunction with the original Case Officer report and recommendation dated 8<sup>th</sup> April 2020.

**Recommendation:** Refusal

**Case Officer Signature: C McCoy**

**Date: 2 November 2020**

**Authorised Officer Signature:**

**M Keane**

**Date: 03-11-2020**



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

**Application Reference:** LA07/2020/0492/F

**Date Received:** 13.03.2020

**Proposal:** Proposed infill dwelling

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

**Site Characteristics & Area Characteristics:**

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



*Application Site*

**Planning Policies & Material Considerations:**

This application will be assessed under the following policy considerations:

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

**Site History:**

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

**Consultations:**

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

**Objections & Representations:**

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

**Assessment**

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

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

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

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

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

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

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

- a) Identify if there is a substantial and continuously built up frontage
- b) Establish if the gap site is small sufficient only to accommodate a maximum of two houses
- c) Determine if the proposal would respect the existing development pattern in terms of size, scale, siting and plot size
- d) Assess the proposal against other planning and environmental requirements.

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



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

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



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

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

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

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

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

Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As outlined above, the proposed dwelling would be unduly prominent in the landscape and would create a ribbon of development in conflict with criterion a and d of Policy CTY14. It is considered that the approval of this dwelling, when read in conjunction with existing adjacent development would also result in an inappropriate ribbon and suburban style build up in development. This inappropriate form of development would be accentuated due to the prominent nature of the site. The proposal is contrary to Policy CTY 14, criteria a,b, c and d.

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



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

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

**Recommendation:** Refusal

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. This refusal notice related to the following plans: 01, 02, 03
3. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside as the application site not constitute a small gap site within a line of three or more buildings in the countryside, does not meet other planning and environmental requirements and would, if permitted, result in the addition of ribbon development along the laneway.
4. The proposal is contrary to criterion a, b, e and f Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside and therefore would not visually integrate into the surrounding landscape.
5. The proposal is contrary to criterion a, b, c and d of Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in a detrimental change to the rural character of the countryside.
6. The proposal is contrary to Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be unsympathetic to the special character of the Area of Outstanding Natural Beauty.

**Case Officer Signature:** E. Hart

**Date:** 03/09/2020

**Appointed Officer Signature:** M Keane

**Date:** 21-09-2020



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1502/O

**Date Received:** 10/10/2019

**Proposal:** Proposed Site for Dwelling with associated site works

**Location:** Lands approx. 15m North of 115 Greencastle Pier Road, Greencastle



### Site Characteristics & Area Characteristics:

Characteristics of site: The lands outlined in red primarily form a rectangular shaped plot, with the red line extending down to the public road. The site is generally quite level in topography, currently in an unmaintained condition. Two garages/structures are located to the eastern corner of the site. The site rests to the rear of no. 115 (two-storey detached dwelling). To the south east of the red line is a row of 2 storey terrace dwellings. A motte is located to the east of the site. In terms of site boundary treatment, the north, south and western boundary consist of a block wall approx. 1.2m high.

Characteristics of area: The lands outlined in red are located within the settlement limit of Greencastle as set out in Banbridge / Newry and Mourne Area Plan 2015. The site is located within an Area of Outstanding Natural Beauty, located approx. 35m north of a sand and shingle beach. The site is within proximity of a number of constraints which includes, the sphere of influence of Archaeological Site and Monument, and LLPA, Listed Building and a Ramsar Site.

### **Site History:**

LA07/2020/0552/F - Erection of new dwelling (change of house type from approved under P/2014/0923/F) with new access arrangements through shared access with No. 113 Greencastle Pier Road. site adjacent to 113 Greencastle Pier Road Greencastle Co Down. Under consideration.

P/2014/0923/F - The erection of a detached dwelling (renewal of current approval). Lands adjacent and east of No 115 Greencastle Pier Road Kilkeel. Permission granted.

P/2003/1975/O - Site for dwelling. To rear of and north of Nos 113 and 115 Greencastle Pier Road, Greencastle, Kilkeel. Permission refused.

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

Banbridge / Newry and Mourne Area Plan 2015

SPPS – Strategic Planning Policy Statement for Northern Ireland This policy provides overall context under which the Council will determine planning applications.

PPS 2 - Natural Heritage

This policy sets out the Department's planning policies for the conservation, protection and enhancement of our natural heritage.

PPS 3 – Access, Movement and Parking

This policy sets out the Department's planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking

PPS 6 - This policy sets out the Department's planning policies for the protection and conservation of archaeological remains and features of the built heritage.

PPS 7 – Quality Residential Environments

This policy sets out the Department's planning policies for achieving quality in new residential development and advises on the treatment of this issue in development plans.

Addendum to PPS7 – Safeguarding the Character of Established Residential Areas

## PPS 12 – Housing in Settlements

### Creating Places

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

#### **Consultations:**

NI Water – Available capacity

DFI Roads – Objection as proposal is considered contrary to AMP 2 of PPS 3

NIEA – Standing Advice

DFI Rivers – No objections and recommended Informatives as a precautionary measure

Shared Environmental Services (SES) – No objections

Historic Environment Division (HED) – No objections subject to Planning Conditions.

#### **Objections & Representations:**

8 Neighbours within close proximity of the site were notified on 14/11/2019. This application was advertised in the local press on 30/10/2019. 3 letters of objections have been received from 2 different address (115 and 113 Greencastle Pier Road).

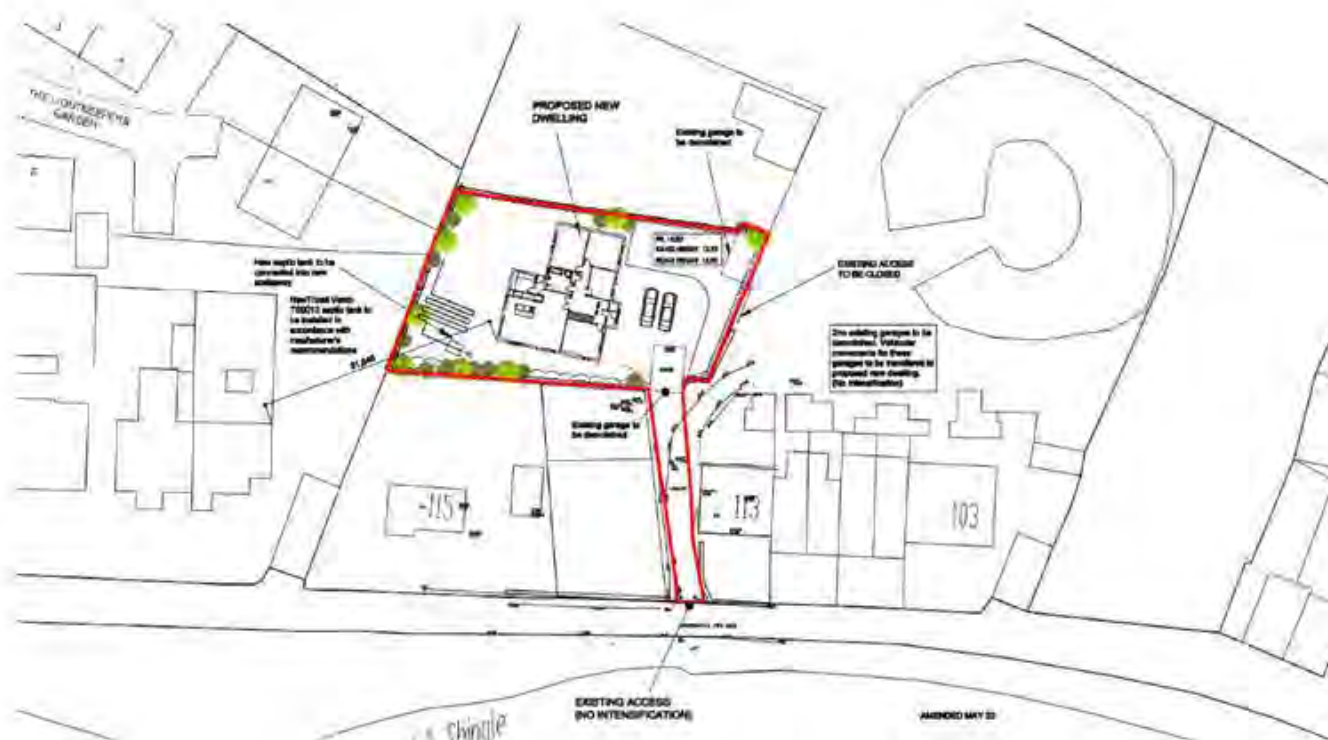
The concerns raised are summarised as follows:

- Access arrangements & Road Safety
- Overlooking
- Impacts on Archaeological site or Monument
- Not in-keeping with the immediate character

#### **Consideration and Assessment:**

The proposal seeks outline planning permission for the erection of a dwelling. The indicative drawings submitted show a single storey dwelling with first floor accommodation, rectangular footprint with a rear return.

This drawing will not be stamped at outline stage as the design of the development will be reserved for a subsequent application, but it demonstrates that a dwelling is in keeping with the character of adjacent development can be accommodated on the site.



Indicative site layout

RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide more high quality accessible housing within existing urban areas without causing unacceptable damage to the local character and environmental quality or residential amenity of these areas. The SPPS sets out core planning principles to be employed in the quest to achieve sustainable development. Of particular relevance to this application are the aim of supporting good design and positive place making while preserving and improving the built and natural environment.

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is currently within the remit of the Banbridge / Newry & Mourne Area Plan 2015. The site is located within the settlement limit of Greencastle on the above Plan and is unzoned. There are no specific policies in the Plan that are relevant to the determination of the application. It will be assessed against regional operational policy.

The SPPS also addresses housing in settlements. It repeats the planning control principles listed in PPS12. The proposal complies with these as it will increase the housing density in this area without erosion of local character, environmental quality or amenity. It is considered a sustainable form of development as it is within a defined settlement. There are local facilities and services available.

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 concept draws upon the positive aspects of the character

and appearance of the surrounding area. These matters can be assessed in fuller detail at reserved matters stage.

The site is located adjacent to an Anglo-Norman motte and a Boat house adjacent to 117 Greencastle Pier Road, which is a Grade B2 listed building of special architectural or historic interest. HED requested the agent submit An archaeological evaluation of the proposed development site and a photomontage of the proposed dwelling taken from the summit of the adjacent historic monument. Having considered the additional HED are content that the proposal meets the requirements of PPS 6, subject to Planning Conditions. No public open space is required in a development of this size. There is room for generous rear garden which will provide an adequate standard of private amenity space, exceeding the standards laid down in *Creating Places*. A programme of planting works can be conditioned to soften the visual impact of the development and assist in its integration with the surrounding area. A planning condition can ensure that the existing natural screenings on site be retained, and any hedgerow removed shall be replanted within six months of first use of the development, or by the end of the first planting season. There will be no impact on existing rights of way. There will be room to park three cars within the curtilage. In terms of materials and finishes HED has requested that roof shall be natural slate, walls be smooth rendered finish, window/doors be painted hardwood timber and RW goods be profiled heavy duty cast aluminium.

The access proposals must be in accordance with the requirements of PPS3 and DCAN15. DFI Roads initially raised concerns in their first response stating that the proposal is considered contrary to AMP 2 of PPS 3.

The agent rebutted this and commissioned Lisbane Consultants to undertake a TRICS analysis for the existing laneway access to the proposed development.

DFI Roads having considered this document, and remain under the same opinion. As such the proposal is considered contrary to AMP 2 of PPS 3 in that, if permitted, prejudice the safety and convenience of road users since the width/visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15. (Note: This is considered further below).

The proposal should not create conflict with adjacent land uses and there will be no unacceptable amenity impact on surrounding dwellings as a result of overlooking or loss of light given the separation distances and orientation. Case officers note that there is an existing approval directly south of the site, which is currently being assessed as a change of House type under planning application LA07/2020/0552/F. Furthermore, consideration must also be given to no. 115 Greencastle Road. Whilst a more comprehensive consideration of amenity impacts can be assessed at the Reserve matters stages, nevertheless it is of importance at the outline stage. Given the siting and orientation on the indicative dwelling shown case officers are content that there will be no adverse impacts caused by overlooking. It is possible that a

dwelling be designed in a way to avoid any direct overlooking onto number 115 and the dwelling approved directly south of the site. The development relates satisfactorily to its townscape setting. The proposed size, scale and development pattern is in keeping with that found in the area. As such the proposal meets the requirements of PPS 7.

The P1 form states that the disposal of waste shall be via septic tank. It is more desirable to connect new development to the mains services if possible. The proposed septic tank shown on the site layout is within the settlement limit, and there may be a possibility that this development can connect to the mains sewages. As such, a negative planning condition can ensure the disposal of waste is to be agreed by NI Water prior to any development taking place.

### PPS 2 - Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) policy NH 6- requires that new development within a designated AONB must be of an appropriate design, size and scale for the locality. The proposal meets the requirements of NH 6. The site is located adjacent to a Special Protection Area (Carlingford Lough). Planning permission will only be granted for a development proposal that is not likely to have a significant adverse impact. As a precautionary measure SES were formally consulted, in a response dated 03/02/2020 concluded that the proposal would not be likely to have a significant effect on the features of any European site. The proposed development meets the requirements of this policy.

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

The site is within the sphere and influence of a Boat house adj.to 117 Greencastle Pier Road, which is a Grade B2 listed building of special architectural or historic interest as set out in Section 80 and protected under the Planning Act (NI) 2011. Adding to this the site is adjacent to Anglo-Norman motte. As such Historic Environment Division (HED) were formally consulted. HED responded with no objections, subject to planning conditions relation to materials and finishes and retention of existing vegetation.

### PPS 3 – Access, Movement and Parking

DFI Roads has been consulted with regards to the Access, Movement and Parking. The Department has objected to the proposal stating that;

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

DFI Roads have also taken into consideration the Agents rebuttal and the TRICS analysis carried out by Lisbane Consultants. DFI Roads opinion remain the same.

Having considered the final response from DFI Roads, the Council formally requested the Agent to provide evidence to demonstrate that the applicant uses these shed for the purposes described showing both use and duration.

The Agent provided a formal response dated 21/09/2020 which will now be considered. The letter confirms that the agent uses the shed for both personal storage and the storage of equipment for business purposes (piloting cargo ships). The applicant purchased these lands on Feb 2019 and has since re-roofed both sheds. It is unclear from whom he purchased them or their previous use.

However, notwithstanding this issue, the applicant only acquired these buildings and lands in 2019, at which time they had no roof, whereby the current uses indicated, particular for the business, have no permission,

The applicant who lives within close vicinity (No.93 Greencastle Pier Rd) to these shed claims to visit these sheds 3-4 times daily. The applicant goes on to further state that these sheds where on situ at the time the land was purchased. Having checked Aerial Photography shots dated October 5, 2008 the Council can see that these buildings are on situ for at least a period of 12 years. In this aerial shot the southern building closest to the public road does not appear to have a roof.

Having carried out a history search of the site, at no point there appears to be any planning approval for these buildings. Whilst due to the passage of time, these buildings may be immune from enforcement proceedings, in the absence of a Certificate of Lawfulness of Existing Use or Development (CLEUD) or any evidence to support the applicant's claim, the Council conclude a new dwelling will result in the intensification to the current access. As such the Council conclude that this applicant is contrary to Policy AMP 2 and refusal will be recommended.

### **Considerations of Objections**

All of the issues raised in these objections have been fully considered in the assessment of this planning application. Case officers consider that a single storey dwelling, with first floor accommodation is acceptable as the proposal to be in keeping with the established urban grain, density and the overall surrounding context. Overlooking onto no. 115 was an issue raised, as discussed above case officers are content that there will no adverse impacts caused by overlooking. In

terms of Road safety DFI Roads have been formally consulted on the matter. As discussed above, DFI Roads have recommended refusal as the proposal is considered contrary to AMP 2 of PPS 3. With regards to impacts on the Anglo-Norman motte adjacent to the site, HED have been formally consulted and have no objections to the proposal subject to two planning conditions.

**Recommendation:**

Refusal

**Refusal Reasons:**

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

**Case Officer Signature:** *S. Maguire*

**Date:** *23/09/2020*

**Appointed Officer Signature:** *M Keane*

**Date:** *23-09-2020*

## Application Reference: LA07/2019/1502/O

I would ask that the Council Planning Team uphold two vital components required for any fair and legitimate form of governance: namely consistency and honesty. I would also raise issues in relation to the council leaving itself open to litigation both in relation to discrimination and perhaps most importantly, to personal accident/injury.

My major objections are as follows

### 1. Importance of consistency.

As you can see from site history, planning permission for this site was refused previously(2003) for the same reasons as the current application, with the then Roads Service stating the lack of availability of the required visibility splays. DFI Roads have again recommended refusal on these same grounds, and given the very significant increase in both pedestrian and vehicular traffic due to the presence of the Carlingford Ferry I believe the council would come in for significant criticism for inconsistency and leave themselves open to discriminatory litigation if this application was approved. Please note the significantly increased levels of both vehicular and pedestrian traffic on this section of road, due to both the Carlingford Ferry traffic directly and the increase in awareness of Greencastle it has brought about. Photos below were taken Aug/Sep 2020 from my house adjoining the applicants land. Traffic congestion is sadly now common place in Greencastle, which was once a quiet haven on weekends and holiday periods.



Very busy lay-by 30yds from lane



Parking on road reduces it to single file



This road is promoted as cycle route

### 2. Council leaving itself open to Litigation

The planning application process is guided by experts from all the various specialist departments including DFI Roads. If the recommendations from such experts as DFI Roads is refusal based on their regulations which state that allowing this development *"would prejudice the safety and convenience of road users since the width/visibility of the existing access renders it unacceptable for intensification of use and is not in accordance with the standards contained in the Department's Development Control Advice Note 15"* then the Council would leave itself open to litigation in relation to any subsequent accident/injury, if it ignores their recommendation. It would also set a precedent for all other applications with inadequate access which may have been refused on this basis, not just current - but also retrospectively. I believe many farmers would be applying the same principle to out-houses and suggesting that as they have been using them, building a dwelling would offer no intensification and the Planning Service would be inundated with applications, current and retrospective.

In relation to litigation I would also point out that since 2003 the land has been on the open market with numerous potential buyers. However when they realised the field was unsuitable for a dwelling due to the impossibility of achieving the necessary visibility splays, none pursued their interest. In recent years, due to this problem, the owner reduced the price of the land. The original applicant, like the current one, was a local man with an equally good reason for wanting to build in Greencastle. He would be within his rights to claim for discrimination in addition to loss of income from the sale of the land at a hugely reduced price, based on the inconsistency of the application of what is still the same planning policy.

### 3. Misleading and verifiable untrue declarations regarding the lack of intensification argument.

The argument relating to non- intensification in the Lisbane report and associated documents relating to the non intensification of the use of the lane, are based on a verifiably misleading and false declarations. Stating that the two sheds have been regularly used for his business is misleading as both sheds have been derelict for the 23 years I have been in Greencastle. Indeed it was only in recent months that the applicant has re-roofed them and I stated this in my initial objection suspecting some such reason for the repairs. As both building were derelict there was NO regular access to the site, making the no-intensification argument null and void. Indeed as pointed out by DFI Roads in the report, these sheds do NOT have planning permission for business use in any case.

Furthermore examination of surveillance/security camera footage (movement activated) which includes the lane and the doors of both sheds in question (over a significant period of time since the sheds were re-roofed) will verify and confirm that the claims of "3 - 4 daily visits/ 6-8 trips" to the stores stated by the applicant, are entirely untrue.

For the above listed reasons I believe any decision, other than refusal of planning permission, would be inconceivable

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## LA07/2019/1502/O - Supporting Information

**LA07/2019/1502/O | Proposed Site for Dwelling with associated site works | Lands approx. 15m North of 115 Greencastle Pier Road Greencastle**

Only one refusal reason is being recommended for the above planning application:

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

As the site falls within the Development Limit of Greencastle the proposed site has been accepted by the Council that a dwelling can easily be absorbed within the application site without having a detrimental affect on the neighbouring properties or area - **Please see the below Area Plan Map Details**





From the case officers report the applicant can fully confirm that the 2no. garages at the lands have been in use for storage by the applicant and the previous owner (that is why they were initially erected), and to request that the applicant applies for a Certificate of Lawful Development application just to confirm this would be unjust as it can be seen from satellite imagery that they have been erected for more than 20 years, and enforcement is not possible on them. With this in mind, the applicant would argue on this basis the garages are present at the site and in full use the Council should view this as a fact and not require an additional certificate of lawful application to confirm this.

Also, we would like to reinforce the fact that the Greencastle Pier Road is a Minor road, and also the site is located near the terminus of the road, which comes to a dead end. Also, with reference to the history of RTA's on this road, the applicant (having lived on this road all his life within his family home) can confirm that there have been no road traffic accidents related to this laneway, and as our proposed use will not further increase the safety risk of other road users, as is claimed.

Also as we have already established that we use the two garages at the application site and therefore Transport NI cannot legally seek an existing access to be improved for a replacement dwelling, if that dwelling being replaced is capable of being brought back into use. So we would request why an exception is being made with our application case. There is good visibility in either direction, from the existing access, as it stands at present, and there

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is ample turning and parking space on site for occupants and visitor vehicles, there are no significant differences in traffic volumes either, by replacing the garages with a single residential dwelling, as has been supported by the TRICS Analysis, therefore we would Challenge the Council to prove how the replacement of these two garages for a single residential dwelling, would be detriment to Road safety.

Also we would like to highlight that the LA07/2020/0552/F current application contradicts Road safety, particularly in regards the existing use of the applicant's Laneway, by placing a Visibility splay directly across the front of the Laneway entrance, and Cutting back the wall on the far side, hence "Staggering" the existing entrance, and prejudicing current visibility, as the opposite side would not be equally cut back. It is my understanding that this should not be acceptable to have a new Visibility Splay or "Sight Line" pass across another active entrance, to display a visibility splay across. Yet Transport NI, THE VERY SAME Case Officer involved with my application, whom knows of the existing use of my laneway via our application, has Approved the new access for this application, offering No Objections, despite the obvious modification it would cause to the active laneway, but prior to this application, considers our existing access sub standard.

We feel these points should be highlighted to the Planning Committee, and highlight the foul play that is afoot. There can be No justification to approving a modification that will permanently degrade an existing active access, and make it unsafe.

From this and to conclude we respectfully request that the Council consider the issues highlighted in the above text with regard to our clients' proposal and advance the application through the planning process with a view to providing a favourable decision.

## **7.0 SUMMARY AND CONCLUSIONS**

- 7.1 This Transport Statement assesses the impact of a single dwelling proposed at Greencastle Pier Road in Greencastle.
- 7.2 The sit will be accessed onto an existing lane which accesses onto the Greencastle Pier Road. The width of this existing access enable a car to enter the lane as one exits and the visibility splays and forward visibility associated with this access are appropriate in this instance.
- 7.3 The proposed dwelling will reduce the number of trips associated with the proposed site and therefore there will be no intensification at the existing access.
- 7.4 In conclusion, there are no traffic reasons as to why this development cannot proceed.



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1551/O

**Date Received:** 22 October 2019

**Proposal:** Proposed 1 1/2 storey dwelling & garage

**Location:** The application site is located immediately east of 15 Mill Road, Hilltown

**Site Characteristics & Area Characteristics:**

The application site is located outside the settlement limit of Hilltown within the countryside area. The site comprises a roadside agricultural field located adjacent to the main farm dwelling 15 Mill Road. At the address registered to the farm there is one dwelling (15 Mill Road), an unauthorised mobile home with a white trailer located to the rear on south eastern boundary, a similar white trailer is also set within the application site (see images below).





The site is enclosed by mature hedgerows on the eastern and western boundaries with the roadside boundary enclosed by a 1 metre dashed wall and pillar with a farm gate providing access. The southern boundary is defined by wire fencing.

**Site History:** No planning history on application site or farm lands.

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

This planning application has been assessed against the following policies:

- The Banbridge, Newry and Mourne Area Plan 2010,
- Strategic Planning Policy Statement (SPPS) for Northern Ireland,
- PPS21 Sustainable Development in the Open Countryside,
- PPS3 Access, Movement and Parking,

- DCAN 15 Vehicular Access Standards, and
- The Building on Tradition Sustainable Design Guide.

### **Consultations:**

DFI Roads – No objection subject to conditions

NI Water – Generic response received

DAERA – Farm Business established for more than 6 years and claims made for the requisite timeframe.

### **Objections & Representations**

One neighbour notification was issued on 19 November 2019. The application was advertised in the local press on 6 November 2018. No representations were received.

### **Consideration and Assessment:**

#### **The Banbridge, Newry and Mourne Area Plan 2010**

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside the development limits of a designated settlement. There are no specific policies in the Plan relevant to the determination of the application which directs the decision maker to the operational policies of the SPPS, and the retained policies of PPS 2, PPS 3 and PPS21.

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

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

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

Policy CTY 1 states a range of types of development which in principle are considered to be acceptable in the countryside. This includes farm dwellings if they meet the criteria set out in CTY10.

#### **CTY10 – Dwellings on Farms**

Criteria A) DAERA has confirmed in their consultation response that there has been an active farm business for over 6 years and payments have been made to the farm business for Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years.

Criteria B) requires that no dwellings or development opportunities have been sold off the farm holding since the introduction of draft PPS21 in November 2008. Having

carried out a site history search on the farm holding I am content that no dwellings or development opportunities have been sold off the farm holding, therefore criteria (b) is met.

Criteria C) requires the new building to be visually linked or sited to cluster with an **established group of buildings on the farm and not a building** (*my emphasis*). As described previously in this report (page 1) the buildings on the farm consist of the farm dwelling No. 15 Mill Road and an unauthorised mobile home with a trailer container located on the south eastern boundary and a trailer located to the rear of the application site (images 1-3). The only building which is of permanent construction is the farm dwelling No. 15 Mill Road, the other structures cannot be relied upon to satisfy criteria C of the policy. It has not been demonstrated that there are farm buildings located elsewhere on the farm. Overall I find that the proposal fails to comply with the requirements of criterion (c) and thus does not represent a development that is acceptable in principle in the countryside under Policy CTY10.

CTY10 also states "the proposed site must also meet the requirements of CTY13 (a-f), CTY14 and CTY16.

I consider that a proposed dwelling on the application site could be accommodated as there are well established boundaries to the east and west provide a degree of integration. The proposed site does not primarily rely on new landscaping for integration. The proposed site fails criteria (g) of CTY 13 in that the site is not visually linked or sited to cluster with an established group of buildings on the farm. The proposed dwelling would also create a ribbon of development and would contribute to a localised sense of build up in the area.

### **CTY 8 Ribbon Development**

Policy CTY8 of PPS21 says that planning permission will be refused for a building which creates or adds to a ribbon. Paragraph 5.33 of the amplification test of PPS8 states that a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.

There are two dwellings in the immediate context of the site No.15 Mill Road (adjacent to the application site (west)) and No. 17 Mill Road (east) with farm buildings between them. A proposed dwelling on the application site would have a strong visual connection with the nearest dwelling (No.15) when approaching the site from the east and travelling in either direction along the Mill Road, there would be a transient awareness of the proposed buildings on the application site with this and the other dwelling (No.17) to the east. This would create a ribbon of development, which would be detrimental to the countryside's character, appearance and amenity.

**Recommendation:** Refusal

**Refusal Reasons:**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Mill Road.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore, would not visually integrate into the surrounding landscape.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

**Case Officer Signature: C McCoy**

**Date:** 28 January 2020

**Authorised Officer Signature:**

**M Keane**

**Date:** 29-01-2020



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**Newry, Mourne  
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District Council

### **Addendum to Case Officer Report LA07/2019/1551/O**

#### **Background information:**

Having been recommended for Refusal, this application was called in from a weekly Delegated List by Councillor Walker, and referred to the Call in Panel on 10 February 2020. The application was then presented to call in panel on 25 February 2020, at which time it was referred to the Planning Committee on 11 March 2020.

The refusal reasons included:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Mill Road.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore, would not visually integrate into the surrounding landscape.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern

Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

**Consideration and Assessment:**

The application was deferred at Planning Committee for further consideration in light of new information presented at committee by the agent. In the intervening time period a planning application (LA07/2020/0489/F) was submitted for proposed retention of existing domestic store with addition of external permanent cladding and pitched roof. This application proposed to retain the existing trailer and re-clad it to appear more like a building, the agent submitted this to overcome the obstacles facing the current application in terms of grouping/clustering with buildings on the farm.

Re-consultation with DAERA took place regarding the farming business IDs and their associated history with business IDs that have since been closed. To summarise the application P1c form submitted referred to a farm business ID 662804. This ID was created as result of two closed farm business IDs 625213 and 604917. The agent provided the farm maps of the closed farm business IDs and these were checked against fields which were claimed for payment by DAERA, all fields were being claimed for over the requisite time period of CTY 10. A planning history search was carried out to investigate if any opportunities were sold off, it was concluded no development opportunities were sold off from the farm holding on the old business IDs or the current business ID. The agent also advised that the farm buildings associated with the business ID 604917 at 17 Mill Road were transferred to the new farm business ID 662804. This information was critical as the crux of the issue was the established farm buildings which the proposed dwelling would cluster/group with. It is considered in light of this information the buildings on the farm include the main farm dwelling No. 15 Mill Road, the farm dwelling at No. 17 Mill and associated farm shed. It is concluded that the proposed application is recommended for approval as the proposal is viewed as visually linking with an established group of buildings on the farm holding.

**CTY 8**

Whilst I accept that technically speaking this site adds to a ribbon of development having considered other sites in the farm holding, this site is suitable as the others have the same issue and this site is closest to the existing farm buildings. On balance this site is acceptable under CTY 10 and I consider this should override the ribboning issue.

**Recommendation:** Approval

**Conditions:**

Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

Reason: To enable the Council to consider in detail the proposed development of the site.

Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

Reason: To enable the Council to consider in detail the proposed development of the site.

The development hereby permitted shall take place in strict accordance with the following approved plan: 01A.

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

The proposed dwelling shall be single storey in form along the roadside with a maximum ridge height of 7m metres above finished floor level.

Reason: To ensure that the farm dwelling is not a prominent feature in the landscape.

The unauthorised mobile home within the redline boundary of the application site shall be removed prior to occupation of the new dwelling hereby permitted.

Reason: To avoid a build up of dwellings on the application site.

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out prior to the occupation of any part of the dwelling in accordance with the approved plans.

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

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

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

Prior to commencement of development the applicant shall submit a copy of consent to discharge for the proposed site, to be agreed in writing by the Planning Authority.

Reason: To protect the environment and to comply with CTY 16 of Planning Policy Statement 21 Sustainable Development in the Countryside.

<b>Case Officer Signature: C. McCoy</b>
<b>Date: 20 October 2020</b>
<b>Authorised Officer Signature:</b> <b>M Keane</b>
<b>Date: 20-10-2020</b>



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2020/0608/O

**Date Received:** 01/05/2020

**Proposal:** Infill dwelling.

**Location:** Site between 8 Tullydonnell Road and 2 O'Callaghans Road, Silverbridge, Newry

**Site Characteristics & Area Characteristics:**

The site is located outside any settlement limits as defined within the Banbridge / Newry and Mourne Area Plan 2015, the site is within an Area of Outstanding Natural Beauty.

The site is located on the edge of the public road and is part of an agricultural field, the site has a dwelling to each side, these dwellings are one and a half storey with their front elevations having a single storey appearance. The boundaries with No's 2 and 8 are defined by a mix of hedges and wooden fence, the rear boundary is undefined.

The site is located in a rural area with only a few dwellings in the vicinity of the site, at present the character remains rural.

**Site History:**

No relevant planning history.

**Planning Policies & Material Considerations:**

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

- Banbridge / Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 21 – Sustainable Development in the Countryside
- Planning Policy Statement 3 – Access, Movement and Parking / DCAN 15
- Planning Policy Statement 2 – Natural Heritage
- Building on Tradition

**Consultations:**

DFI Roads – No objections.

NI Water – Generic response.

Rivers Agency – No objections.

**Objections & Representations:**

The application was advertised on 26/05/2020, two neighbours were notified on 26/05/2020 no representations or objections have been received.

**Consideration and Assessment:**

**Strategic Planning Policy Statement for Northern Ireland**

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

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

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. PPS21 states that planning permission will be granted for gap site which is in accordance with policy CTY8.

**Principle of Development**

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Adjacent to the site on one side is No 2, a detached dwelling and it considered that this dwelling represents one building that has a frontage with the road. There is one small shed associated with the house at No.2 which is set to the rear of the property, this shed is not considered to represent a building with a frontage to the road. To the other side is No 8 a detached dwelling which is a second building that has a frontage with the road. What appears to be an ancillary children's shed is located to the side and rear of this property, it is considered that this shed would not represent a building with a frontage to the road given its location with the parent building and also the size and scale of the small shed.

The agent for the proposal has stated in supporting information that he feels that the associated buildings would provide the required third building with a frontage to the road.

Planning appeal 2017/A0204 states;

'It is correct that any building along a frontage, which policy does not distinguish between in terms of main or subordinate buildings, can contribute to a substantial and continuously built up frontage. It is not however the case that any building (my emphasis) standing on the same plot which abuts or shares a boundary with a road automatically has a common frontage to it, as cognisance must still be taken of the spatial relationship of the buildings within that plot to the actual frontage in order to determine if they form part of that substantial and continuously built up frontage.'

As outlined above, there are only two buildings that have a frontage with the road, namely the house at No 2 and No 8 with the other sheds not considered to have a frontage with the road given their position to the rear of the building lines of the dwellings. As a consequence, the application site is not considered to be a gap within an otherwise substantial and continuously built up frontage but instead it is considered that it would create a ribbon of development.

The proposal is not considered an exception to policy but is contrary to CTY8, as there are no reasons why the development is essential in this rural location and does not meet any exceptions and so it is contrary to CTY1.

### **Integration, Design and Rural Character**

Policy CTY 13 - Integration and Design of Buildings in the Countryside, requires a new building in the countryside to be able to be integrated visually within the landscape in which it is set. As the application is for outline permission no details are given regarding design, conditions could be included on any permission to restrict the size and scale of any dwelling. It is considered that a dwelling could be conditioned to ensure it integrated onto the site and so comply with CTY13.

Policy CTY14 requires that buildings in the countryside do not cause a detrimental change to or further erode the rural character of the area. Given that the proposal is not considered as an infill opportunity it will create a ribbon of development along Tullydonnell Road, this will therefore result in a suburban style build up when viewed with existing and approved buildings. The proposal will be critically viewed in terms of build up along Tullydonnell Road. The proposal is considered contrary to parts (b) and (d) of Policy CTY14.

### **Area of Outstanding Natural Beauty**

Planning Policy Statement 2 Policy NH6 is applicable due to the location in the Ring of Gullion AONB. The siting (for the reasons noted above) is considered unsympathetic to the special character of the AONB and therefore fails this policy criterion.

### **Access and Parking**

DFI Roads raised no objections to the proposal and as such it is considered that access and parking provisions can be provided.

### **Development relying on non-mains sewerage.**

Policy CTY 16 – The application would appear to comply with this policy, a condition should be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

## **Recommendation: Refusal**

### **Reasons for refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Tullydonnell Road and does not represent an exception of policy.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would create a ribbon of development and would therefore result in a detrimental change to and further erode the rural character of the countryside.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

**Case Officer:**

**Wayne Donaldson**

**Date: 21/10/2020**

**Authorised Officer:**

**Andrew Davidson**

**Date: 23/10/2020**

**Re: Planning Reference: LA07/2020/0608/O**

**Proposal: Site for Infill dwelling**

**at Site between 8 Tullydonnell Road and 2 O'Callaghans Road Silverbridge Newry**

This application qualifies for approval under infill status as the proposal constitutes the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

CTY8 5.33 clarifies "For the purposes of this policy a road frontage includes a footpath or private lane. A 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.

There are a minimum 3 buildings, all sharing a common frontage and are visually linked along Tullydonnell Road. The attached diagram clearly shows that this is the case.

The Department has stated that *"To the other side is No 8 a detached dwelling which is a second building that has a frontage with the road. What appears to be an ancillary children's shed is located to the side and rear of this property, it is considered that this shed would not represent a building with a frontage to the road given its location with the parent building and also the size and scale of the small shed."*

It appears that the department have confused the addresses of the properties. No 2 has a small building, not a shed, to the side of the dwelling, sited back behind the dwelling's building line.

No 8 has a shed to the rear. For the purposes of clarity, we will refer to No.2 as Plot A and No. 8 as Plot C.

An inspection of the site would show that the second building on Plot A is not a children's shed but in fact houses a boiler and is constructed of block, render and has a slated roof. The building's function doesn't actually matter as this is irrelevant to Policy, as per the Appeal mentioned below.

Under Appeal reference 2016 / A0164 the Commissioner stated

**"The detached garage, though ancillary to the dwelling at no 34, is a building for the purpose of the policy as it does not differentiate between the type, use or size of building."**

Under the same appeal reference, the commissioner also states that

**"The garage sits to the north east of the dwelling and counts as a second building."**

This statement demonstrates that a building that sits to the side and behind the building line, i.e. **sited back**, is accepted.

In our case, the 3<sup>rd</sup> building (Plot A) sits to the North West of the dwelling, which is, to the side and **sited back** behind the building line.

To further endorse this building2 (Plot A) as having a common frontage, Under Appeal ref. 2016/A0040, it states

**"for the purposes of the policy "this includes a line of three or more buildings along a road frontage without accompanying development to the rear ". The use of the word "includes" means that situations where there is development to the rear are not excluded.**

A building has a frontage to the road if the plot on which it stands **abuts or shares a boundary with that road.**"

Furthermore, the building 2 (Plot A) not only has a shared common frontage, but it is also visually linked, satisfying CTY 8 5.33: **"if they have a common frontage or they are visually linked."**

The case officers report states another reason for refusal is **"the size and scale of the small shed,"** however the Case Officer goes on to contradict himself by quoting a Planning appeal 2017/A0204 which states;

**'It is correct that any building along a frontage, which policy does not distinguish between in terms of main or subordinate buildings, can contribute to a substantial and continuously built up frontage.**

The case officer believes "It is not however the case that any building (my emphasis) standing on the same plot which abuts or shares a boundary with a road automatically has a common frontage to it, as cognisance must still be taken of the spatial relationship of the buildings within that plot to the actual frontage in order to determine if they form part of that substantial and continuously built up frontage.'

The department has quoted from an appeal ref no. 2017/A0204. On numerous occasions we have been advised that each job has to be taken on its own merits. The appeal referenced has a completely different situation than our application and a quote from the appeal referenced shows this. The quote being **"Whilst No. 69 itself does lie on the frontage, its garage lies wholly to the rear of that property, set directly behind the dwelling itself"** Our situation is completely different to this where our 3<sup>rd</sup> building can be fully seen to the side of the dwelling

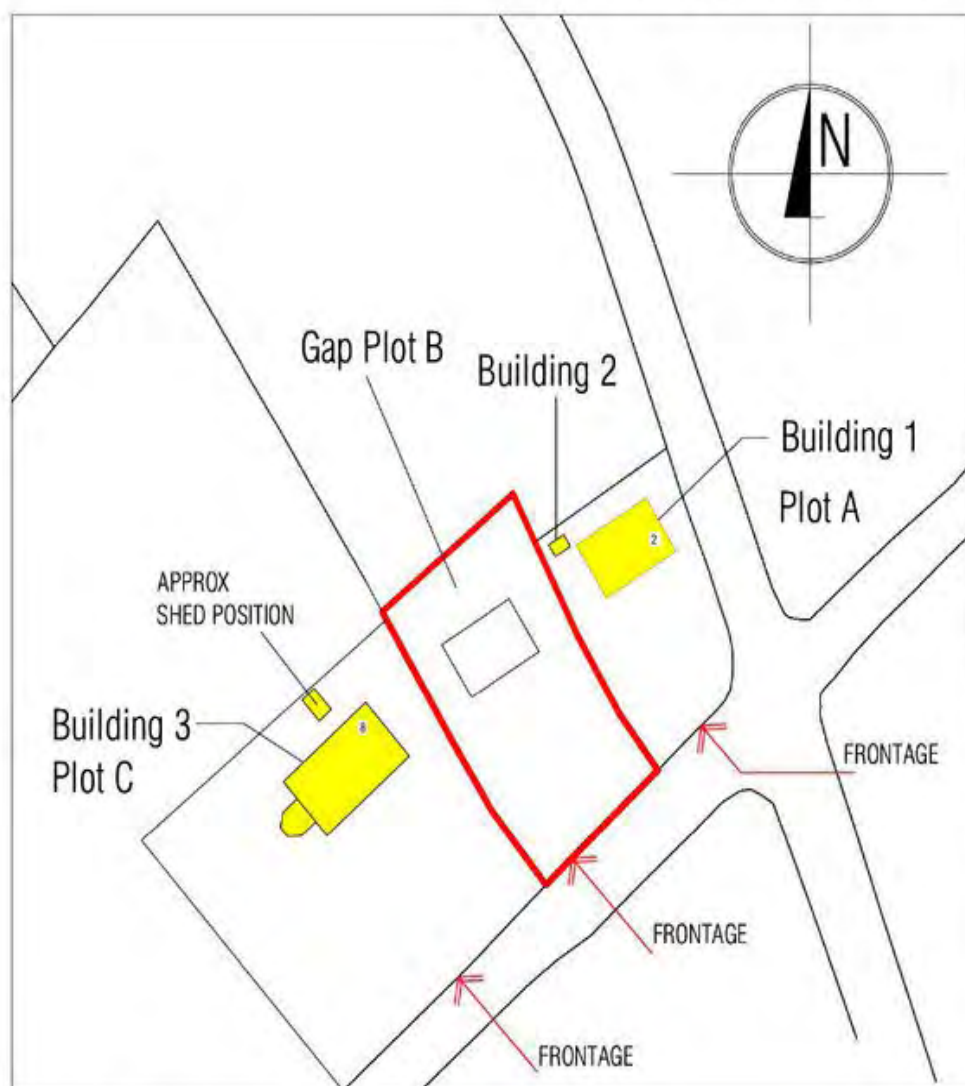
It does not say anywhere in the Policy that cognisance must be taken of the spatial relationship within the plot to determine frontage. This is the Planner's emphasis only. Under Appeal reference 2016 / A0164 the Commissioner stated, "The policy does not say that such buildings must be visually linked."

In this case however, Building 2 (plot A) has a common frontage with building 1(Plot A) and building 3 (Plot C) **and** it is also visually linked, therefore satisfying the criteria of an infill site under CTY8.

The development respects the existing pattern of development and would integrate into the gap site, which will not appear unduly prominent within its surroundings, ensuring that the development will not cause a detrimental change to or further erode the rural character of the area. This allows the proposed infill dwelling to comply with Policy CTY 14.

A suitably designed house taking into consideration size & scale whilst using local materials and respecting local architecture will ensure compliance with Policy NH6 AND PPS 2.

Recently the Department approved an infill application and one of the buildings that was accepted as forming part of the existing ribbon, was set back well behind another building in the ribbon. This is a another example of a building site back behind another building is acceptable



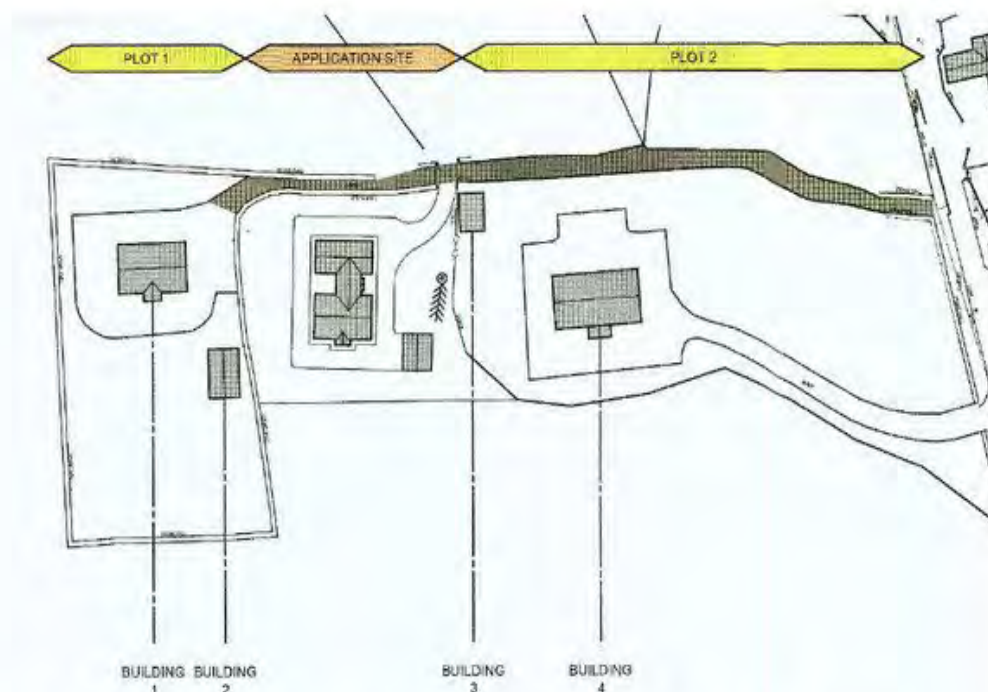
Concept plan



Photo from Tullydonnell Road showing all buildings in question. All visually linked and common boundary



Map showing position of garage in relation to dwelling. Sited to the back and side N.E of dwelling. Appeal Ref. 2016 / A0164.



Approval as described above, Planning ref. LA07 /20/1033. Building 4 is sited behind building 3.



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

**Application Reference:** LA07/2017/0546/F

**Date Received:** 7th April 2017

**Proposal:** Proposed indoor amenity area, café and event rooms and associated car parking for use in conjunction with existing tourist facility (Golf Centre).

**Location:** 39 Castlewellan Road, Newcastle.

**Site Characteristics & Area Characteristics:**

The site is located off Castlewellan Road, Newcastle and is comprised of a 0.96-hectare portion of land, which contains the pitch and putt area associated with the adjacent Golf Centre and a portion of a greenfield, immediately adjacent.



The site is located outside and immediately adjacent the settlement limits of Newcastle as defined by the Ards and Down Area Plan 2015. It is noted that the site is located within the AONB and accesses onto a protected route (A50).

There are a mix of uses within the immediate area i.e. residential properties immediately to the west of the site, tourism accommodation to the north and south in the form of the Burrendale Hotel and

Sunnyholme Caravan Park respectively, while the land to the east is used predominantly for agriculture.

### **Site History:**

Previous history on the site relates to the approval of the Driving Range adjacent as can be seen in Planning Reference R/2010/0836/F.

LA07/2018/1761/LDE – Golf Driving Range with shop/tea room/toilets/putting green/ mini golf area and associated parking and lighting / signage – Certified 15.02.19

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

In assessment of this proposal regard shall be given to the Strategic Planning Policy Statement (SPPS), Ards and Down Area Plan 2015, PPS 3, 6, 15, 16 and 21, in addition, to the history and any other material consideration.

The application was advertised in the local press on 26.04.17

### **Consultations:**

In assessment of the proposal consultations were carried out with Rivers, Transport NI, Environmental Health, Northern Ireland Water (NIW), NIEA and HED.

Rivers Agency – Request a Flood Risk Assessment and Drainage Assessment given the floorspace proposed

Environmental Health – No objections

NIEA – No objections subject to conditions

NIW – No objections subject to conditions

HED – No objections

DfI Rivers – No objections

Transport NI – No objections

The following neighbours were notified of the proposal on 20.04.17

Nos 37, 38, 41, 43, 44, 45, 47, 49 and 51 Castlewellan Road, Newcastle

Burrendale Hotel

Sunnyholme Caravan Park

### **Objections & Representations**

No letters of objection or representations have been received.

**Consideration and Assessment:**

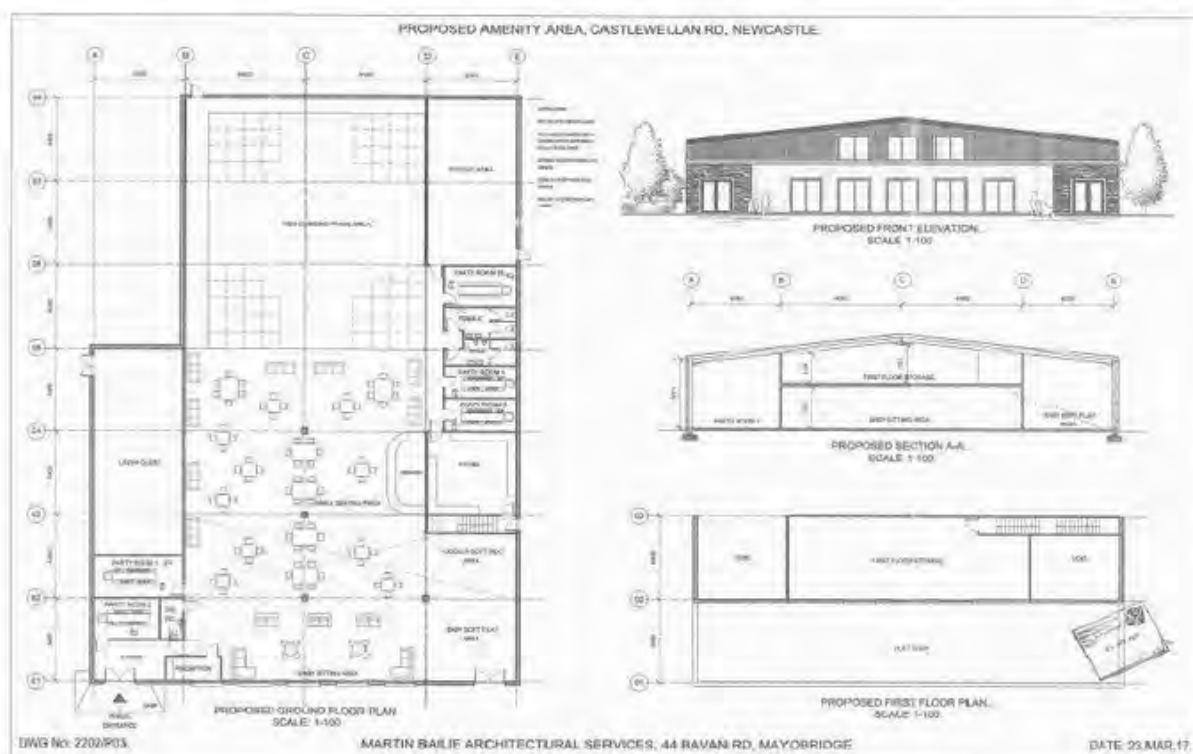
The proposal seeks full permission for the erection of an indoor amenity area, café and event rooms and associated car park for use in conjunction with existing tourist facility i.e. Golf Centre.

The proposed building will have frontage of 28.5m and will be 42m in length with a maximum ridge height of 7m. The building will be finished with insulated composite cladding to the roof and walls with polyester powder coated guttering, doors and windows. The front elevation will have a rendered

finish with locally sourced stonework around the door openings. The building will be located immediately adjacent and north of the driving range.



The internal arrangement of the building shows that it is proposed to be used for an indoor soft play area, with café. The Planning (Use Classes) Order (Northern Ireland) 2015 defines this type of use (indoor recreation) to be Sui Generis (No Class).



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

In assessment of the proposal, given its location outside the settlement limit PPS 21 is applicable. The policy provides a list of non-residential development that would be permitted in the countryside and it is considered that this type of proposal is not listed as one of those non-residential developments that would be granted permission.

### **Planning Policy Statement 16: Tourism**

It is noted that the application has described the proposed use to be in conjunction with an existing tourist amenity i.e. the adjacent Golf Centre. In assessment of this PPS 16 is applicable, which states that a tourist amenity (as defined by the Tourism (NI) Order 1992) is an amenity, facility or service provided primarily for tourists but does not include tourist accommodation.

The Golf Centre was approved on the basis of outdoor recreation (PPS8). It is considered, therefore, that while the golf centre maybe used by tourists, it is not a tourist amenity specifically designed for tourists. Equally, the proposed 'amenity centre' is not considered to be a tourist amenity when assessed against the above definition.

There is therefore, no policy basis for this type of application at this location.

### **Planning Policy Statement 6**

The site is located within the vicinity of archaeological remains including a Cross Carved Stone DOW 043:079 and an Enclosure DOW 043:087. Policy BH2 is applicable which states that development proposals which would adversely affect archaeological sites or monuments which are of local importance or their settings will only be permitted where the planning authority considers the importance of the proposed development or other material considerations outweigh the value of the remain in question.

Historic Environment Division have been consulted and have responded within no objections following consideration of the proposal against this policy.

### **Planning Policy Statement 3**

As detailed above the site accesses onto a Protected Route (A50).

Policy AMP 3 of PPS 3 is therefore applicable, which 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 in the following cases

- (A) Replacement dwelling
- (B) Farm Dwelling
- (C) Dwelling serving and established commercial or industrial enterprise
- (D) Other categories of development.

DfI Roads have advised the Planning Authority that the proposal could use the existing access without the need for any upgrade of the Roads Infrastructure. There is not considered to be a road safety

issue with this development using the existing access and therefore while there is no justification for the proposal in policy terms, the access alone is considered to be acceptable.

### **Parking**

The floorspace of the proposed building is 1159sqm and the applicant estimates that approximately 20 members of staff and 300 others would attend the premises daily. The Parking Standards do not provide guidance on this type of specific use, however, indoor sports halls and leisure centres are noted to require 1 space per 3 staff and 1 space for 3 players and 1 space for spectators. Based on this guidance I would estimate that provision should be made for approximately 57 vehicles. It is noted that 59 spaces are proposed with 14 spaces existing for Pitch & Putt area. It is considered that sufficient provision for parking has been made.

## **Planning Policy Statement 15: Planning and Flood Risk**

### Policy FLD 1 development in Fluvial (River) and Coastal Flood Plains

The site does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain,

### FLD 2 Protection of Fluvial Defence and Drainage Infrastructure

Not applicable to this site

### FLD 3 Development and Surface Water

Dfl Rivers have reviewed the Drainage information submitted by Lisbane consulting and have no reason to disagree with its conclusions, FLD 3 is therefore satisfied.

### FLD 4 Artificial Modification of watercourses

Not applicable to this site

### FLD 5 Development in Proximity to Reservoirs

Dfl rivers reservoir inundation maps indicate that this site is in a potential area of inundation emanating from Lough Island Reavy impoundment. Dfl Rivers is in possession of information confirming that Silent Valley and Ben Crom impoundments have 'Responsible Reservoir Manager Status'. Consequently, Dfl Rivers has no reason to object to the proposal from a reservoir flood risk perspective.

## **Other Matters**

### **Local Development Plan**

The Planning Authorities Development Plan team have commented on the application and concluded that approving this application would undermine the LDP process as a representation regarding this site has not been made to the LDP. Consequently, an approval has the potential to create a negative

impact on landowners including those that have submitted site specific representations in respect of the on-going LDP.

### **Environmental Health**

Newry, Mourne and Down Environmental Health have no objections to the proposal.

### **Drawings**

The following drawings were considered as part of this assessment

2202 – 10  
2202 / P02  
2202 / P03  
2202 / P04

### **Conclusion**

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

### **Recommendation: REFUSAL**

#### **REFUSAL REASONS:**

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

Case Officer: Claire Cooney

Date: 13.10.2020

Authorised Officer: Annette McAlarney

Date: 14 October 2020

**JOB REF 2202****STATEMENT FOR PLANNING COMMITTEE.****PROPOSRD AMENITY AREA, CAFE AND EVENT ROOMS FOR USE IN  
CONJUNCTION WITH EXISTING TOURIST FACILITY ( GOLF CENTRE )  
AT 39 CASTLEWELLAN ROAD, NEWCASTLE PLANNING REF  
LA07/2017/0546**

The application under discussion was previously recommended for Refusal in 2017 for 2 reasons and was discussed at Committee on 13 September 2017. The first reason being Roads Service concerns but there were no actual details available and the consultation response was unsigned. Planning agreed to meet with Roads after the meeting but due to “resourcing issues” nothing to place for over 4 months when it was discovered that this reason had no foundation and has now been withdrawn.

The only reason now for refusal is that “the proposal is contrary to the SPPS and Policy CTY1 of PPS21 in that there are no **overriding** reasons why this development is essential in this rural location and could be located within a settlement.”

We would still contend that there are overriding reasons in this case and they are;

1. The site is not in a typical rural location. It is surrounded on 3 sides by development within the settlement of Newcastle. To the south is the Golf Centre and a Caravan Park. To the west is a large guest house and residential properties and to the North East is the Burrendale Hotel thus leaving only the Northern boundary next to what is the rural area in planning terms. When one is on site and looks to the north you are looking at a large scale wind turbine and an extensive engineering plant and very little open countryside. For all intense and purposes the site is more within the settlement of Newcastle than out.
2. The site is within the approved boundaries of the Golf Centre which has the benefit of Planning Approval and was approved under PPS8 which deals with outdoor recreation and within paragraph 1.5 of this policy it states that such areas can “help to

attract Business and Tourism and thereby contribute to the process of **urban regeneration**" and this is what our proposal will do.

3. The Case Officer has noted that the Golf Centre "is not a Tourist amenity specifically designed for tourists" and "equally the proposed amenity centre is not considered to be a Tourist Amenity when assessed against PPS16 which defines that a "tourist facility or service provided primarily for tourists." If this is the case then is a golf course deemed to be a tourist facility specifically designed for tourists as the majority of members are actually local people and yet the game of golf is one of Newcastle's main attractions and the existing driving range is part of this attraction.

To elaborate on this definition we need to actually define what is a tourist and within PPS16 tourists are deemed to be "both overnight visitors and same day visitors". We would contend that our proposal caters for all tourists whether they be on a day trip from Castlewellan or Kilkeel or on a weeks visit from Dublin or Belfast.

Within the Newry, Mourne and Down Tourist Strategy 2017-2021 Newcastle is identified as a Hub Community and the Council's aims within this document are to develop new visitor attractions and amenities and to create wet weather facilities and enhanced recreational and family Leisure Amenities. In conjunction with the private developer and the Council's future plans these aims can be achieved.

Since the original meeting in 2017 the Committee carried out a site visit in late 2017 but the application progressed no further until in June/July 2018 we were made aware of concerns regarding the mini golf course on site and told that the application would not progress until a CLEUD was applied for. This was applied for and approved.

We then requested that the application be taken to the Committee meeting in March 2019. We were then informed of another consultation received from Rivers which although dated 3 August 2017 was never cited as a reason for refusal at the committee meeting in September 2017 and we were never advised until March 2018. Here again this issue has finally been resolved and we find ourselves back before Committee some 26 months later.

At the last meeting the Council appeared very positive about the proposal and we would ask that you still look favourably on the proposal and approve the application.

The applicant currently runs the successful Golf Centre and has allowed the Council access to his lands for parking and camping for major tourist events. His sister is proprietor of the adjacent Guest House and his mother and brother run Golf Links House and restaurant so you could say tourism in the Newcastle area is in the families blood. Michael wishes to develop local tourism through the proposal under consideration and will use private funding in conjunction with grant aid from LEADER subject to attaining Planning Approval. The applicant has also prepared a detailed Business Plan which is now available and it shows how initially the proposal will create 4 full time jobs and 12 part time positions. He has been accepted for funding by a Government Body so we ask that this is secured by approving this application and in turn a facility will be provided to Newcastle which will add to and enhance the Council's long term objectives for the town.



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District Council

**Application Reference:** LA07/2020/0372/F

**Date Valid:** 6<sup>th</sup> March 2020

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

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

**Site Characteristics & Area Characteristics:**



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



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

#### **Site History:**

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

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

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

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

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

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

#### **Consultations:**

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

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

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

#### **Objections & Representations**

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

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

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

**Consideration and Assessment:**

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

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

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

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

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

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

**Principle of development**

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

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

**PPS7**

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

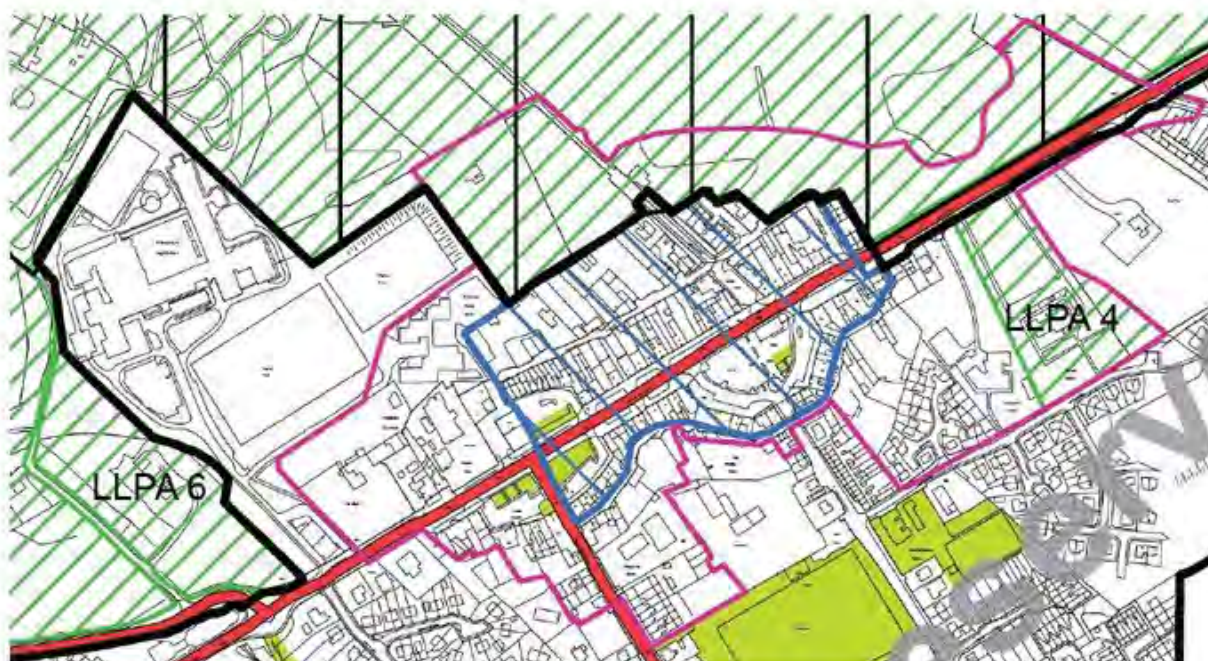
sustainable residential development. All proposals for residential development will be expected to conform to criteria (A) – (I):

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

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

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

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



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

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

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

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

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

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

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

- (F) Adequate and appropriate provision for parking ;

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

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

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

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

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

The proposal does not therefore comply with this criterion.



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

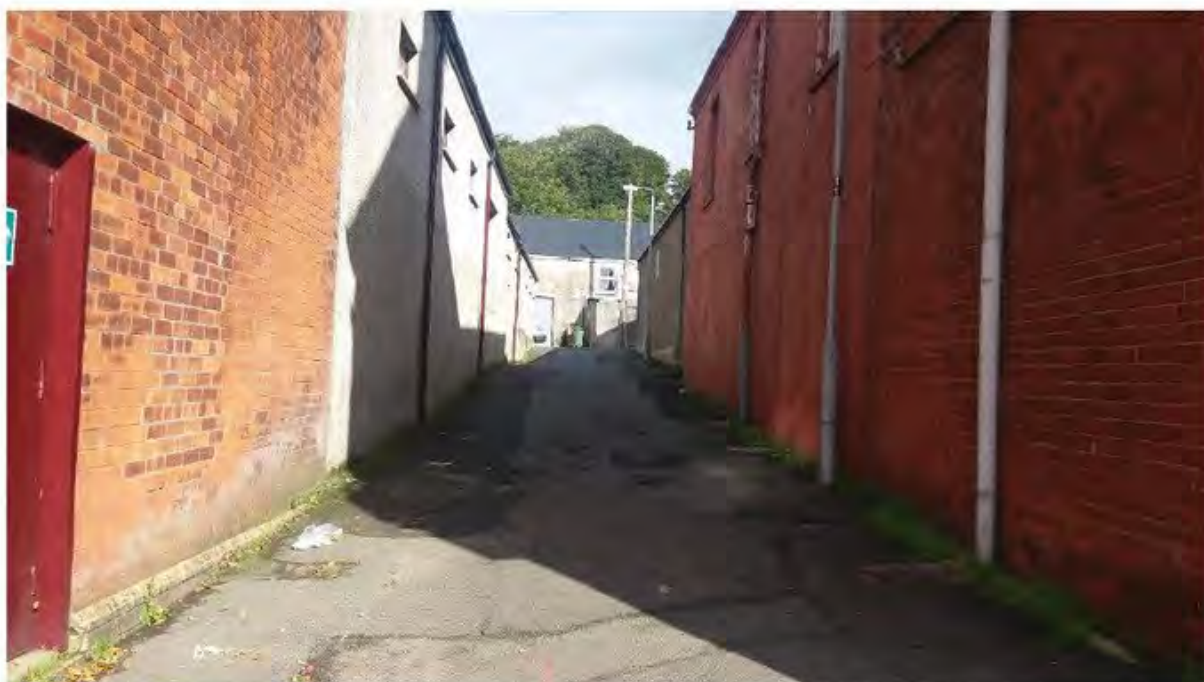
The proposed design of the building will remain as existing albeit for the introduction of new window and door openings.

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

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

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

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



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

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

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

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

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

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

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

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

#### PPS 12: Housing in Settlements

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

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

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

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

PPS3Roads Interest

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

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

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

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

Other MattersConservation Area

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

1. the development preserves or enhances the character and appearance of the area;
2. the development is in sympathy with the characteristic built form of the area;
3. the scale, form, materials and detailing of the development respects the characteristics of adjoining buildings in the area;
4. the development does not result in environmental problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area;
5. important views within, into and out of the area are protected;
6. trees and other landscape features contributing to the character or appearance of the area are protected; and
7. the development conforms with the guidance set out in conservation area documents.

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

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

### Conclusion

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

### Drawings

The Drawings considered as part of this assessment are as follows

A4-01 and A1-04 Rev B

**RECOMMENDATION: REFUSAL**

### **REASON:**

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

Signed: Claire Cooney Date: 08.09.2020

Signed: A.McAlarney Date: 14 Sept 2020

**Application Reference: LA07/2020/0372/F**

Proposal: Change of Use to 4 Residential Units

Location: Rear of 71 -73 Main Street Castlewellan

The above application has been scheduled for refusal for the following reasons;

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

We would respond to each reason as follows -

This is a town centre redevelopment of an existing building. Balconies have been provided to each unit as a means of providing private amenity. The site is 200 yards from the entrance to Castlewellan Forest Park, so this should be a consideration when assessing amenity space. As it is not a new build, private amenity cannot be designed in, and the units can only rely on outdoor balconies. Every room in each unit has either windows or doors to the outside for natural light. The living/kitchen spaces avail of 2no velux rooflights each, which will provide more than adequate light into these rooms. We do not consider this to be a valid reason for refusal. With regard to parking, this is centrally located in Castlewellan town centre. Public parking is available in the upper square, lower square and along Main Street. The units will primarily be targeting tenants who work in the town and will most likely not have a car. Relaxations for redevelopment projects like this in town centres should be considered as they will help to revitalise the town centre, just as planning policy promotes.

These are essentially 2 bedroom town centre apartments with balconies. The forest part is 200 yards away and will provide all the amenity that these tenants require.

This should be considered as town centre "living above the shop", and supported by planning. There are 150-200 parking spaces in close proximity, and parking to these units would predominantly be during the evening and at night, when parking demand is low. Additionally, I would refer in particular to planning application LA07/2017/1773/F I

Change of use to 6no self contained dwelling units with alterations. 17 Church Street Downpatrick BT30 6EJ. This application has been recently approved in Downpatrick town centre, with zero private amenity space. Our proposal now offers more private amenity than this was approved with. It also had zero in curtilage parking and relied fully on street parking and nearby public parking to serve the 6no residential units.

Just as an additional point in support of the application, the existing second hand furniture shop which currently occupies the building has a lot of people coming and going, dropping off second hand furniture, and loading and purchases from the unit. When either dropping off or picking up, vehicles will park along Clarmount Avenue at the main entrance doors until the vehicle is loaded up or unloaded. This can cause significant disruption to vehicular movement along this avenue, and there is not enough width for another vehicle to pass. Our proposal will eliminate this issue and actually ease traffic congestion in the immediate area.

As there is ground floor shop storage below the proposal at ground floor level, we also feel that Policy HOU 6 will apply as this is first floor accommodation.

Planning Policy HOU 6 Living above the Shop states that "The Department will encourage the provision of housing close to, and within, town and village centres, provided that the central area retail and commercial functions are not prejudiced. Vacant space, over shops and offices, in town and village centres is commonplace. The Living over the Shop (LOTS) project was set up in 1989 in Great Britain to demonstrate the feasibility and economic viability of using vacant space above shops and to demonstrate ways in which wasted space can be brought back into use, usually for affordable rented housing.

Whilst we acknowledge that these units are small in size, the current housing market shows that there is a large demand for residential units of this size located within the town centre.

We would ask the Council to consider another application on the delegated list, LA07/2020/0440/F, submitted by NMDDC. This application seeks to change the use of offices to apartments at Margaret Street, Newry. Whilst DFI Roads requested Planning to clarify the parking requirement for this change of use to apartments on 19th May 2020, there is no submission addressing this request, and no positive response from DFI Roads on the portal. Additionally, there is absolutely zero private amenity with these apartments, while we have provided balconies in our proposal.

There is little difference between the two applications, yet the application for the Council has been scheduled for approval and ours has been scheduled for refusal on the grounds of parking and private amenity. There is also substantially more on street parking in close proximity to our application site than in the Newry application.

Finally, we are happy to reduce the number of apartments in the application in order to provide fewer but larger units.



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1202/DCA

**Date Received:** 19.07.2019

**Proposal:** The application is for Conservation Area Consent for Demolition of existing spar retail unit with petrol filling station and demolition of the existing adjacent dwelling at 6 Downpatrick Road and demolition of the modern rear extension at 1-3 Irish Street in Killyleagh to enable construction of a proposed replacement of the Spar retail unit and petrol forecourt.

**Location:** 2-6 Downpatrick Road and 1-3 Irish Street, Killyleagh



#### Site Characteristics & Area Characteristics:

The application site is located within the settlement limits, within an Area of Archaeological Potential and within the Conservation Area of the village of Killyleagh as designated in the Ards and Down Area Plan 2015.

The application site lies along the main Downpatrick Road into Killyleagh. An existing petrol filling station (PFS) is located on the application site and consists of a shop, canopy and fuel pumps. It is located close to the road, with associated car parking and access and egress

arrangements directly off Downpatrick Road. The area surrounding the PFS is predominantly residential with some other commercial properties further towards Catherine Street. To the SE is the existing established housing at Strangford View, Housing along Downpatrick Road adjacent to the Old Mill Housing development and housing towards Catherine Street. Irish Street is predominantly residential in nature apart from a vacant retail premises and the Church. The ground levels for the existing PFS are generally flat, however there is a drop in levels to the SE toward Strangford View and a change and increase in levels to the SW in the direction of Killyleagh Lodge.

#### **Site History:**

LA07/2019/1186/F | 2-6 Downpatrick Road and 1-3 Irish Street Killyleagh | Proposed demolition of the existing Spar retail unit with associated petrol filling station, demolition of the existing dwelling at 6 Downpatrick Road and demolition of the modern rear extension at 1-3 Irish Street in Killyleagh and proposed construction of replacement Spar retail unit [with ancillary food concession area] and petrol forecourt, jet wash and associated parking | Pending.

R/2012/013/F | Nos. 2-6 Downpatrick Road, Killyleagh | Replacement petrol filling station to include 1 no. jet wash, ATM, & air/ water / vacuum area | Permission Granted 20.12.2012.

R/2012/0026/DCA | 2-6 Downpatrick Road, Killyleagh | Demolition of existing dwelling & petrol filling station.

R/2007/0532/F | Nos. 2-6 Downpatrick Road, Killyleagh | Demolition of existing dwelling and replacement petrol filling station to include 2 no. covered jet washes and 1 no. coal storage (amended plans) | permission granted | 12.08.2009.

R/2007/1198/CA | 2-6 Downpatrick Road, Killyleagh | Demolish existing single storey dwelling, petrol station including shop and canopy - storage tanks underground to remain | granted 12.08.2009.

R/2004/0971/F | 1 to 3 Irish Street, Corporation, Killyleagh | Conversion of existing store into new shop unit | permission granted 14.09.2004.

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

The proposal has been assessed against the following policies:

- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Ards and Down Area Plan 2015
- Planning Policy Statement 6: Planning, Archaeology and the built Heritage.
- Killyleagh Conservation Area Booklet (April 1993).

#### **Consultations:**

Historic Environment Division – No objections

### **Objections & Representations**

In line with statutory requirements the application was advertised in the Mourne Observer and the Down Recorder on 13.02.2019 and published on the council website.

One letter of objection was received from Mrs Clare Rooney 68 Old Mill. The main point of the objection relates to:

- Concern around the height of the structure, leading to loss of light and overshadowing
- Increased noise
- Loss of privacy
- Light pollution
- Why it took so long to issue letters and why there is such a short time for responses.

It is noted that there is no legislative requirement to Neighbour notify.

### **Consideration and Assessment:**

The site is located within Killyleagh Conservation Area as defined in the Ards and Down Area Plan 2015.

With regard to development in Conservation Areas, Section 104 (11) states that special regard must be had to the desirability of;

(a)preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise;

(b)enhancing the character or appearance of that area in cases where an opportunity to do so does arise.

With reference to Conservation areas the SPPS states that 'in managing development within a designated Conservation area the guiding principle is to afford special regard to the desirability of enhancing its character or appearance when an opportunity to do so exists or preserve its character or appearance where an opportunity to enhance does not exist'.

Para 6.19 of the SPPS sets out the criteria which should be applied when determining such development.

There are no objections to the proposal with regard to the Area Plan / SPPS. Prevailing weight is therefore attached to PPS 6.

Having taken account of the location, zonings and constraints of the site and nature of this proposal, consultation with HED has been carried out as part of the associated Full application LA07/2019/1186/F.

Initially it was proposed to demolish the existing buildings 1-3 Irish Street, to allow an increased forecourt and car parking. However, concern was raised with the agent and Planning deemed the buildings contributed positively to the Conservation area and requested their retention. It is now proposed to demolish only the rear returns to these buildings. An associated Full application has been submitted for the works that are to be carried out. See associated report for LA07/2019/1186/F for consideration of the full works that this scheme entails.

As HED no longer comment on Conservation Area Consents, comment on the demolition rests with Council under conservation policy which is Policy BH 14 Demolition in a Conservation Area are relevant to the application of PPS 6.

Policy BH 14 states that 'The Department will normally only permit the demolition of an unlisted building in a conservation area where the building makes no material contribution to the character or appearance of the area. Where conservation area consent for demolition is granted this will normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building before its demolition'.

The Department will operate a presumption in favour of retaining any building which makes a positive contribution to the character or appearance of a conservation area. In determining proposals for demolition of unlisted buildings the Department will therefore take account of the part played in the architectural or historic interest of the area by the building for which demolition is proposed, and in particular of the wider effects of demolition on the building's surroundings and on the conservation area as a whole.

As stated above in consideration of policy BH14, the buildings at 1-3 Irish Street, at present do contribute to the character of the conservation area and to this part of Killyleagh. The demolition of the rear modern flat roof extensions to the rear of these buildings and the vacant bungalow adjacent to the existing PFS do not make a positive material contribution to the Conservation area and their demolition is considered acceptable.

#### Conclusion

On balance and taking into account all material considerations, the proposal is considered to comply with relevant planning policies and it is recommended that consent be granted subject to conditions.

#### **Recommendation:**

Consent granted

#### **Drawings**

The Drawings upon which this consent is based are as follows: 01, 02A, 03U2, 04B, 05H, 06F 07B, 08, 09, 110, 11B

#### **Conditions:**

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

Reason: As required by Section 105 of the Planning Act (Northern Ireland) 2011.

2. The development hereby permitted shall take place in strict accordance with the following approved plans: 01, 02A, 03U2, 04B, 05H, 06F 07B, 09, 110, 11B.

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

Case Officer	C Moane
Date	15/10/2020

Appointed Officer	Annette McAlarney
Date	16 October 2020

Re: 2-6 Downpatrick Road and 1-3 Irish Street, Killyleagh. Ref LAO7/2019/1186/F

To whom it may concern.

I wish to appeal against the size of the planning proposal. I live at 85 The Old Mill, Killyleagh

1. The proposed building is too big.
2. The site location is in a bad position and leads to gridlock and pollution both noise and light.
3. The proposed site is not in keeping with a conservation area.
4. It is only a matter of time that a major accident will happen. I have already had a wall knocked down from an operative of Hendersons due to access problems and being on a bend.

Kind Regards

Brian Cassidy.

## **Planning Application LA07/2019/1186/F & LA07/2019/1202/DCA**

### **Submission by Fleming Mounstephen Planning on behalf of the Henderson Group**

**Proposal:** Demolition of buildings and construction of replacement Spar (with ancillary food concession area) and petrol forecourt, jet wash and associated parking

**Location:** 2-6 Downpatrick Road and 1-3 Irish Street, Killyleagh

Fleming Mounstephen Planning will be speaking to the following matters in relation to Planning Application Ref. LA07/2019/1186/F & LA07/2019/1202/DCA:

- the Strategic Planning Policy Statement context: the proposal is consistent with the core planning principles and subject policies of the SPPS and should benefit from the presumption in favour of development.
- the Local Development Plan context: Killyleagh is a village and an important local service centre.
- the site planning history: there is a supportive site history including demolition and redevelopment proposals.
- material planning considerations including design, residential amenity and access: there has been thorough assessment of a full range of material planning considerations in the development of the proposals.
- the planning process: revised proposals and additional information were provided when requested to address issues raised by the Council and statutory consultees, all of whom have no objections to the development.
- the Henderson Group investment: the proposal represents a £2.5M approx. investment, it will deliver economic benefits including 40 approx. jobs and will create an attractive and modern convenience retail and petrol filling station facility for Killyleagh.



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**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1186/F

**Date Received:** 19.07.2019

**Proposal:** The application is for full planning permission for the Proposed demolition of the existing Spar retail unit with associated petrol filling station, demolition of the existing dwelling at 6 Downpatrick Road and demolition of the modern rear extension at 1-3 Irish Street in Killyleagh and proposed construction of replacement Spar retail unit [with ancillary food concession area] and petrol forecourt, jet wash and associated parking.

**Location:** 2-6 Downpatrick Road and 1-3 Irish Street, Killyleagh



#### Site Characteristics & Area Characteristics:

The application site is located within the settlement limits and within the Conservation Area of the village of Killyleagh as designated in the Ards and Down Area Plan 2015.

The application site lies along the main Downpatrick Road into Killyleagh. An existing petrol filling station (PFS) is located on the application site and consists of a shop, canopy and fuel pumps. It is located close to the road, with associated car parking and access and egress

arrangements directly off Downpatrick Road. The area surrounding the PFS is predominantly residential with some other commercial properties further towards Catherine Street. To the SE is the existing established housing at Strangford View, Housing along Downpatrick Road adjacent to the Old Mill Housing development and housing towards Catherine Street. Irish Street is predominantly residential in nature apart from a vacant retail premises and the Church. The ground levels for the existing PFS are generally flat, however there is a drop in levels to the SE toward Strangford View and a change and increase in levels to the SW in the direction of Killyleagh Lodge.

### **Site History:**

LA07/2019/1202/DCA | 2-6 Downpatrick Road and 1-3 Irish Street, Killyleagh | Demolition of existing spar retail unit with petrol filling station and demolition of the existing adjacent dwelling at 6 Downpatrick Road and demolition of the modern rear extension at 1-3 Irish Street in Killyleagh to enable construction of a proposed replacement of the Spar retail unit and petrol forecourt pending.

R/2012/013/F | Nos. 2-6 Downpatrick Road, Killyleagh | Replacement petrol filling station to include 1 no. jet wash, ATM, & air/ water / vacuum area | Permission Granted 20.12.2012.

R/2012/0026/DCA | 2-6 Downpatrick Road, Killyleagh | Demolition of existing dwelling & petrol filling station.

R/2007/0532/F | Nos. 2-6 Downpatrick Road, Killyleagh | Demolition of existing dwelling and replacement petrol filling station to include 2 no. covered jet washes and 1 no. coal storage (amended plans) | permission granted | 12.08.2009.

R/2007/1198/CA | 2-6 Downpatrick Road, Killyleagh | Demolish existing single storey dwelling, petrol station including shop and canopy - storage tanks underground to remain | granted 12.08.2009.

R/2004/0971/F | 1 to 3 Irish Street, Corporation, Killyleagh | Conversion of existing store into new shop unit | permission granted 14.09.2004.

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

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

The Strategic Planning Policy Statement for NI Ireland (SPPS) is material to all decisions on individual applications. The SPPS retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council Area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS.

Ards and Down Area Plan (2015) – The site lies within the settlement limits of Killyleagh and within the Conservation Area

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

SPPS: Town Centres and Retailing: Para 6.278 relates to retailing in villages. Policies and proposals for shops in villages and small settlements must be consistent with the aim, objectives and policy approach for town centres and retailing, meet local need (i.e. day-to-day needs), and be of a scale, nature and design appropriate to the character of the settlement.

PPS 3: Access, Movement and Parking: Sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS 6 : Planning Archaeology and the Built Heritage sets out the policies for the protection and conservation of archaeological remains and features of the built heritage.

#### Guidance

Killyleagh Conservation Area (April 1993)

DCAN 15 Vehicular Access Standards

#### Consultations:

NI Water – Statutory Response PDE should be applied for  
 DFI Roads – No objections subject to PSD conditions  
 NIEA – WMU – No objections subject to a condition  
 NIEA Land Soil Air – No objections subject to conditions regarding contamination  
 NIEA – NED – No objections  
 Environmental Health – No objections subject to conditions  
 Historic Environment Division (HED) – No objections  
 Shared Environmental Services – No objections subject to conditions

#### Objections & Representations

In line with statutory requirements sixty seven neighbours have been notified on 30.08.2019 and again with amended plans on 06.11.2019 and 30.08.2019. No letters of objection or support have been received in relation to the proposal. The application was advertised in the Mourne Observer and the Down Recorder on 21.08.2019.

A total of 19 letters of objection were received in relation to the proposal. Some of these were received prior to amendments, where some of the concerns related to the removal of the properties at Irish Street.

The main issues can be summarised as below.

- Noise levels
- Traffic generation
- Litter and dirt
- Hazardous materials
- Parking/turning/road safety

- Loss of privacy
- Loss of natural Light
- Wildlife issues
- Noise nuisance created from the car wash and extended forecourt which would impact on mental well being
- Proposal is too big for the site and is not in keeping with the conservation area
- Resident questions what the proposed use of 1-3 Irish Street going to be, if it becomes residential it will have no amenity space.

This is just a summary of the main points of the objection letters which have been read in full and are available to read on the planning portal.

### **Consideration and Assessment:**

The main issues to consider in the determination of this application are:

- Principle of development
- Access, Road Safety, parking and Circulation
- Design and Appearance
- Residential Amenity
- Other matters

It is important to note the history of the site and in particular R/2012/0103/F which was approved December 2012 which will form a material consideration in the outcome of this planning application. The principle of development for the PFS has already been established through the historic use of the site and the previous planning permissions referred to in the planning history section. The most recent permission reference R/2012/0103/F.

The definition of net retail floorspace is *the area for the sale and display of goods, check-outs, packing zones, circulation space from check outs to exit lobby, fitting rooms and information areas. Net retail floorspace shall be calculated by way of internal measurement to the inner face of the wall.* This being the case the proposed development comprises a replacement retail unit, to be located to the west of the site which includes a new retail unit including retail sales area 517m<sup>2</sup>, sales area 558m<sup>2</sup> with entrance lobby (13m<sup>2</sup>, ATM 6m<sup>2</sup>, customer toilets 12m<sup>2</sup> Ancillary 101m<sup>2</sup> and Back of House (including chillers and freezers) 188m<sup>2</sup>. Thus total Net Retail 571 m<sup>2</sup>, with the total gross floorspace is 913 sqm. The floorspace is under the threshold of 1000 square metres gross external area in terms of requiring a retail impact assessment.

It is important to recognise that many PFS now provide a wide range of retail goods in the associated shop. Many function as the local shop or small supermarket serving the surrounding area. Whilst the important role of such retail provision is recognised, a balance has to be found against impacting on the role and function of other town centres and other existing retailing centres. Therefore, the floorspace proposed for this scheme is acceptable at this location. Suitably worded planning conditions are thus recommended to control the scale of the development to ensure that adverse impacts are not caused at any of the existing retailing centres. It is considered that the principle of development is acceptable given the

established use of the site and the previous planning permissions relating to the planning history.

### **PPS 3 Access, Movement and parking**

The proposal seeks to slightly alter the vehicular existing access arrangement onto Downpatrick Road which will affect the parking layout given the repositioning of the retail unit on the site and the repositioning of the fuel pumps. The proposal will provide a total of 39 car parking spaces of which one is a disabled parking space and another parent and child space immediately adjacent to the shop area. Parking standards for new retail unit including sales and storage equates to 1 space per 14sqm (Gross floor space). 571m<sup>2</sup> Retail + 188M<sup>2</sup> = 54spaces. In order to retain the buildings on Irish street, there was a loss of 3 spaces from the initial proposals. Additional parking is therefore required, however, taking into account the central location of this site within Killyleagh, proximity to public services including bus stops and the twofold role this PFS will provide, and the short term use of parking spaces for a PFS. In addition given that the increase in floorspace in comparison to the existing site is an addition 370m<sup>2</sup>, it is considered that the parking provision is adequate.

A transport Assessment was submitted as part of the proposal with auto tracking. Transport NI have been consulted and offer no objections to the proposal subject to conditions. It is considered therefore the proposal meets the requirements of the relevant policies of PPS 3.

### **Design and Appearance**

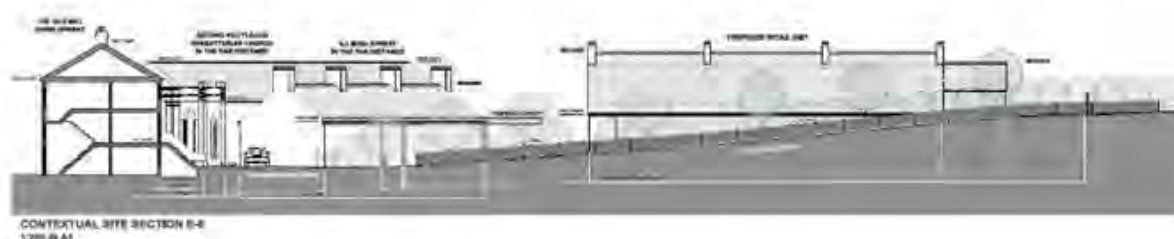
#### **DES 2 – Townscape**

This policy requires development proposals in towns and villages 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. Concern was raised with the agent regarding issues of access, parking, retention of the buildings in Irish Street and the scale and massing of the proposed building. A meeting was held and the subsequent amended plans submitted are the basis of this assessment. The retail unit has a pitched roof with a height of 10.7m with slate roof and natural stone cladding to feature gable wall. The front elevation orientated towards the forecourt is comprised of large tracts of glazing with grey aluminium window frames. Aluminium parapet flashing in dark grey colour, light grey fascia with timber effect boards. The entrance door has a feature red surround. The height of the eaves of the main part of the building is 5.5m. The height of the canopy is 5.4m in height. The design and appearance of the proposed shop and associated canopy are considered acceptable in the context of the existing building on site, which makes little or no material contribution to the character or appearance of the area. In addition, consideration has also been given to what has already been approved on the site in relation to designs of other modern PFSs.

The site at present the existing PFS has no existing landscaping features. A 2.5m retaining wall is proposed directly behind the proposed retail unit increasing to 5.5m directly behind the side stairwell and electrics room. Boundary fencing is proposed to the western perimeter of the site behind the shop, with a 1.1 high galvanised steel railing along the footpath and 1.8m high timber fencing and buffer planting. A variable height retaining wall is proposed along the SE boundary with Downshire View. There is an area to the rear and west of the existing petrol station which is overgrown and underutilised area which contains a number of other vacant buildings. There is a 4m retaining wall proposed along this southern boundary reduced to 2m.

Further to the NE along the boundary with Downshire View a 1.8m retaining wall and a 1.2m high double sided closed boarded fence at the top of a 0.6m smooth concrete dwarf wall on retaining wall, with buffer planting. The boundary with Irish street includes a 0.75 smooth render finish retaining wall with a 1.1m high black steel railing on top. The landscaping as proposed is adequate for the site and its setting.

In terms of the overall layout, relocating the retail unit further to the lands to the west, while maximising the size of the site comes with issues such as a change in levels. The site sections show a gradual retaining wall to a maximum height of 5.5m along this western boundary. The main public view would be when coming from the west into Killyleagh and coming up Catherine Street from the opposite direction. While cutting significantly into the site this has to be weighed against whether the proposal will cause demonstrable harm or impact on the visual amenity and character of the area by doing so. The proposed arrangement is similar to the previous approval which was deemed to be acceptable. On balance the layout arrangement is deemed to be acceptable.



## Residential Amenity

The impact on the local residents also has to be taken into account. Many of the concerns relate to the car wash and the extended forecourt and the impact this will have in terms of noise and nuisance.

On this basis Environmental Health have been consulted with regard to the proposal. A noise impact Assessment report and a photometric report were submitted as part of the proposal. While concerns were expressed by Environmental Health about the proximity of the noise generating activities on the site and their close proximity to adjacent residential property, specifically the location of the delivery area and the jet car wash which may have an adverse impact on the amenity of the residential properties. In order to mitigate this, Environmental Health require the conditions be attached to any planning permission granted, relating to hours of operation and conditions regarding the jetwash. It is noted that the jetwash is in a similar position to the previous approval.

New acoustic timber fencing and a covered canopy over delivery area has been proposed along the boundaries with existing housing to lessen the impact of any noise. EHO have also included a condition relating to the remedial scheme (which overlaps with conditions imposed by NIEA).

It is considered this proposal will not result in any significant increased or unacceptable impact on any adjoining property, or character of the area, due to its design, size and location.

## PPS 6 Planning Archaeology and the Built Heritage

With regard to development in Conservation Areas, Section 104 (11) states that special regard must be had to the desirability of;

- (a)preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise;
- (b)enhancing the character or appearance of that area in cases where an opportunity to do so does arise.

With reference to Conservation areas the SPPS states that 'in managing development within a designated Conservation area the guiding principle is to afford special regard to the desirability of enhancing its character or appearance when an opportunity to do so exists or preserve its character or appearance where an opportunity to enhance does not exist'.

Para 6.19 of the SPPS sets out the criteria which should be applied when determining such development.

As stated above the site is located within the settlement village of Killyleagh, and in the Conservation, Area as identified in the Ards and Down Area Plan 2015.

Initially it was proposed to demolish the existing buildings 1-3 Irish Street, to allow an increased forecourt and car parking. However, concern was raised with the agent and Planning deemed the buildings contributed positively to the Conservation area and requested their retention. An associated Conservation Area Consent application is being considered under LA07/2019/1202/DCA.

HED were consulted on the application given that the proposal impacts on HB18/03/035 - Second Killyleagh Presbyterian Church, Catherine St. Killyleagh, Downpatrick, Co.Down, a Grade B listed building of special architectural or historic interest as set out in Section 80 and protected under the Planning Act (NI) 2011. HED welcomes the retention of 1-3 Irish Street in its entirety and acknowledge the proposal to demolish the modern rear extensions. They consider these buildings contribute positively to the setting of the Listed Building and to the Killyleagh Conservation Area and help screen the proposal from the setting of the listed building. HED (Historic Buildings) considers the proposal now satisfies SPPS 6.12 (Development proposals impacting on Setting of Listed Buildings) of the Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development and BH11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.

As HED no longer comment on Conservation Area Consents, comment on the demolition rests with Council under conservation policy which is Policy BH 14 Demolition in a Conservation Area are relevant to the application of PPS 6.

Policy BH 14 states that 'The Department will normally only permit the demolition of an unlisted building in a conservation area where the building makes no material contribution to the character or appearance of the area. Where conservation area consent for demolition is granted this will normally be conditional on prior agreement for the redevelopment of the site and appropriate arrangements for recording the building before its demolition'.

As stated above in consideration of policy BH14, the buildings at 1-3 Irish Street, at present do contribute to the character of the conservation area and to this part of Killyleagh. The demolition of the rear modern flat roof extensions to the rear of these buildings and the vacant bungalow adjacent to the existing PFS do not make a positive material contribution to the Conservation area and their demolition is considered acceptable.

#### Policy BH 12 New Development in a Conservation Area

Policy BH 12 New Development in a Conservation Area states that the Department will normally only permit development proposals for new buildings, alterations, extensions and changes of use in, or which impact on the setting of, a conservation area where all of the criteria (a) – (g) are met:

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

Paragraph 7.7 of this policy states that the development of new buildings in a conservation area should be a stimulus to imaginative, high quality design, and seen as an opportunity to enhance the area. What is important is not that new buildings should directly imitate earlier styles, rather that they should be designed with respect for their context, as part of a larger whole which has a well-established character and appearance of its own. Therefore, while development of a gap site in a traditional terrace may require a very sensitive design approach to maintain the overall integrity of the area in other cases modern designs sympathetic and complimentary to the existing character of the area may be acceptable.

Although the site is in a central location within the village and is close to the road and visible on both approaches, the scale, form, materials and detailing of the proposed development would respect the characteristics of adjacent buildings. The building to be replaced makes little or no contribution to the Conservation Area. It would also respect the adjacent listed building by retention of the buildings along Irish Street. The development would preserve and enhance the character and appearance of the area and is in sympathy with the characteristic built form of the area. The design and finishes are in keeping with the Conservation area. The development would not result in environmental problems. Important views into and within the area are protected as a result of the proposal. In terms of the PFS that it is replacing, while the scheme is more modern in design, this proposal is deemed to be a betterment and

will not harm the visual setting of the Conservation Area. It is deemed the proposal is acceptable under PPS6.

#### Other matters

As part of the application process DAERA – Regulation Unit were consulted. A Land Contamination Preliminary Risk Assessment (PRA) and Generic Quantitative Risk Assessment (GQRA) Report was provided by WYG Environment and Planning (N.I.) Limited (WYG) in support of the application. The WYG report is informed by intrusive site data and also includes a Detailed Remediation Strategy. WYG conclude that marginally impacted groundwater (TPH's and PAH's) was observed in the tank farm area during groundwater monitoring, however, it is not considered by WYG that this will impact on environmental receptors. Based on the information provided the Land & Groundwater Team within the RU would have no objections to the development subject to conditions and informatives on the decision notice.

It is noted that signage is proposed, however, these matters do not form part of the consideration of this application as they are subject to the planning (Control of Advertisements) Regulations (Northern Ireland) 2015. Should the application be approved this can be dealt with by an informative.

#### Conclusion

Taking into account the existing PFS on site, the history on the site and previous approval, responses from consultees and all objections from interested third parties, determining weight is not afforded to the letters of objection, the proposal is considered to comply with relevant planning policies and it is recommended that the application be approved subject to conditions.

#### **Recommendation:**

##### Approval

The Drawings upon which this approval is based are as follows:

Site location Plan – 01  
 Existing topographical survey - 02A  
 Proposed Site plan - 03U2  
 Proposed GF & FF floorplans – 04E  
 Elevation 1 - 05H  
 Elevations 2 - 06H  
 Demolitions site Plan - 07B  
 Fuel canopy and Jet wash details - 09  
 Site Sections - 10  
 Contextual Elevations/ Sections - 11B  
 Drainage layout Plan - W010-P04  
 Private Streets Drawing - 19-138-C10

WYG Contaminated Land Risk Assessment – (Remediation Strategy) (dated October 2019 reference A114893)

### Conditions:

1. As required by Section 61 of the Planning (Northern Ireland) Act 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. The development hereby permitted shall take place in strict accordance with the following approved plans: 01, 02A, 03U2, 04E, 05H, 06H, 07B, 09, 10, 11B, W010-P04, 19-138-C10.

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. 19-138-C10.

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 visibility splays of 2.4 metres by 33 metres at the junction of the proposed (access/access road) with the public road, shall be provided in accordance with Drawing No 19-138-C10, prior to the commencement of any other works or other development.

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

5. The development hereby permitted shall not be commenced until any retaining wall requiring Technical Approval, as specified in the Roads (NI) Order 1993, has been approved and constructed in accordance with BD2 Technical Approval of Highways Structures : Volume 1: Design Manual for Roads and Bridges.

Reason: To ensure that the structure is designed and constructed in accordance with BD2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges.

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

Reason: Road safety and convenience of traffic and pedestrians.

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

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

8. The gross floor space hereby permitted shall not exceed 913 square metres when measured internally.

Reason: To control the nature range and scale of commercial activity carried out at this location.

9. The net retail floor space hereby permitted shall not exceed 571 square metres when measured internally. This approved net retail floor space shall be used only for the retail sale and ancillary storage of the items listed here under and for no other purposes, in Class A1 of the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015.

- a) Food and drink;
- b) Tobacco, newspapers, magazines and confectionary;
- c) stationary and paper goods;
- d) Toilet requisites and cosmetics, household cleaning materials; and
- e) other retail goods as may be determined in writing by the Council as generally falling within the category of (convenience goods).

Reason: To control the nature, range and scale of commercial activity to be carried out at this location and to ensure compliance with the SPPS's objectives and policies for retailing and town centres.

10. No internal operations including installation/extension of mezzanine floors shall be carried out to increase floor space available for retail use without prior written consent of the Council.

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

11. The retail unit hereby approved shall not be sub divided or otherwise modified to create additional units without the prior written approval of the Council.

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

12. The petrol filling station hereby approved shall not be used for the sale, display or repair of vehicles.

Reason: To protect the character and appearance of the area and in order to ensure the amenities of the nearby residents are not affected.

13. The development hereby permitted shall not become operational until hard surfaced areas have been constructed in accordance with the approved drawings to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any other purpose at any time other than for the parking and movement of vehicles.

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

14. The development hereby permitted shall not be occupied until the remediation measures as described in the WYG Remediation Strategy (dated October 2019 reference A114893) have been implemented to the satisfaction of the Planning Authority. The Planning Authority must be given 2 weeks written notification prior to the commencement of remediation works in order to inform the NIEA Land and Groundwater Team.

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

15. Evidence must be presented in a Verification Report that all fuel storage tanks (and associated infra-structure) have been fully decommissioned in line with current Guidance for Pollution prevention (GPP 2) and the Pollution Prevention Guidance (PPG27) and the quality of surrounding soils and groundwater has been verified. Should any additional contamination be identified during this process, Conditions 17 and 18 will apply.

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

16. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance, as applicable. In the event of unacceptable risks being identified, a Remediation Strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction. This strategy should be completed by competent

persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance, as applicable.

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

17. After completing the remediation works under Conditions 14,15 and 16 and prior to occupation of the development, a Verification Report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11) and/or the Land Contamination: Risk Management (LCRM) guidance, as applicable. The Verification Report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

18. The development hereby approved shall not be operational outside the following times:- 06.00 – 23.00 hours.

Reason: To safeguard the living conditions of residents in nearby properties.

19. No deliveries, collection of goods or services including refuse and fuel shall be taken at the premises between the hours of 21:00 and 07:00 daily.

Reason: To safeguard the living conditions of residents in nearby properties.

20. No moving of roll cages in the delivery area before 07:00 and not after 21:00 hours daily.

Reason: To safeguard the living conditions of residents in nearby properties.

21. The jet car wash shall be enclosed sufficiently to prevent any water spray leaving the boundary of the premises.

Reason: To safeguard the living conditions of residents in nearby properties.

22. The jet car wash and air/water/vacuum units shall not be used between the hours of 21:00 and 07:00 daily. (subject to confirmation by EHO)

Reason: To safeguard the living conditions of residents in nearby properties.

23. Floodlighting on the site shall be in accordance with light limitations for a Zone E3 as per ILP (Institute of Lighting Professionals) guidance.

Reason: To safeguard the living conditions of residents in nearby properties.

24. All close lapped fencing around the perimeter of the site as identified on site layout drawing No 03U2, shall be erected with no gaps and shall be retained as such.

Reason: To safeguard the living conditions of residents in nearby properties.

25. No construction to be made, trees planted or other obstruction made within 3m (or 1.5 times the depth whichever is greater) of sewers, or a diversion may be necessary.

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

26. The drainage for the vehicle wash area must be constructed in line with the agreed drainage plan W010-P04.

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

27. The storm water/foul sewage drainage infrastructure on site must be designed to the specifications as detailed within Drawing No. W-010 P04, Full Drainage Layout Plan, and adhered to throughout the operational phase.

Reason: To prevent any adverse impact to Strangford Lough Ramsar/SPA/SAC and North Channel SAC from construction or operational activities of the proposal.

28. Prior to any discharge to the storm drains on site, any surface water generated during the construction phase of the development must first pass through appropriate treatment, such as silt socks.

Reason: To prevent any adverse impact to Strangford Lough Ramsar/SPA/SAC and North Channel SAC from construction or operational activities of the proposal.

29. A suitable and clearly defined buffer of at least 10 metres must be maintained between the location of construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery /material/spoil etc. and the existing storm drains on site.

Reason: To prevent any adverse impact to Strangford Lough Ramsar/SPA/SAC and North Channel SAC from construction or operational activities of the proposal.

30. If during the development works, new contamination and risks are encountered which has not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Planning Authority and NIEA Land, Soil and Air in writing and subsequently implemented to its satisfaction.

Reason: To prevent any adverse impact to Strangford Lough Ramsar/SPA/SAC and North Channel SAC from construction or operational activities of the proposal.

### Informatives

1. The purpose of the Conditions 14 to 18 is to ensure that any site risk assessment and remediation work is undertaken to a standard that enables safe development and enduse of the site such that it would not be determined as contaminated land under the forthcoming Contaminated Land legislation i.e. Part 3 of the Waste and Contaminated Land Order (NI) 1997. It remains the responsibility of the developer to undertake and demonstrate that the works have been effective in managing all risks. Land, Soil & Air

2. RU recommends that the applicant consult with the Water Management Unit in NIEA regarding any potential dewatering that may be required during the development including the need for a discharge consent. Discharged waters should meet appropriate discharge consent conditions. Further information can be obtained from: <https://www.daera-ni.gov.uk/articles/regulating-water-discharges>

3. The applicant should ensure that the management of all waste materials onto and off this site are suitably authorized through the Waste and Contaminated Land (Northern Ireland) Order 1997, the Waste Management Licensing Regulations (Northern Ireland) 2003 and the Water Order (Northern Ireland) 1999. Further information can be obtained from: <https://www.daera-ni.gov.uk/articles/waste-management-licensing> <https://www.daera-ni.gov.uk/topics/waste/waste-management-licensing-exemptions>

4. The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

5. Separate approval must be received from DFI Roads Service in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.

6. Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from Roads Service's Street Lighting Consultancy, Benson Street, Lisburn. The Applicant is advised to contact Roads Service, Street Lighting Section at an early stage. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets (Northern Ireland) 198.

7. It is a DFI Roads Service requirement that all structures which fall within the scope of the current version of DB 2 Technical approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges shall require Technical Approval. Details shall be submitted to the Technical Approval Authority through the relevant Division.

8. The development shall not be (commenced) until a Certificate issued by a Chartered Structural Engineer certifying that the structure has been designed in accordance with the relevant standards and guidance, has been submitted to and accepted by DFI Roads. The certificate should state:

"I/We certify all reasonable professional skill and care has been used in the design & check of the above named structure in accordance with the following design standards and advice notes"

9. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc, deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

10. Geotechnical activities which require Geotechnical Certification shall be submitted to Engineering Policy and Parking Services through the relevant Division. Geotechnical Certification shall be in accordance with the Department for Infrastructure Development's Geotechnical Certification procedures as laid down in the current version of HD 22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges.

11. Statutory water regulations are in force, which are designed to protect public water supplies against contamination, undue consumption and misuse. All internal plumbing installation must comply with the current Water Supply (Water Fittings) Regulations (Northern Ireland). Applicants should contact NI Water's Water Fittings Regulations team via [waterline@niwater.com](mailto:waterline@niwater.com) if they have any queries.

12. Water Management Unit notes the intention to direct surface water drainage from the forecourt and vehicle parking areas to a storm sewer via an oil interceptor. Discharge consent under the terms of the Water (NI) Order 1999 will be required for the discharge of intercepted site drainage from the proposed development.

However, the applicant should be aware that there is no guarantee that discharge consent will be granted, as a number of site-specific factors need to be taken into account in assessing the suitability of the proposed means of effluent disposal.

Given the above points Water Management Unit would advise the applicant to contact the Water Regulation Team (on 028 9262 3157 or at [industrialconsents@daera-ni.gov.uk](mailto:industrialconsents@daera-ni.gov.uk)) at their very earliest convenience to discuss the matter.

13. Care will need to be taken to ensure that polluting discharges do not occur during the demolition, construction and operational phases of this development. The applicant should consult Pollution Prevention Guideline (PPG) 03 - Use and design of oil separators in surface water drainage systems, for further advice regarding the installation and maintenance of oil interceptors/separators which can be found at the link given below.

[http://www.netregs.org.uk/library\\_of\\_topics/pollution\\_prevention\\_guides/all\\_ppgs.asp](http://www.netregs.org.uk/library_of_topics/pollution_prevention_guides/all_ppgs.asp)

x

The applicant must refer and adhere to the relevant precepts in DAERA Standing Advice on Pollution Prevention Guidance, paying particular attention to where further information can be found regarding oil storage, incident response (dealing with spills), safe storage – drums and intermediate bulk containers, and the use of oil separators in surface water systems (including the restrictions due to use of detergents).

14. Wash water from vehicle washes, especially those using detergents/vehicle wash formulations, has the potential to pollute waterways and groundwater as it is likely to contain a mixture of detergents, dirt particles, organic matter and oil residues. The vehicle washing must take place in the designated area where the surface is impermeable and the drainage leads to the NIW foul/combined sewer. The applicant should note that this may require a trade consent from NIW. The applicant must refer and adhere to all the relevant precepts contained in Standing Advice on Vehicle Washing.

15. Care should be taken to ensure that only clean surface water is discharged to the nearby water environment. Water Management Unit recommends the applicant refers and (where applicable) adheres to the precepts contained in DAERA Standing Advice on Sustainable Drainage Systems for contaminated land or brownfield sites in order to minimise the polluting effects of storm water on waterways. The applicant should note discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment and may be required

for the disposal of contaminated surface water during the construction phase of the development. Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications. The applicant should refer to DAERA Standing Advice on Discharges to the Water Environment.

16. If the development includes excavation or relocation of any underground structures (e.g. tanks), then depending on the geological setting, the potential exists for the water table to be encountered during these works. If water is encountered, an appropriate abstraction/impoundment licence under the Water Abstraction and Impoundment (Licensing) Regulations (NI) 2006 and consent to discharge under the Water (NI)

Order 1999 may be required from Water Management Unit. The applicant should refer to DAERA Standing Advice on Abstractions and Impoundments and Discharges to the Water Environment. If decommissioning of any covered tanks is required, then PPG27: Installation, Decommissioning and Removal of Underground Storage Tanks should be considered, at: [http://www.netregs.org.uk/library\\_of\\_topics/pollution\\_prevention\\_guides/all\\_ppgs.aspx](http://www.netregs.org.uk/library_of_topics/pollution_prevention_guides/all_ppgs.aspx) All DAERA Standing Advice is available at: <https://www.daera.gov.uk/publications/standing-advice-development-may-have-effect-water-environmentincluding-groundwater-and-fisheries> All commercial kitchen facilities associated with this development should have a suitable, properly maintained grease trap on their effluent pipes.

17. The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment. The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

18. The applicant shall have full regard to all relevant and current guidance and standards during the remediation and validation processes and shall incorporate such detail within any report submissions required to be submitted for prior approval by Planning Office (in consultation with the Environmental Health of Newry, Mourne and Down District Council).

**19. BATS (all species)**

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

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

or

- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works should cease immediately

and further advice sought from the Wildlife Team, Northern Ireland Environment Agency,

Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 0289056 9558 or 028 9056 9557.

**20. BADGER**

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

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

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

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

## 21. ALL BIRDS

The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

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

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

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1<sup>st</sup> March and 31<sup>st</sup> August.

## 22. Pollution Prevention Guidelines

The applicant should comply with all the relevant Pollution Prevention Guidelines in order to

minimise the impact of the project on the environment, paying particular attention to: PPGs 1 – 10, PPG 12-14, PPG 17-22, PPG 24-28

These PPG's can be accessed by visiting the NetRegs website at:

<http://www.netregs.org.uk>

## 23. Archaeology & Built Heritage

- Planning Act (Northern Ireland) 2011
- Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage.
- Strategic Planning Policy Statement for Northern Ireland (SPPS) – Planning for Sustainable Development.
- BS 7913:2013 Guide to the conservation of historic buildings

- Consultation Guide - *A guide to consulting HED on development management applications* - <https://www.communities-ni.gov.uk/publications/guide-consulting-hed-developmentmanagement-applications-and-guidance-listed-building-consent>
- ICOMOS XI'AN Declaration on the Conservation of the Setting of Heritage Structures, Sites and Areas.
- HED Setting Guidance, Feb 2018 <https://www.communitiesni.gov.uk/sites/default/files/publications/communities/guidance-on-setting-and-the-historicenvironment.pdf>
  - Please also see HED guidance <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/our-planningservices-and-standards-framework.pdf>

24. This approval does not apply to any signs or advertising material which the developer or occupier may wish to erect at the premises.
25. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
26. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

Case Officer                      C Moane

Date                                      15/10/2020

Appointed Officer              Annette McAlarney

Date                                      16 October 2020



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2020/0440/F

**Date Received:** 11.03.2020

**Proposal:** Change of use from offices on first and second floor to two apartments

**Location:** The application site is The McGrath Centre, 1 Margaret Street, Newry

**Site Characteristics & Area Characteristics:**

The application site is currently occupied by Newry Mourne and Down District Council as office space (use class B1). The building is three storeys and finished in smooth render with roller shutters on the ground floor shop units. There are a variety of commercial businesses and uses in the area including hairdressers, café, casino, shops, restaurant, offices and public house. The application site is located within Newry Conservation Area and Area of Archaeological Potential. The site is within the development limit of Newry, Newry City Centre and Newry Primary Retail Core.



Image 1 Application Site

**Site History:**

P/1991/0877	Change of use from store to restaurant. Permission granted
P/1988/0542	Conversion of Library to Community Centre, Offices and Shop. Permission granted

P/1987/6023      Change of use from library to Community Facilities Old Library  
Margaret Street Newry. Preliminary enquiry

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

- The Banbridge, Newry and Mourne Area Plan 2015
- The 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 Environment
- Planning Policy Statement 7 Quality Residential Environments
- PPS7 Addendum – Safeguarding the Character of Established Residential Area
- PPS 12 – Housing in Settlements
- PPS 15 – Planning and Flood Risk
- DCAN 8 – Housing in Existing Urban Areas
- DCAN 11 – Access for People with Disabilities
- DCAN 15 – Vehicular Access Standards
- Living Places Urban Stewardship and Design Guide
- Newry Conservation Area (DOE NI) 1992

### **Consultations:**

DFI Roads	No objection (notes on file)
Environmental Health	No objection subject to conditions
NI Water	Existing connection in situ
Rivers Agency	No objection

### **Objections & Representations**

Twenty-five neighbour notifications were issued on 5 May 2020, amended plans were received and neighbours were re-notified on 13 May 2020. The application was advertised in the local press on 5 May 2020 and re-advertised on 26 May 2020. No third party representations were received.

### **Consideration and Assessment:**

#### **Regional Development Strategy 2035**

RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide more high quality accessible housing within existing urban areas without causing unacceptable damage to the local character and environmental quality or residential amenity of these areas. The principle of apartments on this site within the urban footprint is therefore in line with the regional housing policy of the RDS.

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

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area

Plan 2015 as the Council has not yet adopted a LDP. The site is located within the development limits of Newry, Newry City Centre (NY 75), Newry Conservation Area (CA 01), Newry Primary Retail Core and Area of Archaeological Potential (APP 01). I consider that the proposed change of use to a residential use will enhance the retail offering in Newry City Centre, contributing to the vitality and viability of the City Centre.

### PPS12 Housing in Settlements

The SPPS also addresses housing in settlements. It repeats the planning control principles listed in PPS12. The proposal complies with these as follows:

- PCP1 *increased housing density without town cramming* – the proposal will increase the housing density in this area without erosion of local character, environmental quality or amenity. The design draws maintains the characteristics of the local area.
- PCP2 *sustainable forms of development* – the use of sites like this within the urban footprint is more sustainable than one-off housing developments outside development limits and is therefore encouraged. There are local facilities and services available in the city centre at walking distance from the site.
- PCP3 *good design* – The design of the scheme successfully respects the context of the area and follows local traditions of form, materials and detailing, while taking advantage of the site characteristics.
- PCP4 *balanced communities* – the residential element is small scale and therefore it is not considered necessary to provide various apartment sizes. The developer will not be required by condition to provide any social housing as the proposed residential element is small scale.

### PPS7 – Quality Residential Environments

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 proposal meets the 9 tests of policy QD1 (a to i):

- a) Its scale is in keeping with the context of the area including both Margaret Street, The Mall and Hill Street, where low to medium rise development is prevalent;
- b) The proposal will not jeopardise any existing built heritage features/
- c) The scale of site and proposal do not require Public Open space provision as set out by PPS8 Policy OS2. In terms of private open space provision, 'Creating Places' sets out the standards for apartment developments, with 10-30m<sup>2</sup> per unit in the form of private communal open space (either landscaped areas, courtyards, roof gardens.) The proposed plans do not indicate a communal open space area. However I consider, the overall site is positioned near wider public open space provision namely Newry Canal Walkway and Hill Street public realm provisions. In the context of the Conservation Area and the detrimental impact balconies would have upon the surrounding character and having regard to the overall regeneration

benefits of the proposal, flexibility in the level of private amenity space provision is deemed acceptable and the proposal should not be refused on this basis.

- d) Given the scale of proposal, the developer should not be required to provide any local neighbourhood facilities as part of the overall development.
- e) The site is well served by pedestrian links to the wider area. It is within walking and cycling distance of local services and facilities. These should be to acceptable standards as set out in Annex B of DOE Parking Standards.
- f) In accordance with DOE Parking Standards, 2 vehicle spaces are required to support the residential element of the proposal. PPS3 Policy AMP7 states a reduced level of parking provision may be acceptable in five circumstances. It is accepted this proposal meets the second and third exceptions in that the development is in a highly acceptable location well served by public transport and the agent has demonstrated the development would benefit from spare capacity in nearby public car parks and on-street parking.
- g) The proposed materials whilst in general accordance with PPS 6 Policy BH11 requirements. The proposed design is considered to draw upon local traditions of form, materials and detailing and does not appear to conflict with Policy DGN1 of BNMAP.
- h) This scheme presents an opportunity to enhance the character and appearance of the Newry Conservation Area, as noted in paragraph 6.18 of the SPPS and Section 104 of the Planning Act (Northern Ireland) 2011. The overarching requirement to enhance the character of the area is a higher test than under PPS6, however, the remainder of the retained policy BH12 will be applied. The design of the scheme meets the requirements of policy BH12 and the Conservation Area booklet for new development within the Conservation Area. It will maintain the character of the designated area as no elevational changes are proposed on the frontage of Hill Street or Margaret Street. Environmental concerns such as noise or air pollution have been addressed: The proposal will not harm views within, into and out of the conservation area and there will be no loss of trees. It is in keeping with the general thrust of the conservation area booklet to enhance the character of the area. The proposed design and layout relates satisfactorily to its urban setting. The proposal is not contrary to the ten desirable qualities for the urban environment identified in Living Places. The design and layout have taken consideration of surrounding adjacent land uses and should not conflict with them. The operational restrictions of the retail units will be addressed via a negative condition to ensure the amenity of adjoining and surrounding residents is protected.
- i) Residential units are designed with frontage onto Hill Street and Margaret Street, creating an informal surveillance in this area to help deter crime.

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

- Policy LC1– Protecting Local Character, Environmental Quality and Residential Amenity. The minimum space standards specified in Policy LC1 of this Addendum do not apply in designated city centres, as set out in Annex E.
- Policy LC2 – Conversion of use of existing buildings to flats or apartments. This

proposal involves a change of use of offices on the first & second floor of 1 Margaret Street, Newry to two apartments. In addition to the requirements of PPS7, LC2 sets out five additional criteria (A to E) to be met, these are considered below:

- a) The proposal will not create an adverse effect on local character, environmental quality or residential amenity of the surrounding area (subject to conditions being met);
- b) The proposal will enhance the form, character and setting of the existing building;
- c) The original property exceeds 150m<sup>2</sup> gross internal floor space.
- d) All apartments proposed are self-contained;
- e) The apartments have dual frontage on to Hill Street and Margaret Street. I consider this is acceptable as the development does not contain any apartment which is wholly in the rear of the property and without access to the public street.

### **Design**

The SPPS sets out core planning principles to achieve sustainable development. Of particular relevance to this application are the aims of supporting good design and positive place making while preserving and improving the built and natural environment. The design of the scheme will maintain the appearance of the Newry Conservation Area both along Hill Street and Margaret Street. There is no change to the elevations, I consider this acceptable as it maintains the special character of the area.

### **PPS15 - Planning and Flood Risk**

Polices FLD1 and FLD5 apply:

- FLD1 – The site lies within the 1 in 100 year fluvial of the Newry River. It is deemed to meet the replacement exception met, Rivers Agency are satisfied with the content of the Flood Risk Assessment and associated information;
- FLD5 - The site falls within an area of inundation from Camlough lake as per the Controlled Reservoir Development Planning Flood Map. DfI River's PAU deem the proposal not to result in any material increase in flood risk to the development or elsewhere.

### **Access**

There are no changes to the existing access points. DfI Roads raise no objections to this.

**Recommendation:** Approval

### **Conditions:**

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

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

The development hereby permitted shall take place in strict accordance with the following approved plans: 01-14 date stamped received 11 March 2020 and drawing 15 date stamped received 3 July 2020.

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

A mechanical ventilation system shall be installed in order to provide alternative means of primary ventilation. The ventilation intake shall be located at the furthest position away from the Boulevard Restaurant's extraction duct, and at the highest possible position to the rear of the building in order to draw air from above the duct to minimise odour impact to future occupants.

Reason: In the interests of amenity

An additional layer of acoustic plasterboard to be applied to the party between the proposed apartments and the Cobbles Bar, to minimise noise disturbance to future occupants.

Reason: In the interests of amenity

Sufficient outdoor space for 3 bins per household (6 in total for application) shall be provided.

Reason: In the interests of amenity.

Bins shall be stored in accordance with drawing 15 date stamped 3 July 2020.

Reason: In the interests of amenity.

<b>Case Officer Signature: C McCoy</b>
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<b>Date: 2 November 2020</b>
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<b>Authorised Officer Signature: M Keane</b>
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<b>Date: 02-11-2020</b>
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Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2020/0313/F

**Date Received:** 21.02.2020

**Proposal:** Environmental improvements to include: New granite kerbs, trims and ditched channels, asphalt footpath with stone chippings, new street lighting and removal of overhead wires

**Location:** Dundalk Street from 42 Dundalk Street the Cosy Bar to 56 Dundalk Street, Dundalk Street from 43 Dundalk Street to 55 Dundalk Street, Newtownhamilton

**Site Characteristics & Area Characteristics:**

The site includes both sides of a section of the main street in the town of Newtownhamilton. The area which comprises primarily residential dwellings also includes commercial premises. The site is located within the designated Town Centre, Settlement Limit of Newtownhamilton and an Area of Archaeological Potential. A number of Listed Buildings are notable adjacent the proposed site.

**Site History:**

P/2007/1584/F

Environmental improvements to existing streetscape to include parking, hard and soft landscaping.

Permission Granted: 10.03.2008

**Planning Policies & Material Considerations:**

SPPS – Strategic Planning Policy Statement for Northern Ireland

Banbridge Newry and Mourne Area Plan 2015

Planning Strategy for Rural Northern Ireland (PSRNI) – DES 2.

PPS 6 – Planning, Archaeology and the Built Heritage

PPS 3 – Parking, Access and Movement.

**Consultations**

Transport NI – No objections

Historic Environment Division – Following receipt of revised plans HED are content the proposal satisfies the policy provisions of PPS 6 and the SPPS.

**Objections & Representations**

15 neighbours notified on 02.03.2020 and the application was advertised in press on 11.03.2020. No objections or representations received.

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

The site is located within Town Centre boundary and the Settlement Limit for Newtownhamilton. The proposal does not conflict with any of the policy criteria contained within the Area Plan / SPPS and in fact supplements the general thrust of improving and making the area a vibrant location.

**DES 2 PSRNI / PPS 3**

The proposed improvements will help to improve the character and appearance of the area as a whole. It is considered that the proposed environmental improvement scheme will make a positive contribution to the townscape of Newtownhamilton and that it is sensitive to the surrounding area in accordance with policy DES 2 of PSRNI. The proposed materials to be used are considered acceptable and will not impact on the character or appearance of the area and instead improve upon the existing infrastructure and street furniture.

DFI Roads were consulted with regards to the proposed development and has since responded confirming it has no objections to the proposal. The proposal is general compliance with PPS 3.

**PPS 6 / SPPS**

Historic Environment Division were consulted with regard to adjacent Listed Buildings surrounding the application site. Following additional plans, the Department has since confirmed it is content the proposal is in compliance with PPS 6 / SPPS.

**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: 01I, 02, 03, EL-03, EL-03 REV P1 and C203 REV C3.

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

**Case Officer: Ashley Donaldson 03.11.2020**

**Authorised Officer: Andrew Davidson 03.11.2020**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2020/0760/F

**Date Received:** 12.03.2020

**Proposal:** 2 storey rear extension to dwelling

**Location:** 47 Bearn Park, Meigh, BT35 8TP

**Site Characteristics & Area Characteristics:**

The site includes a mid-terraced two storey dwelling situated in the Bearn Park housing development situated off the main Forkhill Road, Meigh. The extension that was approved under LA07/2019/0099/F appeared practically completed at the time of my site visit.

**Site History:**

LA07/2019/0099/F

2 storey rear extension to dwelling

Permission Granted: 08.03.2019

LA07/2018/0974/F

2 storey rear extension to dwelling, comprising new family bathroom to ground floor and wheelchair bedroom to first floor

Permission Refused: 12.09.2018

LA07/2017/1621/F

Proposed single storey rear extension as well as new ramped access to the front of the dwelling

Permission Refused: 08.02.2018

**Planning Policies & Material Considerations:**

Banbridge Newry and Mourne Area Plan 2015

Addendum to Planning Policy Statement 7

Planning Policy Statement 2

**Consultations:**

N/A

**Objections & Representations**

2 neighbours re-notified on 31.07.2020 to reflect further information received from the agent and the application was advertised on 30.06.2020— no representations/objections received.

**Consideration and Assessment:**

Policy EXT 1 of the Addendum to Planning Policy Statement 7 is applicable for all residential extensions. The alterations are subordinate to the existing property and the design is acceptable. The finishes are noted to match the existing which is in compliance with policy.

The proposal will not affect the privacy of the adjoining neighbours as there are no windows proposed on either side of the extension which is proposed to be a lift shaft. I consider on balance that the proposal will not contribute to dominance because it is set back from the boundary on both sides and only includes a modest extension to the newly built extension. It would be unreasonable to attribute the extant existing extension not contributing to dominance and the proposed addition to now contribute to dominance.

Drawing No. 05 as submitted by the agent shows the proposed extension in relation to the light assessment. You can see from this drawing that the proposal fails the light test to both properties, either side of the subject dwelling and shows how the downstairs windows would be adversely impacted. These areas would also be overshadowed by the extension, if permitted. This is likely to be more critical for the property at No.46 as it sits north of the site. Whilst the agent was made aware of this and asked to reduce the development, he advised he would continue with the application, as submitted.

The special circumstances have been considered as part of the application, however given the detrimental impact on the existing properties is significant, these circumstances do not outweigh the negative impact the proposal would have, if permitted. It is my assessment that the previous approval which included an internal lift shaft struck the right balance between the needs of the applicant and safeguarding neighbouring amenity on what is an arguably restrictive site.

It is therefore my conclusion that the proposal is contrary to part (b) of policy Ext 1 in that the proposal would impact the amenity of the neighbouring properties by way of overshadowing and loss of light.

The proposal will not cause unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality and there is sufficient space remaining within the curtilage for recreational and domestic purposes.

As the proposal is within the Ring of Gullion AONB policy NH 6 Of Planning Policy Statement 2 is applicable. The proposal is not considered to have a detrimental impact on the AONB due to the limited views of the proposal.

**Recommendation:**  
Refusal

**Reason:**

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and policy EXT1 (b) of the Addendum to the Planning Policy Statement 7 in that the proposal would, if permitted, unduly affect the amenity of the neighbouring residents.

**Case Officer: Ashley Donaldson 08/10/2020**

**Authorised Officer: Andrew Davidson 08/10/2020**

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

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

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

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

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	and 58 Edenappa Road, Jonesborough				
		<b>PLANNING COMMITTEE MEETING – 24 JULY 2019</b>			
LA07/2018/1787/F	Proposed extension to existing Materials Recovery Facility Building – 23 Downpatrick Road, Killough	<b>Defer this application, which the Committee agreed was an exception under FLD 1, and refer the completed Flood Risk Assessment to Rivers Agency to be reviewed.</b>	A McAlarney	<b>Application to come back to Committee</b>  <b>Under consideration.</b>	N
		<b>PLANNING COMMITTEE MEETING – 17 SEPTEMBER 2019</b>			
LA07/2018/0860/F	Proposed replacement dwelling (amended drawings) – 45 metres NE of No. 14 Rath Road, Clonallon Glebe tb Warrenpoint	<b>Defer for further discussion between Planning Officers and agent/applicant – additional information to be provided</b>	M Keane	<b>Remains under consideration</b>	N
		<b>PLANNING COMMITTEE MEETING – 16 OCTOBER 2019</b>			
LA07/2019/0773/0	Dwelling – to rear of 71 Church Street, Downpatrick	<b>Withdraw from the addendum list for a meeting with Planners, applicant and agent</b>	A McAlarney	<b>Meeting to be convened with CPO and Agent/applicant</b>	N
<b>PLANNING COMMITTEE MEETING 8 JANUARY 2020</b>					
LA07/2019/1221/F	Proposed guest house tourist accommodation and associated	<b>Defer for site visit and further discussion to take place with</b>	A McAlarney	<b>Withdrawn from February agenda for</b>	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	site works – land 10m NW of 180 Tullybrannigan Road, Newcastle	<b>applicant, agent and Planners re: correct planning category for the proposal. Traffic survey to be submitted and evidence that 2 x 45m sight visibility splays were achievable and within the control of the applicant</b>		<p><b>more work to be done on the proposal</b>  <b>Agent has submitted additional info.</b>  <b>Application is under consideration.</b></p> <p><b>Application on schedule for October 2020 Meeting</b></p> <p><b>Application on schedule for November 2020 Meeting</b></p>	
<b>PLANNING COMMITTEE MEETING 11 MARCH 2020</b>					
LA07/2019/1644/0	Replacement dwelling – lands at and located to the west of 24 Crabtree Road, Ballynahinch	<p><b>Defer for agent to consult with applicant if they would be prepared to extend the curtilage to the rear of the existing building to accommodate a replacement dwelling.</b></p> <p><b>Officers to then issue the decision under delegated authority</b></p>	A McAlarney	<p><b>Awaiting Agent to provide timeframe for submission of Info.</b></p> <p><b>Agent has advised that info will not be submitted and to proceed with the application as is.</b></p>	Y

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				<b>Application refused.</b>	
				<b>Concluded</b>	
LA07/2019/1455/F	New access to dwelling in substitution to that approved under planning ref: LA07/2018/0118/F – 30m SE of 8 Outlacken Road, Belleeks, Newry	<b>Defer for further discussions and agent/applicant to provide evidence to show that the former approved existing access is no longer available to the applicant and that under Policy an alternative access can be granted</b>	A Davidson	<b>Remains under consideration. New agent on application.</b>	N
LA07/2019/1551/0	Proposed 1 ½ storey dwelling and garage – immediately east of 15 Mill Road, Hilltown	<b>Defer for further investigation regarding status of the buildings on site and farm ownership and take back to Committee for decision</b>	M Keane	<b>Application has been reconsidered following receipt of add info, and is now rec for Approval. Going to Nov PI C</b>	Y
<b>PLANNING COMMITTEE MEETING 1 JULY 2020</b>					
LA07/2019/1279/F	New access and laneway to serve dwellings 27, 29 and 31 Islandmoyle Road – lands adjacent to 27 Islandmoyole Road, Cabra, Newry	<b>Defer for a site visit</b>	M Keane	<b>Site visit held 04-09-2020 Add info now received. Return to Nov PI C with Rec of Refusal</b>	N
<b>PLANNING COMMITTEE MEETING 26 AUGUST 2020</b>					

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
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>Agent has not submitted any new information to date</b>	
LA07/2019/1087/0	Replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar	<b>Removed from the agenda as agent unable to attend</b>	A McAlarney		
LA07/2019/1134/0	Replacement dwelling - 90 Manse Road, Darraghcross, Crossgar	<b>Removed from the agenda as agent unable to attend</b>	A McAlarney		
LA07/2019/0329	Dwelling and garage - approx 60m south of 144 Loughinisland Road, Downpatrick	<b>Removed from the agenda as agent unable to attend</b>	A McAlarney		
<b>PLANNING COMMITTEE MEETING 23 SEPTEMBER 2020</b>					
LA07/2020/0176/F	Proposed rural infill detached dwelling and garage – 45m north of 5 Molly Road Lower, Jonesborough	<b>Defer for 3 months to allow time for the garage to the north of the proposed site to be built and then application to be re-considered</b>	A Davidson		
<b>PLANNING COMMITTEE MEETING 21 OCTOBER 2020</b>					

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
P/2013/0189/F	Sports Complex to include 1 no full size pitch, club house, floodlighting and private entrance onto Warrenpoint Road, and all associated site works	<b>Removed from the agenda at the request of Councillor Doran</b>	J McParland	<b>Amended scheme submitted. Out to Consultation.</b>	N
LA07/2020/0492/F	Proposed infill dwelling 40 m NW of 100 Kilbroney Road, Rostrevor	<b>Defer for a site visit</b>	M Keane	<b>Site visit held 2<sup>nd</sup> Nov. Return to Nov PI C</b>	

## Newry, Mourne & Down District Council – October 2020

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### 1. Live Applications

MONTH 2020/21	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
March, April & May	338	989	242
June	164	965	232
July	175	1,002	241
August	165	1,038	231
September	192	1,046	233
October	179	1,082	234

### 2. Live Applications by length of time in system

Month 2020/21	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
May	540	207	103	43	96	989
June	562	171	101	40	91	965
July	587	174	105	44	92	1,002
August	598	209	93	51	87	1,038
September	613	200	89	49	95	1,046
October	655	193	89	44	101	1,082

### 3. Live applications per Case Officer

Month 2020/21	Average number of Applications per Case Officer
May	53
June	66
July	68
August	71
September	71
October	74

## Newry, Mourne & Down District Council – October 2020

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### 4. Decisions issued per month

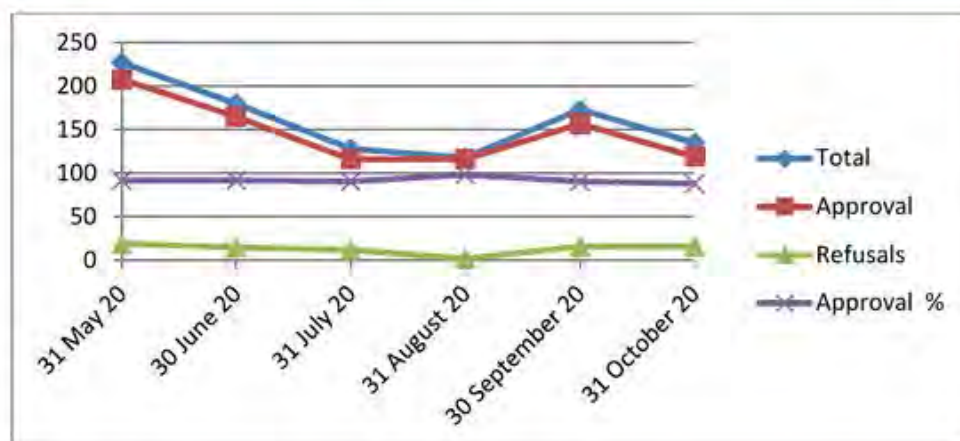
Month 2020/21	Number of Decisions Issued	Number of Decisions Issued under delegated authority
March, April & May	227	216
June	180	166
July	128	122
August	118	110
September	173	163
October	135	129

### 5. Decisions Issued YTD

Month 2020/21	Number of Decisions Issued	Breakdown of Decisions	
March, April & May	227	Approvals (208)	92%
		Refusals (19)	8%
June	407	Approvals (373)	92%
		Refusals (34)	8%
July	535	Approvals (489)	91%
		Refusals (46)	9%
August	653	Approvals (605)	93%
		Refusals (48)	7%
September	826	Approvals (762)	92%
		Refusals (64)	8%
October	961	Approvals (881)	92%
		Refusals (80)	8%

## Newry, Mourne & Down District Council – October 2020

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### 6. Enforcement Live cases

Month 2020/21	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ yrs	Total
March, April & May	180	177	174	89	35	91	746
June	229	168	175	95	35	89	791
July	236	158	187	97	35	92	805
August	238	158	179	107	40	93	815
September	246	147	190	110	44	93	830
October	226	148	175	106	53	93	801

### 7. Planning Committee

Month	Number of Applications presented to Committee	Number of Applications Determined by Committee	Number of Applications Withdrawn/ Deferred for future meeting	Number of Officer recommendation overturned
3 June 2020	15	15	0	6
1 July 2020	5	4	1	1
29 July 2020	6	2	4	0
26 August 2020	16	8	8	4
23 September 2020	9	7	2	2
21 October 2020	9	5	4	2
<b>Totals</b>	<b>60</b>	<b>41</b>	<b>19</b>	<b>15</b>

## Newry, Mourne & Down District Council – October 2020

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### 8. Appeals

Planning Appeal Commission Decisions issued during period 1 September 2020 to 31 October 2020

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	15	3	1	2	0
Down	10	4	2	2	0
<b>TOTAL</b>	<b>25</b>	<b>7</b>	<b>3</b>	<b>4</b>	<b>0</b>

## Newry, Mourne &amp; Down District Council – October 2020

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

Newry, Mourne and Down

Major applications (target of 30 weeks)					Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)					
	Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks		Number received	Number decided/withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks		Number opened	Number brought to conclusion <sup>3</sup>	"70%" conclusion time <sup>3</sup>	% of cases concluded within 39 weeks
April	1	-	0.0	0.0%		63	3	18.2	33.3%		17	18	146.8	33.3%
May	1	-	0.0	0.0%		97	91	24.2	16.5%		10	69	228.2	14.5%
June	1	3	87.0	0.0%		122	161	26.4	18.6%		49	30	100.0	43.3%
July	2	1	31.8	0.0%		137	113	20.0	25.7%		41	19	91.8	31.6%
August	1	-	0.0	0.0%		138	115	21.2	32.2%		27	23	35.4	73.9%
September	0	1	64.6	0.0%		140	147	19.4	33.3%		27	22	36.5	72.7%
October	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
November	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
December	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
January	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
February	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
March	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
Year to date	6	5	64.6	0.0%		697	630	22.0	25.6%		171	181	149.5	37.6%

Source: NI Planning Portal

**Notes:**

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

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

## Newry, Mourne & Down District Council – October 2020

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

## Current Appeals

140

**AUTHORITY** Newry, Mourne and Down

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

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

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## Current Appeals

141

<b>ITEM NO</b>	<b>3</b>	<b>PAC Ref:</b>	2019/A0159
<b>Planning Ref:</b>	LA07/2019/1313/	<b>DEA</b>	Newry
<b>APPELLANT</b>	EDB Construction Ltd		
<b>LOCATION</b>	58 Armagh Road Newry		

**PROPOSAL** Demolition of existing building and erection of apartment development

<b>APPEAL TYPE</b>	DC - Non Determination of a Planning Application		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	13/11/2019
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

<b>ITEM NO</b>	<b>4</b>	<b>PAC Ref:</b>	2019/A0232
<b>Planning Ref:</b>	LA07/2016/1502/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Robert Cairns		
<b>LOCATION</b>	7-9 Newry Street Kilkeel BT34 4DN		

**PROPOSAL** Extension to existing public house to include additional lounge and smoking area

<b>APPEAL TYPE</b>	DC - Refusal of LB Consent		
<b>Appeal Procedure</b>	<b>Written Reps with Site Visit</b>	<b>Date Appeal Lodged</b>	02/03/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

## Current Appeals

142

<b>ITEM NO</b>	<b>5</b>	<b>PAC Ref:</b>	2019/A0233
<b>Planning Ref:</b>	LA07/2015/1364/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Mr Robert Cairns		
<b>LOCATION</b>	7 And 9 Newry Street Kilkeel BT34 4DN		
<b>PROPOSAL</b>			
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	02/03/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>6</b>	<b>PAC Ref:</b>	2019/A0238
<b>Planning Ref:</b>	LA07/2019/0691/	<b>DEA</b>	Rowallane
<b>APPELLANT</b>	Paul Fitzsimons Esq		
<b>LOCATION</b>	65m South East 47 Saintfield Road Crossgar BT30 9HY		
<b>PROPOSAL</b>	Proposed infill dwelling and garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	03/03/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

143

<b>ITEM NO</b>	<b>7</b>		
<b>Planning Ref:</b>	LA07/2018/1453/	<b>PAC Ref:</b>	2019/A0246
<b>APPELLANT</b>	Miss M. Byrne	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	25 Lower Knockbarragh Road Rostrevor BT34 3DP		
<b>PROPOSAL</b>	Proposed replacement dwelling (amended plan)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	Written Reps with Site Visit	<b>Date Appeal Lodged</b>	09/03/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>8</b>		
<b>Planning Ref:</b>	LA07/2019/1755/	<b>PAC Ref:</b>	2019/A0247
<b>APPELLANT</b>	David Sweeney	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Between Nos 36 & 38a Greenan Road Newry BT34 2QA		
<b>PROPOSAL</b>	Erection of infill dwelling		
<b>APPEAL TYPE</b>	DC - Conditions of Approval		
<b>Appeal Procedure</b>	Written Reps with Site Visit	<b>Date Appeal Lodged</b>	10/03/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

144

<b>ITEM NO</b>	<b>09</b>	<b>PAC Ref:</b>	2019/A0254
<b>Planning Ref:</b>	LA07/2019/0984/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Mr S McMullan		
<b>LOCATION</b>	Approx 180m W Of No 32 Myra Road Downpatrick		
<b>PROPOSAL</b>	Proposed off site replacement dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	16/03/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>10</b>	<b>PAC Ref:</b>	2019/E0059
<b>Planning Ref:</b>	LA07/2019/0876/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Mr Michael Trainor		
<b>LOCATION</b>	42b And 42c Clanmaghera Road Tyrella Downpatrick		
<b>PROPOSAL</b>	2 no dwelling units		

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

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## Current Appeals

145

<b>ITEM NO</b>	<b>11</b>		
<b>Planning Ref:</b>	LA07/2019/1526/	<b>PAC Ref:</b>	2019/E0072
<b>APPELLANT</b>	John Mc Williams	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Land Extending From A Point 190m SW Of No 97 Rathfriland Road Newry To 22 Sheeptown Road Newry		
<b>PROPOSAL</b>	Form an agricultural lane		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	16/07/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>12</b>		
<b>Planning Ref:</b>	LA07/2017/1559/	<b>PAC Ref:</b>	2020/A0002
<b>APPELLANT</b>	EDB Constructions Ltd	<b>DEA</b>	Newry
<b>LOCATION</b>	58 Armagh Road Newry		
<b>PROPOSAL</b>	Demolition of existing dwelling and erection of 7 No. 2 bedroom apartments (7 in total) (change of description)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	16/07/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

146

<b>ITEM NO</b>	<b>13</b>		
<b>Planning Ref:</b>	LA07/2019/1021/	<b>PAC Ref:</b>	2020/A0003
<b>APPELLANT</b>	Mrs E Fitzsimons	<b>DEA</b>	Rowallane
<b>LOCATION</b>	53A Saintfield Road Crossgar		
<b>PROPOSAL</b>	Retention of building in substitution of previous approval LA07/2015/1224/F		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	16/07/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>14</b>		
<b>Planning Ref:</b>	LA07/2019/1257/	<b>PAC Ref:</b>	2020/A0014
<b>APPELLANT</b>	Mr Shane Robinson	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	87 Seaview Killough Downpatrick		
<b>PROPOSAL</b>	2 Storey extension to side of dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	20/07/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

147

<b>ITEM NO</b>	<b>15</b>	<b>PAC Ref:</b>	2020/A0020
<b>Planning Ref:</b>	LA07/2019/0584/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Mr David Gordon		
<b>LOCATION</b>	34 Dougans Road Kilkeel BT34 4HN		

**PROPOSAL**                      Erection of farm dwelling and retention of existing building as a garage

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

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<b>ITEM NO</b>	<b>16</b>	<b>PAC Ref:</b>	2020/A0029
<b>Planning Ref:</b>	LA07/2019/1184/	<b>DEA</b>	Rowallane
<b>APPELLANT</b>	Mr D Graham		
<b>LOCATION</b>	Lands Between 12 And 18 And Neighbouring House On Private Lane Raleagh Road Crossgar		
<b>PROPOSAL</b>	2 infill dwellings and garages		

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

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## Current Appeals

148

<b>ITEM NO</b>	<b>17</b>		
<b>Planning Ref:</b>	LA07/2019/0573/	<b>PAC Ref:</b>	2020/A0045
<b>APPELLANT</b>	Mills Smyth	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	95 Aughnagurgan Road Altnamackan Newry		
<b>PROPOSAL</b>	Proposed demolition of all existing buildings and replace with dwelling house and garage.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	10/09/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>18</b>		
<b>Planning Ref:</b>	LA07/2020/0194/	<b>PAC Ref:</b>	2020/A0060
<b>APPELLANT</b>	Drumee Farms Ltd	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Lands Approx. 100m NE Of 125 Newcastle Road Castlewellan		
<b>PROPOSAL</b>	Retention of multi-purpose agricultural shed, access from Newcastle Road, via established agricultural gateway		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	16/09/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

149

<b>ITEM NO</b>	<b>19</b>	<b>PAC Ref:</b>	2020/A0066
<b>Planning Ref:</b>	LA07/2019/1819/	<b>DEA</b>	Slieve Croob
<b>APPELLANT LOCATION</b>	William Henry McMaster 42a Cherryhill Road Spa		
<b>PROPOSAL</b>	Retirement bungalow		

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

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<b>ITEM NO</b>	<b>20</b>	<b>PAC Ref:</b>	2020/A0067
<b>Planning Ref:</b>	LA07/2019/1815/	<b>DEA</b>	Newry
<b>APPELLANT LOCATION</b>	David & Bronagh Strain 15 Liska Road Newry BT35 8NH		
<b>PROPOSAL</b>	Proposed new dwelling		

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

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## Current Appeals

150

<b>ITEM NO</b>	<b>21</b>		
<b>Planning Ref:</b>	LA07/2019/1575/	<b>PAC Ref:</b>	2020/A0073
<b>APPELLANT</b>	Mr Gerard Rice	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	8 Corcreeghy Road Newry		
<b>PROPOSAL</b>	Retrospective application for the extension of curtilage to include retaining wall, in-filling with inert material, fencing and associated landscaping. Existing Firework containers relocated and form utilisation of car parking.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	23/09/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>22</b>		
<b>Planning Ref:</b>	LA07/2018/1616/	<b>PAC Ref:</b>	2020/C002
<b>APPELLANT</b>	David Trevor Shields	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Approximately 35 Metres South East Of 8 Ballinran New Road Kilkeel BT34 4ZN		
<b>PROPOSAL</b>	Retention of 2no. existing pig sheds with underground slurry tanks, 3no. feed silos and gravel yard, and extension to western gable of shed at rear of site, with loading bay.		
<b>APPEAL TYPE</b>	DC- EIA Determination - app ES is required		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	11/08/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

151

<b>ITEM NO</b>	<b>23</b>	<b>PAC Ref:</b>	2020/E0001
<b>Planning Ref:</b>	LA07/2019/1600/	<b>DEA</b>	Slieve Croob
<b>APPELLANT LOCATION</b>	Mr Paul Cunningham 5c Teconnaught Road Downpatrick		
<b>PROPOSAL</b>	Existing dwelling		

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

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<b>ITEM NO</b>	<b>24</b>	<b>PAC Ref:</b>	2020/E0009
<b>Planning Ref:</b>	LA07/2018/1250/	<b>DEA</b>	Newry
<b>APPELLANT LOCATION</b>	Mr Brian McNulty 154 Dublin Road Newry BT35 8NE		
<b>PROPOSAL</b>	Retention of prefabricated building.		

<b>APPEAL TYPE</b>	DC - Non Determination of a Planning Application	<b>Date Appeal Lodged</b>	18/08/2020
<b>Appeal Procedure</b>	Written Reps		
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

152

<b>ITEM NO</b>	<b>25</b>		
<b>Planning Ref:</b>	LA07/2020/0159/	<b>PAC Ref:</b>	2020/E0017
<b>APPELLANT</b>	Mr PJ Duffy	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	16A Derryleckagh Road Newry BT34 2NL		
<b>PROPOSAL</b>	Retention of building of temporary construction		
<b>APPEAL TYPE</b>	DC - Conditions of Approval		
<b>Appeal Procedure</b>	Written Reps	<b>Date Appeal Lodged</b>	21/09/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			



# Appeal Decision

Park House  
87/91 Great Victoria Street  
BELFAST  
BT2 7AG  
T: 028 9024 4710  
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E: [info@pacni.gov.uk](mailto:info@pacni.gov.uk)

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<b>Appeal Reference:</b>	2019/A0143.
<b>Appeal by:</b>	Tullyherron Farm Feeds.
<b>Appeal against:</b>	The conditional grant of planning permission.
<b>Proposed Development:</b>	Retention of extension to existing farm feeds business, including extension at hardstanding area, storage buildings, silos and associated works (appeal against hours of operation condition).
<b>Location:</b>	38 Tullyherron Road, Mountnorris, Armagh.
<b>Planning Authority:</b>	Newry Mourne & Down District Council.
<b>Application Reference:</b>	LA07/2017/1213/F.
<b>Procedure:</b>	Written representations and Commissioner's site visit on 8 September 2020.
<b>Decision by:</b>	Commissioner Mark Watson, dated 2 October 2020.

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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The Appellant's Statement of Case included a Noise Report. The Council considered this Report to be inadmissible under section 59 of the Planning Act (NI) 2011. Section 59(1) of the Planning Act prohibits the introduction of a matter by a party to the proceedings which was not before the Council at the time the decision was made unless that party can demonstrate to the satisfaction of the Commission: (a) that the matter could not have been raised before that time, or (b) that its not being raised before that time was a consequence of exceptional circumstances.
3. The appeal seeks the removal of a condition limiting hours of operation, which was imposed on the basis of the potential for the farm feed business to generate noise to the detriment of nearby residential amenity. The submission of the Noise Report by the Appellant is evidence to support the Appellant's position that the condition is unnecessary. Accordingly I do not accept the proposition that the Noise Report is a new matter. It is therefore admissible and will be considered as part of the appeal.

## Reasons

4. The main issues in this appeal are whether or not the condition restricting hours of operation satisfied the legal tests for planning conditions and whether it remains necessary in interests of preserving residential amenity.

5. The appeal site comprises a farm feeds business, namely Tullyherron Farm Feeds (TFF), situated on the western side of Tullyherron Road. TFF occupies a flat area cut into a sloping landform, situated in an elevated position above and to the rear of Nos. 38A, 38 and 40 Tullyherron Road. Those three residential units occupy roadside positions. The main building comprises a large block and metal clad shed structure with several smaller linked storage areas. There are a series of metal silos situated to the north-west of the main building, as well as another storage building. Several older silos occupy an area within the yard area to the south-west of the main building. There is a mobile building situated along the south-eastern boundary used as an office. The yard and hardstanding areas are split over two levels, with the upper level providing parking space for the business' vehicles and trailers. The appeal site is accessed via a stoned laneway from the roadside. No. 34, a one-and-a-half storey dwelling lies approximately 70m to the south of the site.
6. TFF was granted a Certificate of Lawfulness of Existing Use or Development (CLEUD) for *'existing farm feeds to include existing storage buildings, site office, weighbridge, hardstanding for the parking of associated transport vehicles and associated works'* (ref. LA07/2017/1190/LDE) on 19 October 2017. A subsequent planning application (ref. LA07/2017/1213/F) sought retrospective permission for *'retention of extension to existing farm feeds business, including extension to hardstanding area, storage buildings, silos and associated works'*. This was granted on 10 Jul 2019. Condition 2 of that permission stated that:  
*'no machinery shall be operated, no process shall be carried out and no deliveries taken at, or dispatched from the site outside the following times Monday - Friday 07:00 to 21:00, Saturday 08:00 to 13:00 nor at any time on Sundays, Bank or Public Holidays'*.

The reason given for the condition was *'to safeguard the living conditions of residents in adjoining and nearby properties'*.

7. The Banbridge Newry & Mourne Area Plan 2015 (BNMAP) operates as the local development plan for the area. In it the site lies in the countryside and there are no particular policies or proposals within the BNMAP that are material to the appeal before me. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) states at paragraph 4.11 that there are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when proposing policies or managing development. Paragraph 5.65 of the SPPS lists the tests for a planning condition. It states that conditions should only be imposed which are necessary, relevant to planning, relevant to the development being permitted, precise, enforceable and reasonable.
8. The appeal seeks the removal of condition 2 of permission LA07/2017/1213/F on the grounds that it is unnecessary, unreasonable and unenforceable. The Council and a third party Objector considered the condition to be justified and argued for its retention.
9. The condition subject of this appeal related to the planning permission granted retrospectively for the extension of the existing business. That extension entailed new storage areas for bagged feed and grain, a general storage and maintenance area, silos and expanded parking area for vehicles. Even though the new

buildings were largely for storage, the increased storage capacity along with the new silos and sorting system would allow the business to operate at a higher output than previously. To my mind this consequently would likely give rise to increased mechanical activity involving use of the plant machinery to prepare the feeds and load them into vehicles. There would also be increased vehicular activity arising from the expansion of the business. The feeds business operated without restriction prior to and following the granting of the CLEUD. With the retrospective approval of the extension to the business, the Council took an opportunity to seek to control hours of operation, particularly when the business had expanded and intensified. As stated earlier, the reason given for the condition was to safeguard the living conditions of residents in nearby properties, such as at No. 34, the Objectors' residence.

10. The hours of operation stated in condition 2 of permission LA07/2017/1213/F to my mind could not be described as overly restrictive, as they permit five and a half working days to operate in the week, with exclusions on bank and public holidays. The evidence indicates the stated hours broadly corresponded to the previous operating hours of the business as told to the Council's Environmental Health Department (EHD) by the Appellant at the time of the application, save for the 7:00am opening time being an hour later than TFF previously opened. Although the initial EHD consultation response raised no objection, subsequent EHD consultation responses raised issue in relation to noise and activity at TFF following a response to complaints from a third party at No. 34. Whilst the wording of the EHD recommended condition tallied with the stated hours of operation given by the Appellant, the Council had final say on the composition of any conditions when determining to grant permission. It was stated that the Council considered a 7:00am opening time more reasonable given the context and the likelihood for local residents to be still be asleep at 6.00am. Whilst the Council and EHD ultimately judged that noise impacts arising from TFF would be acceptable, that was in the context of restricting the TFF hours of operation to more conventional working hours as per those stated in condition 2.
11. Given the potential for disturbance from an expanded industrial operation in the countryside and the objections raised by a third party local resident, I agree it was not unreasonable for the Council to restrict the hours of operation in order to safeguard the amenity of nearby residents. In terms of its applicability, although imposed on the back of an application to regularise an extension to the business, the condition clearly applied in respect of the operation of the business and the noise and activity levels arising from that operation as a whole. The suggestion that the condition could only apply to the extended aspects of the business is not a persuasive one given the obvious intrinsic links between TFF as was established to be lawful under the CLEUD and the extension granted permission under application LA07/2017/1213/F. The condition as was imposed was precise and enforceable given the clear restrictions it imposed and the ability to readily determine if a breach did occur.
12. I was able to witness the operation of TFF, including preparation of feed. There was an ongoing background hum from the plant which I did not find overly disruptive when at the roadside or when within the curtilage of No. 34 to the south. During the actual preparation process I was able to hear material being transferred, which involved use of the conveyor belt system. There were rhythmic vibrations, a deep thrumming and a high level of noise. When I listened to such an

operation at TFF from the curtilage of No. 34, the normal rural ambience altered appreciably.

13. The Appellant's Noise Report stated that the noise levels from TFF remained below the pertinent threshold limits contained in BS8233:2014 and the World Health Organisation Guidelines when measured next to No. 34 Tullyherron Road. The contents and conclusions of this Report were not disputed by the Council.
14. Whilst I would not disagree with the assessment within the Report, there is a difference between noise levels that would represent a statutory nuisance, or breach stated thresholds such as BS8233:2014, and noise levels which could still adversely impact on the amenity of nearby residents. There remains a general acceptance that background noise within rural areas would be lower than in urban areas given the more limited range of activities that tend to occur compared to in urban areas. There would also be a particular expectation for less noise and general activity from rural businesses such as TFF during night-time periods, weekends and public or bank holidays. During weekends and holiday periods people would also be generally more likely to avail of their garden areas. Whilst the activities as a whole, or those associated with the extended business, would not breach the aforementioned noise thresholds, I accept that in instances outside normal operating hours and during Bank and Public Holidays, with reduced background noise levels arising from its rural location, the amenity of existing residents at No. 34 Tullyherron Road, would be adversely impacted to an unacceptable degree by the operation of TFF.
15. In order to justify the removal of condition 2 the Appellant pointed to emergency situations such as bad weather, breakdowns and instances where a farmer might require feed at short notice. Whilst there may be cases when a farmer is caught short and requires feed, I am not persuaded that the removal of the condition would be justified for such scenarios, which may only occur infrequently. Bank and public holidays occur at specific times of the year and can be planned for by farmers, and even if caught short I am not persuaded that animal welfare would suffer from such infrequent instances. In respect to instances of bad weather and breakdowns it was not suggested that these would be anything more than infrequent occurrences.
16. Removal of condition 2 would allow TFF to operate at any time of the day and during any day of the week, even during bank and public holidays. During such times, when background noise levels would be lower, the operation of TFF, even if for a short period in responding to an emergency request, would be likely to produce noise and disturbance that would more readily discerned and consequently have a greater impact upon the residential amenity of nearby local residents, including those at No. 34 Tullyherron Road. Vehicles revving and leaving the site to transport the feed to customers would also have a greater adverse impact during such circumstances. I am not persuaded that the potential for such emergency situations as outlined above would justify the removal of condition 2 of LA07/2017/1213/F.
17. For the reason given above I find that condition 2 as originally imposed satisfied the legal tests for a planning condition and remains necessary to safeguard the residential amenity of those living nearby.

18. The Council's justification for retaining Condition 2 is well founded, as are the related concerns of the Objectors. The appeal must fail.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
01 Rev 3	Floor Plans, Elevations (Building A), Site Layout & Site Location Plan	1:1250, 1:500 & 1:100	26/04/2019
02 Rev 2	Floor Plans & Site Layout	1:500 & 1:100	26/04/2019
03	Existing & Proposed Elevations (Building B & Silos)	1:100	08/08/2017
04	Silo C Details	1:100	20/03/2019

**COMMISSIONER MARK WATSON**



**List of Documents**

Planning Authority:-	'A' Statement of Case & Appendix (N M & D DC) 'B' Rebuttal Statement (N M & D DC)
Appellant:-	'C' Statement of Case & Appendices (NI Planning Consultants)



# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0069.
<b>Appeal by:</b>	Mr Eugene Stranney.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Change of use of existing garage, study & games room to residential accommodation ancillary to the main existing dwelling.
<b>Location:</b>	149 Ballydugan Road, Downpatrick.
<b>Planning Authority:</b>	Newry Mourne & Down District Council.
<b>Application Reference:</b>	LA07/2018/0496/F.
<b>Procedure:</b>	Written representations and Commissioner's site visit on 2 September 2020.
<b>Decision by:</b>	Commissioner Mark Watson, dated 2 October 2020.

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## Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions below.

## Preliminary Matter

2. Contention existed between the Council and Appellant in respect to the nature of the appeal development and the appropriate policy context under which it should be considered. The Council considered that the appeal sought in essence a new dwelling. The Appellant and his representative stated that the appeal sought conversion of the subject building to ancillary residential accommodation only, intended to accommodate the Appellant's visiting children from time to time.
3. The original description as the '*change of use of an existing garage, study and games room to a dwelling as ancillary to the main dwelling*' is somewhat contradictory as generally a dwelling is seen as a separate planning unit in its own right. From the totality of the material submitted from the outset of the application, notwithstanding the confused description, I accept that the Appellant sought only ancillary residential accommodation rather than a change of use of the appeal building to a freestanding residential dwelling unit.
4. In light of my findings above I consider that the proposal description could be amended without prejudice to clarify what is actually proposed. Accordingly I will change the proposal description to read '*change of use of existing garage, study and games room to residential accommodation ancillary to the main existing dwelling*'. I will therefore consider the appeal development as seeking ancillary

accommodation rather than a new independent dwelling. The policy implications of this will be addressed below.

### Reasons

5. The main issue in this appeal is whether or not the proposed development would be acceptable in principle, including the use of an existing access onto a protected route.
6. The appeal site comprises a small rectangular building situated a short distance from the Ballydugan Road set within the roadside portion of the curtilage to No. 149. No. 149 is a sizeable single storey dwelling set within a large garden area. The subject building is finished in roughcast render with smooth bands around the door and window openings. It has a slate roof and two brick chimneys, one of which has a boiler flue atop it. There is a vehicular garage door in the northern façade, along with a pedestrian sized door also. There is a door in the southern 'front' façade and two windows. The eastern boundary, which abuts the adjacent curtilage for No. 147 Ballydugan Road is provided by a low concrete wall with a line of mature trees set to the rear of the wall. The appeal building is presently used as a garage and domestic storage space.
7. The appeal proposal seeks to convert the existing garage into ancillary residential accommodation. It would entail replacement of the garage door with a section of glazing and three velux type windows placed into the roof. The ground floor would comprise an open plan kitchen / dining area and lounge, with a shower room. A new first floor area would provide two small bedrooms and storage space. No physical extensions to the existing building are proposed, thus it will remain at its present modest size and footprint. The car parking would be within the same curtilage as No. 149 and the existing access onto the public road would be used. The stated rationale for the appeal development was to provide additional accommodation to facilitate the Appellant's three grown up children and their own future families to come stay at No. 149, which has proven difficult to date given space issues within the existing dwelling. The appeal development would allow for longer and continuing visits from the Appellant's children, who live far afield, as he and his wife get older.
8. The dwelling at No. 149 as is currently occupied was granted permission as a replacement dwelling (refs. R/1991/0321/O and R/1992/0388/RM), with the subject building of this appeal being the dwelling that was to be replaced. Condition 3 of the outline permission required that the building be demolished, however, a subsequent application (ref. R/1999/0493/F) for '*non-compliance with condition 3 of planning approval R/1991/0321 with retention of the former dwelling as garage and store with alterations*' was granted on 9 July 1999. A further planning application (ref. R/2001/1143/F) for alterations to the subject building '*to form a garage, study and games room*' was granted on 18 October 2001. Thus the present use of the appeal building is incidental to the residential use of the dwelling at No. 149.
9. The Ards & Down Area Plan 2015 (ADAP) operates as the statutory local development plan for the proposal. In it, the site lies within the countryside. The ADAP offers no specific policy or guidance in respect of the proposed development and is not material. In regard to the appeal development there is no

conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' (SPPS) and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) and the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (APPS7). PPS21 and APPS7 policy provisions remain applicable to the proposed development. Given my above conclusion in relation to the nature of what is actually sought through the appeal, which is not the conversion to a new dwelling in its own right, I find that the Council's reliance on paragraph 6.73 of the SPPS is misplaced. The second and third reasons for refusal are therefore not sustained. Notwithstanding this, the principle of development remains to be considered.

10. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an extension to a dwelling house where this is in accordance with APPS7. Policy EXT1 of APPS7 states that planning permission will be granted for a proposal to extend or alter a residential property where all of 4 criteria are met. It goes on to state that the guidance set out in Annex A will be taken into account when assessing proposals against the 4 criteria.
11. Guidance at paragraph 2.9 of APPS7 provides guidance on ancillary accommodation. It states that to be ancillary, accommodation must be subordinate to the main dwelling and its function supplementary to the use of the existing residence. Whilst the guidance envisages such additional accommodation to be normally attached to the existing dwelling, it does allow for other scenarios. In the case of converting an existing outbuilding, it states that planning permission will normally be dependent on the development providing a modest scale of accommodation. It goes on at paragraph 2.11 to state that where permission is granted it will be subject to a condition that the extension will only be used for ancillary residential purposes in connection with the main dwelling and not as a separate unit of accommodation.
12. Both No. 149 and the appeal building lie within the existing physical curtilage of 149. This will not change and they would share the same amenity space and parking within the curtilage of No. 149. They would be served by the same access onto Ballydugan Road. It was stated that both buildings would share the same water and electricity supply, though I note the submitted plans show a new gas supply would be fitted to the appeal building. The appeal building is already linked to the septic tank of No. 149 and this would not change, thus sewage infrastructure would also be shared. The position of the appeal building relative to the main dwelling, though to the front of the curtilage, still appears as subordinate to the main dwelling given its modest size. Whilst the appeal building is being maximised in terms of internal space, its modest size, proposed internal layout and the evidential context of the rationale for members of the Appellant's family to stay in whilst visiting, would all persuade me that it will function as ancillary accommodation supplementary to the use of the existing dwelling at No. 149.
13. In regard to the various requirements of Policy EXT1, the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property. It will not detract from the appearance and

character of the surrounding area. Criterion (a) is met. From my assessment on site what is proposed will not unduly affect the privacy or amenity of neighbouring residents, thus criterion (b) is met. There was no suggestion that the proposed development would cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality. Criterion (c) is met. There remains sufficient space within the curtilage of the property for recreational and domestic purposes, including the parking and manoeuvring of vehicles, satisfying criterion (d). The appeal development satisfies Policy EXT1 of APPS7.

14. The guidance set out in Annex A of APPS7 predominantly relates to new physical extensions to dwellings or new structures within existing curtilages, rather than conversions of existing outbuildings. Paragraph A24 does state that proposals in the countryside should be in keeping with the character of the existing property and its countryside setting. The appeal development satisfies this given the intention to utilise an existing modestly sized building that has occupied its location for some time, with only minor alterations to its exterior and no enlargement of its physical footprint. As I have already concluded that the appeal development meets the criteria of Policy EXT1, it follows that it also complies with the essential thrust of the guidance in Annex A of APPS7 read as a whole.
15. As the appeal development satisfies Policy EXT1 of PPS7, it also satisfies Policy CTY1 of PPS21 and the related provisions of the SPPS. The Council's first reason for refusal is not sustained.
16. The Ballydugan Road (A25), which both No. 149 and the appeal development would take access onto, is a protected route. The consequential amendment to Policy AMP3 of PPS3, as contained in Annex 1 of PPS21, states that planning permission will only be granted for a development proposal involving access onto a protected Route outside a settlement limit in several instances. Criterion (d) of this policy, 'Other Categories of Development', states that approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and access cannot reasonably be obtained from an adjacent minor road. The appeal development, being ancillary accommodation to No. 149, would avail of the existing direct access onto a protected route and access cannot reasonably be obtained from an adjacent minor road. As I have found the proposal to be acceptable read against Policy EXT1 and CTY1 of PPS21, I find it meets criterion (d) of AMP3 of PPS3 (Consequential Revision). The Council's fourth reason for refusal is not sustained.
17. A third party submission raised concern at the boundary as marked on the submitted plans and requested that an official boundary survey be undertaken and they be consulted on any further developments for the appeal development. The red line of the appeal site does encompass a sliver of the south-western section of the garden for No. 147, which could simply be the result of a mapping error. However, from my assessment on site and the actual works that the appeal development would entail, it appears to me that no physical alterations to the existing site boundary between the appeal site and No. 147 Ballydugan Road are proposed. The issue of any boundary dispute is a matter between the two parties and in any event the granting of planning permission does not confer title. This matter would not warrant the withholding of planning permission.

18. For the reasons given above the Council's reasons for refusal have not been sustained, nor has the objection raised by the third party. Consequently the appeal shall succeed. In order to ensure that the development remains ancillary to the main dwelling and cannot be used as a separate dwelling unit in its own right, a condition linking the use to No. 149 would be necessary. Although not suggested by the Council, given the Appellant's rationale for the appeal development, which I have accepted, as well as the aforementioned requirement under Policy EXT1 to ensure such buildings remain linked to the residential use of the main dwelling, I also consider it necessary for a condition preventing the separation, sale or lease of the appeal building from No. 149. Whilst the Council suggested a condition removing permitted development rights from the appeal building I am not persuaded this would be necessary given it is ancillary to the main residential use at No. 149.

### Conditions

1. The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as No. 149 Ballydugan Road, Downpatrick.
2. The development hereby approved shall not be separated, sold off or leased from No. 149 Ballydugan Road, Downpatrick.
3. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
01	Site Location & Layout Plan	1:1250 & 1:500	28/03/2018
02	Existing Site & Floor Plan	1:100	28/03/2018
03	Existing Front & Side Elevations	1:100	28/03/2018
04	Existing Rear & Side Elevations	1:100	28/03/2018
05 Rev A	Proposed Site & Floor Plans	1:100	23/10/2018
06	Proposed Front & Side Elevations	1:100	28/03/2018
07	Proposed Rear & Side Elevations	1:100	28/03/2018
08	Car Parking & Turning Plan	1:100	17/10/2018

**COMMISSIONER MARK WATSON**



**List of Documents**

Planning Authority:-	'A' Statement of Case & Appendices (N M & D DC)
Appellant:-	'B' Statement of Case & Appendices (O'Neill Architecture)
Third Parties:-	'C' Objection Letter (A & L McKinley)



# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0187
<b>Appeal by:</b>	Mr L Phillips
<b>Appeal against:</b>	The refusal of full planning permission
<b>Proposed Development:</b>	Dwelling
<b>Location:</b>	Adjacent to 11 Saul Road, Downpatrick
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2019/0149/F
<b>Procedure:</b>	Written representations and Commissioner's site visit on 22 July 2020
<b>Decision by:</b>	Commissioner McShane, dated 19 October 2020.

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## Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.

## Reasons

2. The main issues in this appeal are whether the proposed dwelling:
  - constitutes a quality residential development that respects its context; and
  - its impact on residential amenity.
3. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Ards and Down Area Plan 2015 (ADAP) operates as a LDP. The appeal site is located within the settlement development limit of Downpatrick as designated in the ADAP. There are no operational policies material to the proposal in the plan. Therefore, I turn to other material considerations.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) is material to all decisions on individual planning applications and appeals. The guiding principle of the SPPS is that sustainable development should be permitted having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.
5. The SPPS identifies Planning Policy Statement 7: Quality Residential Environments (PPS 7) and its Addendum entitled Safeguarding the Character of Established Residential Areas (the Addendum) as retained policy documents. These provide the pertinent policy context as the appeal site is located within the settlement development limit. Guidance in Creating Places is also relevant.

6. Policy QD 1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. It goes on to state that 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 amenities of these areas.
7. Policy LC 1 of the Addendum reiterates this approach. It states that 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 proposals, where they would not result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. Nine criteria set out in Policy QD 1 of PPS 7 and three additional criteria listed in Policy LC 1 of the Addendum are required to be met. The parties dispute Criteria (a) and (h) of Policy QD 1 and Criterion (b) of Policy LC 1.
8. Criterion (a) of Policy QD 1 requires the development to respect the surrounding context and be appropriate to the character and topography of the site, including in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. This is repeated in Criterion (b) of Policy LC 1 of the Addendum, which requires that the pattern of development is in keeping with the overall character and environmental quality of the established residential area.
9. The established residential area comprises Saul Road and Rathcuan Heights, Downpatrick. A mix of single, storey and a half and two storey high detached dwellings stand on individual plots that provide front and rear gardens and in-curtilage parking. Some properties have detached / integral garages.
10. No.11 Saul Road, which stands to the rear of "The Manse", is a split level detached dwelling. Its extensive garden area has already been subdivided and a detached two storey dwelling stands in its western side garden (LA07/2016/0729/F). The proposed dwelling would share an access with the existing properties.
11. The triangular appeal site (0.18 has) comprises the eastern side garden of No.11; topography rises significantly from Saul Road to the rear and beyond. The site is surrounded by existing development: No.11 stands immediately adjacent to its west, Nos. 11 and 15 Rathcuan Heights to the east and Nos.19 and 21 Rathcuan Heights to the south. No.11 stands gable end to the appeal site, while the rear elevations of the properties in Rathcuan Heights are orientated toward it and their rear gardens adjoin it.
12. The Council argues that the proposed dwelling does not respect the surrounding context and is inappropriate to the character of the area as it would represent overdevelopment. It objects to the size of the proposed dwelling and the separation distances between it and No.11 Saul Road and Nos.11 and 15 Rathcuan Heights. Third Party objectors expressed similar concerns in relation to their respective properties.

13. The proposed 232sqm four bedroom split level dwelling would stand on its own plot. There is adequate space for front, rear and side gardens, private amenity space and incurtilage parking. As such, it is not dissimilar from the development form in the surrounding area. The balcony to the front of the proposed dwelling is not replicated elsewhere in the vicinity but as pointed out by the Council, there would be limited public views of it, given that the dwelling would be set back over 100m from Saul Road.
14. The distance between the gable of the proposed dwelling and the gable of No.11 Saul Road would range from 4m to 8m. A proposed 2m high close board wooden fence would separate the two properties. The distance between the gable elevation of the proposed dwelling and the rear elevations of No.11 and No.15 Rathcuan Heights would range from 13m to 16m and 17m to 21m respectively. In line with guidance in Creating Places, the distance between the rear elevation of the proposed dwelling and the rear elevation of No.19 Rathcuan Heights, which stands directly to the south, would range from 20m to 22m.
15. Separation distances, orientation and ground levels between the proposed dwelling and the existing neighbouring dwellings are not dissimilar from those found elsewhere in the surrounding area. Consequently, I have not been persuaded that the appeal dwelling constitutes overdevelopment in terms of its size and its relationship with existing development. Rather, the proposed dwelling respects the surrounding context and its split level design, akin to the immediately adjacent dwelling, is appropriate to the character and sloping topography of the site. Accordingly, the Council has failed to sustain its first reason for refusal based upon Criterion (a) of Policy QD 1 of PPS 7 and its third reason for refusal based upon Criterion (b) of Policy LC 1 of the Addendum in so far as it relates to overdevelopment.
16. Criterion (h) of Policy QD 1 requires that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties, including in terms of overlooking. The Council argues that there is a potential for the proposed dwelling to overlook No.11 Rathcuan Heights which would lead to a loss of privacy, given the proposed balcony, first floor living accommodation and the difference in ground levels. Third Parties raised similar concerns in respect of Nos.15 and 21 Rathcuan Heights.
17. To address the Council's concerns in this respect, the design of the balcony, which is orientated to the north-west, was revised to include a solid 1.6m high and 2m deep flanking wall to its eastern elevation. In addition, a 2m high close board wooden fence was proposed along the boundary line, which is elevated in relation to the finished floor levels of the proposed dwelling and both No.11 and No.15. The fence, which runs along the entire length of the eastern site boundary, is already in place and, notwithstanding that it constitutes permitted development, can be conditioned to be retained permanently. There is also mature vegetation along the boundary with No.11.
18. Detailed information on ground levels, including sections illustrating the relationship between the proposed dwelling and Nos.11 and 15 Rathcuan Heights, was provided. A specialist firm was commissioned to produce digital 3 dimensional model photographs based upon a professionally prepared digital

survey to illustrate the relationship between the proposed dwelling and Nos. 11 and 15 Rathcuan Heights.

19. The Council does not dispute the accuracy of the topographical data provided. Similarly, it does not dispute the rigour of the methodology adopted by the independent specialist firm contracted to produce the images using the survey data supplied to it by the Appellant's Agent. Similarly, no persuasive argument in this respect was put forward by the Third Parties. Notwithstanding this, the Council attaches no weight to the images and relies exclusively on the Case Officer's assessment.
20. I have not been persuaded to set aside the 3-dimensional images. Images 1, 2 and 3 illustrate that there would be no unacceptable overlooking of either No.11 or No.15 Rathcuan Heights from either the balcony or patio area of the proposed property. Notwithstanding the sunroom to the rear of No.11 Rathcuan Heights, only the roofs of the existing properties would be visible above the 2m high close board wooden fence. Any potential for overlooking would be further restricted by the solid flanking wall to the balcony. In addition, the proposed design is such that an angled wall reorients the kitchen and dining area windows away from No.15.
21. No.21 Rathcuan Heights stands south, and offset to the west, of the proposed dwelling at a considerably higher ground level and its private amenity space is surrounded by a 2m high fence. As such, it would not be overlooked by the proposed dwelling.
22. Providing the dwelling is erected as per the levels shown, and any deviation would be a matter for enforcement, the digital images in combination with my site visit lead me to conclude that there would not be an unacceptable adverse effect on Nos.11, 15 and 21 Rathcuan Heights in terms of overlooking.
23. It is possible for new development to have a negative impact on residential amenity in terms of dominance. However, the separation distances would preclude the proposed dwelling from adversely impinging on the immediate aspect or outlook from No.15 Rathcuan Heights. As demonstrated by Image 5, views of the proposed dwelling from it would be limited to the upper gable wall and roof. While the erection of the proposed dwelling on the appeal site would change the outlook from No.15, I have not been persuaded that it would adversely impact the property resulting in it being hemmed-in and nor would it cause an unacceptable loss of light. I conclude that the same would be true in respect of No.11 Rathcuan Heights, as demonstrated by Image 4.
24. Accordingly, the Council has failed to sustain its second reason for refusal based upon Criterion (h) of Policy QD 1 of PPS 7 and its third reason for refusal based upon Criterion (b) of Policy LC 1 of the Addendum in so far as it relates to overlooking, loss of privacy and dominance.
25. In addition to the concerns raised above, a Third Party also raised concerns about the intensification of an access onto Saul Road. I have not been persuaded that the traffic from a single additional dwelling would lead to issues of road safety. I am reinforced in my conclusion on this by the fact that DFI Roads did not object to the proposed development.

26. In the interests of residential amenity the 2m high, close board wooden fence is required to be permanently retained and landscaping along the eastern boundary is also required to be retained and augmented with new planting carried out in the first season after occupation.

### **Conditions**

- (1) The development shall be begun before the expiration of five years from the date of this permission.
- (2) The 2m high close board fence along the eastern boundary of the site shall be permanently retained.
- (3) Existing vegetation along the eastern boundary shall be retained and augmented. The scheme of planting proposed along the eastern boundary of the site shall be carried out during the first planting season after the dwelling is occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.

This decision approves the following drawings:-

- LPA Drwg No.01: Site Location Plan (Scale 1:1250)
- LPA Drwg No.02: Existing Site Layout Plan (Scale 1:200)
- LPA Drwg No.03 A: Proposed Site Layout Plan (Scale 1:200)
- LPA Drwg No.04 A: Proposed Floor Plans and Elevations (Scale 1:100)

**COMMISSIONER MCSHANE**

**List of Documents**

Planning Authority:- "LPA 1" Statement of Case and Appendices

Appellant:- "LPA 2" Statement of Case and Appendices

Third Parties:- "TP 1" Statement of Case  
11 Rath Cuan Heights

"TP 2 Statement of Case  
"TP 2a" Rebuttal Statement  
15 Rath Cuan Heights

"TP 3" Statement of Case  
21 Rath Cuan Heights



# Appeal Decision

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**Appeal Reference:** 2019/A0194.  
**Appeal by:** Mrs Catherine McManus.  
**Appeal against:** The refusal of full planning permission.  
**Proposed Development:** Temporary mobile accommodation.  
**Location:** Land adjacent to 177 Dundrum Road, Newcastle.  
**Planning Authority:** Newry Mourne & Down District Council.  
**Application Reference:** LA07/2019/0811/F.  
**Procedure:** Written representations and Commissioner's site visit on 10 September 2020.  
**Decision by:** Commissioner Mark Watson, dated 23 October 2020.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issue in this appeal is whether the proposed mobile accommodation would be acceptable in principle for a temporary period of three years.
3. The Ards & Down Area Plan 2015 (ADAP) operates as the statutory local development plan for the proposal. In the ADAP, the site lies within the countryside, close to the town of Newcastle. The appeal site also lies within the Mourne Area of Outstanding Natural Beauty, though it was not suggested that the appeal proposal would adversely impact upon this designation. The ADAP offers no specific policy or guidance in respect of the proposed mobile accommodation. In respect of the appeal proposal there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' (SPPS) and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21). PPS21 remains the applicable policy context to consider the principle of development against.
4. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for a residential caravan or mobile home in accordance with Policy CTY9. It follows that if the proposed development complies with Policy CTY9 it will comply with Policy CTY1 of PPS21. Although the Appellant's representative stated that the application was not sought under this policy, but rather a provision of Policy CTY6 of PPS21, that policy permits a

dwelling in the countryside based on personal or domestic circumstances. The reference therein to the use of a temporary mobile home is in the context of that not being a viable alternative to a new dwelling. As the appeal explicitly seeks temporary permission for mobile accommodation Policy CTY9 of PPS21 is the appropriate policy to consider the appeal development under. In any event, the Appellant's personal circumstances remain a material consideration to be assessed under Policy CTY9.

5. The appeal site comprises a flat, rectangular piece of land adjacent and north-east of No. 177 Dundrum Road. The site is predominantly mown grass, but there is a set of swings, playhouse and trampoline within it. There is an old vegetable patch in the southern corner. It is proposed to site a mobile home in this area perpendicular to the line of the Dundrum Road. The site frontage is defined by a low cut mature hedge and a post and wire fence. The south-western and south-eastern boundaries are defined by mature hedge, whilst the north-eastern is defined by a 1m concrete block built wall. No. 177 is a single storey cottage, finished in painted smooth render and a slate roof. To the western side and rear of No. 177 lie several outbuildings, which are in use for a domestic garage, store, garden shed and two pigeon lofts. The site lies along the southern frontage of the Dundrum Road. Two dwellings lie adjacent and north-east of the site, with two dwellings and the entrance to a caravan park opposite and north.
6. The proposed mobile accommodation would measure approximately 10.96m long by approximately 3.23m wide and be mounted approximately 0.6m above ground level. Accommodation would comprise a living room, kitchen / dining area, bathroom and 3 bedrooms. Access to No. 177 from the mobile accommodation would be taken through an existing gap in the mature hedgeline between the curtilage of No. 177 and the site area.
7. The Council, during consideration of the application, pointed to the site area for the proposed development being outwith the established curtilage of No. 177. The Appellant's representative considered otherwise, claiming that it has been a longstanding part of the established curtilage of No. 177 and previously accommodated a domestic garage. Whilst the area is maintained as a lawn, with various children's play equipment and an old vegetable patch, there is no record of the land in question being part of the lawful curtilage of No. 177. I did not observe any signs of a previous garage on the land. Notwithstanding the present use of the land, its physical condition and the photographic evidence provided, the appropriate means to determine its status would be through the submission of a Certificate of Lawfulness of Existing Use or Development (CLEUD). In the absence of such a CLEUD I can make no determination as to the status of this land. In any event it does not preclude me from considering the merits of the appeal proposal in its own right.
8. Policy CTY9 of PPS21 states that planning permission may be granted for a residential caravan or mobile home, for a temporary period only, in exceptional circumstances. Policy CTY9 states that these exceptional circumstances include the provision of temporary residential accommodation pending the development of a permanent dwelling, or where there are compelling and site-specific reasons related to personal or domestic circumstances. Whilst the Appellant indicated a future intention to submit a planning application seeking infill dwellings on the site, she and her representative did not suggest that the mobile accommodation should

be granted temporary permission on that basis, as no such application has been submitted or determined. There is no pending development of a dwelling on the site and this particular exceptional circumstance listed in Policy CTY9 is not engaged.

9. In respect to the strand of Policy CTY9 pertaining to compelling and site-specific reasons related to personal or domestic circumstances, it cross references to Policy CTY6 of PPS21, which was itself referred to in the Council's second reason for refusal. Policy CTY6, although mainly relating to dwellings to meet long term needs, does provide elaboration on the meaning of compelling and site-specific reasons. Criterion (a) of that policy puts an onus on the Appellant to provide satisfactory evidence to demonstrate that their proposal is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if permission were refused.
10. Paragraph 5.29 of PPS21 states that applicants will be expected to provide sufficient information to allow a proper assessment of each specific case. It goes on to state that this information should include a statement detailing the special personal or domestic circumstances supported if appropriate by medical evidence from a medical or health professional, as well as details of the level of care required in relation to any medical condition, again supported by the appropriate health professional, the identity of the main carer, their current address and occupation. Paragraph 5.29 further states that an explanation of why care can only be provided at the specific location and how genuine hardship would be caused if planning permission were refused should be included.
11. Criterion (b) of the same policy is a requirement that no alternative solutions to meet the particular circumstances of the case exist, which include the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.
12. According to the evidence, the Appellant experienced a change in her personal circumstances in early 2018. Arising from this the Appellant and her dependent child moved in with the Appellant's sibling, who resided in Ardglass. I am told that around September 2018 the Appellant and her dependant moved into No. 177 Dundrum Road to assist one of her parents with their declining health. It was stated that the Appellant and her dependant only have the use of a single bedroom for privacy and that sharing the same modest dwelling with her parents has proven problematic. It was also stated that whilst there is an intention to seek planning permission for infill dwellings on the site, the mobile home would still allow for accommodation in the here and now, as well as during construction of any dwelling approved under a future infill application.
13. The Appellant's submitted evidence included medical information pertaining to one of her parents. The evidence, including the supporting letter from a local doctor, in my judgement suggests that whilst it is beneficial that the Appellant lives with her parent to help with their ongoing condition, it would not be essential for her to do so. In a supporting letter submitted by a local elected representative at application stage, mention was made of the Appellant's need to provide support for her family and remain close to both parents due to their ongoing medical conditions. No other evidence as to the particular condition of the Appellant's other parent was provided.

14. Moving into No. 177 was a decision made in the knowledge of the space constraints of that modest property. Whilst it was considered that alternative solutions such as renting in Newcastle were too expensive to maintain in the long term and also due to limited available properties, cost in itself does not demonstrate a necessity for the appeal development. Nor was there any mention of potential alternatives in other nearby settlements. The extension of No. 177 was also deemed too expensive, with it considered that the money could be put to better use in building a dwelling on the site in the future. Any potential extension of No. 177 would require careful design consideration and like any building project, involve an outlay in terms of cost. However, the personal preference to not spend money on an extension but rather on an alternative option is not, to my mind, a site specific reason that would justify the appeal proposal. It was also argued that there would be insufficient space to extend within the curtilage. Whilst there are several outbuildings within the curtilage, I am not persuaded that an extension could not be designed to provide additional accommodation for the existing dwelling at its rear, even if it did require some changes to the internal arrangement of part of the garden area.
15. The level of detail anticipated by PPS21 in proposals based on personal or domestic circumstances has not been provided to substantiate the Appellant's case. From the totality of the submitted evidence, including the medical information and support from a local elected representative, I am not persuaded that there are compelling and site specific reasons related to personal or domestic circumstances that would justify the appeal development. Whilst the development would be of assistance to the Appellant, I am not persuaded that there are not alternative solutions to meet the particular needs of the case. Nor am I persuaded that genuine hardship would be caused if planning permission were refused. I do not find the circumstances presented to be exceptional as to justify the granting of permission for 3 years for the proposed mobile home. For these reasons I find that the appeal proposal does not satisfy Policy CTY9 of PPS21, nor the related provisions of the SPPS.
16. As the appeal proposal does not comply with CTY9 of PPS21, it also fails against Policy CTY1 of PPS21 and the related provisions of the SPPS. There are no overriding reasons why the appeal proposal is essential and could not be located in a settlement. The Council's reasons for refusal have been sustained. The appeal must fail.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
01	Location Map	1:1250	20/05/2019
02	Existing Site Plan	1:500	20/05/2019
03	Proposed Site Plan	1:500	20/05/2019
04	Floor Plan & Elevations	1:50	20/05/2019

**COMMISSIONER MARK WATSON**



**List of Documents**

Planning Authority:-	'A' Statement of Case & Appendices (N M & D DC) 'B' Rebuttal Statement (N M & D DC) 'D' Copy of doctor's letter submitted at application stage (N M & DC) – requested by Commissioner
Appellant:-	'C' Statement of Case (Hillen Architects)



# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0169
<b>Appeal by:</b>	EDB Construction Ltd
<b>Appeal against:</b>	The non-determination of an application for full planning permission
<b>Development:</b>	20 Dwellings (18 semi-detached and 2 detached) including change of house type in respect of planning approval P/2006/1117/F
<b>Location:</b>	Lands opposite Nos. 20-24 Watson's Way, Newry
<b>Planning Authority:</b>	Newry Mourne and Down District Council
<b>Application Reference:</b>	LA07/2019/0866/F
<b>Procedure:</b>	Written Representations with Commissioner's site visit on 30 <sup>th</sup> September 2020
<b>Decision by:</b>	Commissioner A Speirs, dated 13 <sup>th</sup> October 2020

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## Decision

1. The appeal is allowed and full planning permission is granted subject to the conditions set out below.

## Reasons

2. The Council considered that the application should be approved, subject to 4 conditions as follows :-
  - (i) The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
  - (ii) The permission hereby granted relates solely to the change of house types on sites outlined in red on the site location plan drawing No. 01 REV1 and the site layout drawing No. 04 REV 2 date stamped 21<sup>st</sup> August 2019 and shall also adhere to the conditions as previously approved under planning reference P/2006/1117/F.
  - (iii) Street layout shall be in accordance with approval issued under P/2006/1117/F.

- (iv) The development hereby permitted shall not be occupied until a Drainage Assessment is submitted to the Planning Authority, to include information on:
  - a) evidence of any attenuation calculations to show that the system will not flood any part of the site in a 1 in 30 year designed event whilst retaining a 300mm free-board within the manholes network and
  - b) carry out checks and show that during exceedance of the 1 in 30 year pipe design for up to a 1 in 100 year return period, that the properties will not flood and the flow path and location of surplus storage on site and this shall be agreed in writing to the satisfaction of Rivers Agency.
- 3. The appellant had no objection to the conditions except in respect of that relating to the Drainage Assessment. The Council did not provide an explanation in its evidence as to why that condition is required. However, there is an email on file in which the Council states "... the Council considers that the purpose of the condition is necessary to provide the degree of assurance that FLD1 will be complied with. Because of the restrictions now imposed by the current pandemic we are unable to consult with Rivers Agency to determine if they would be content to relax the condition. In the circumstances the Council would not object to the Commission amending the condition in the light of the new drainage assessment or omitting it if it considers either course of action necessary".
- 4. The appellant pointed to a number of factors in respect of the suggested condition. It was submitted that there is a valid Article 17 agreement with NI Water for connection to the mains sewer, an Article 161 preliminary adoption certificate for the sewers implemented on site, and a valid Schedule 6 consent for the discharge of storm water from the site.
- 5. A copy of an email from NI Water was included in evidence and this states that "In reference to your query concerning a change of house type within the development at 20-24 Watsons Road and the impact of same upon the current Article 17 agreement, we would confirm that pipe work within Watsons Road has previously been adopted ... pipework which serves the initial 22 units as presently constructed are under a Certificate of Preliminary Adoption, and are currently being processed to Final Adoption. On the basis that the Sewers serving the remainder of your development adhere to and are constructed in accord with the Drainage Layout as approved under the current Article 17 Agreement dated 2nd March 2007 [for which the storm drainage design and layout relied upon Rivers Agency consent to discharge surface water directly into the Drumalane stream to serve a maximum of one hundred and fifty dwellings] then we can confirm that the Article 17 Agreement will remain valid for the installation and subsequent adoption of the foul and storm sewers within the remainder of your development site, provided same does not seek to accommodate more than the one hundred and fifty units being the number accommodated within the Rivers Agency consent to discharge into Drumalane Stream and in reliance upon which the Article 17 agreement has been issued".

6. The appeal proposal involves a reduction of dwelling units within that part of the overall housing scheme, from 24 units (P/2006/1117/F) to 20 units. The aforementioned consent remains live and could be implemented by the appellant. A Drainage Assessment carried out in March 2020 in respect of the development concluded that the proposal creates a lesser discharge rate than the previously approved development on the appeal site. It refers to finished floor levels being set to prevent flooding of dwellings on the site. The site is not located in the 1:100 year flood plain. Rivers Agency has already given consent for storm water discharge from the wider housing scheme. I agree with the appellant that there would not appear to be a need for further drainage assessment to be prepared for the site. I do not consider that the condition suggested by the Council is reasonable or necessary.
7. With regard to the other conditions, the standard time limit is needed. The second suggested condition refers to adherence "... to the conditions as previously approved under planning reference P/2006/1117/F". This is inappropriate, given that the appeal proposal is a separate full consent in its own right and conditions from the earlier consent require to be adapted and updated, where necessary, and applied to the consent granted under this appeal. I note that there was no objection from the appellant regarding the Council's reference to the conditions of the earlier consent. The proposed streets layout appears to mirror that approved previously; reference to the earlier drawings can address the matter.

### Conditions

1. As required by Section 61 of the Planning Act (NI) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
2. All hard and soft landscape works shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice.
3. There shall be no construction works, vegetation clearance, disturbance by machinery, dumping or storage of materials within the badger sett exclusion zones, wildlife corridors or wetland area as shown on Drawing No. 02 (Rev 9), date stamped 27th February 2013 by the Planning Authority in respect of planning approval reference P/2006/1117/F.
4. Existing trees and hedgerows, as shown on Drawing No. 02 (Rev 9), date stamped 27th February 2013 by the Planning Authority, shall be retained and protected in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery, including ivy removal, take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Council.
5. The lighting scheme for the development shall accord with that approved in respect of planning permission reference P/2006/1117/F, or any other

lighting scheme as may be agreed in writing with the Planning Authority.

6. 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 FB1016-202 REV F bearing the date stamp 14th March 2013 in respect of planning approval reference P/2006/1117/F.
7. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, no garages shall be sited closer than 5.6 metres from the back of the footway or service strip.
8. No dwelling hereby approved shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with details outlined blue on Drawing No.FB 1016-202 REV F bearing the date stamp 14th March 2013 in respect of planning approval reference P/2006/1117/F. Such works shall be carried out in accordance with an agreement under Article 3(4C) of the Roads Order.
9. No dwelling 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 each phase.
10. Notwithstanding the provisions of the Planning (General Permitted Development) (Northern Ireland) Order 2015, no buildings, walls or fences shall be erected, nor shall boundaries be defined by the formal planting of hedges or rows of trees, between the shared surface road (as defined in the document 'Creating Places') and any building having a frontage to it.
11. Notwithstanding the provisions of the Planning (General Permitted Development) (Northern Ireland) Order 2015, no buildings, walls or fences shall be erected, nor hedges nor formal rows of trees grown, (in verges / service strips) determined for adoption.
12. No dwelling shall be occupied until provision has been made and permanently retained within the curtilage of the site for the parking of private cars at the rate of 2 spaces per dwelling.
13. No part of the development hereby permitted shall be occupied until the works necessary for the provision of the footway adjacent, to Watsons Road/Liska Road has been completed in accordance with the approved layout on drawing No FB1016-202 REV F bearing the date stamp 14th March 2013 in respect of planning approval P/2006/1117/F.
14. The gradients of the private accesses shall not exceed 8% for the first 5m outside the public road boundary and a maximum gradient of 10% thereafter.
15. Upon the occupation of any 26 of the dwellings within the housing development as a whole, the developer shall provide the proposed public open space and all peripheral planting as indicated on the approved plan, drawing no.02 (REV 9) date stamped 27th February 2013 in respect of planning approval reference P/2006/1117/F.

This decision relates to the following drawings as numbered by the Council:-

01 (REV 1) date stamped 6th June 2019  
04 (REV 2) date stamped 21st August 2019  
06, 07, 08, 09, 10, 11 and 12 date stamped 28th May 2019

**COMMISSIONER A SPEIRS**

## Documents

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Doc A – Council's Statement of Case

Doc B – Appellant's Statement of Case with appendices

Doc B1 – Appellant's Rebuttal comments



# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0211.
<b>Appeal by:</b>	Ms. Tara Ward.
<b>Appeal against:</b>	The refusal of full planning permission.
<b>Proposed Development:</b>	Dwelling and garage with amended access to that approved previously under LA07/2018/1493/RM.
<b>Location:</b>	40m south of No. 78 Benagh Road, Mayobridge, Newry.
<b>Planning Authority:</b>	Newry Mourne & Down District Council.
<b>Application Reference:</b>	LA07/2019/1110/F.
<b>Procedure:</b>	Written representations and Commissioner's site visit on 18 September 2020.
<b>Decision by:</b>	Commissioner Mark Watson, dated 13 October 2020.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are whether or not the proposed amended access and driveway would:
  - integrate sympathetically with their surroundings;
  - damage rural character; and
  - represent a better option over that which was previously granted permission.
3. Outline planning permission was granted on the appeal site for a dwelling and garage (ref. LA07/2015/0344/O) on 3 May 2016. The subsequent reserved matters application (ref. LA07/2018/0493/RM) was approved on 2 January 2019. The appeal before me seeks full permission for the same dwelling and garage on the same site, but with an alternative means of access to the site from the Benagh Road.
4. The Banbridge Newry and Mourne Area Plan 2015 (BNMAP) operates as the statutory local development plan (LDP) for the proposal. In it, the site lies in the countryside and is not affected by any LDP designations. BNMAP is not material to the appeal development. In respect of the appeal development there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21). PPS21 remains the applicable policy context to consider the proposed development under.

5. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. As the application seeks an amendment to the means of access, but otherwise makes no changes to what was previously approved, the Council accepted the principle of development for a dwelling and garage on the site. In light of this evidential context I shall consider the appeal on the same basis. Policy CTY1 of PPS21 goes on to state that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety.
6. The appeal site comprises a portion of a larger, grassed agricultural field on the eastern side of the Benagh Road. The site area is rectangular in nature, set back from the public road and bounded on its eastern side by a farm yard with a shed and polytunnel. To the north of the site lies No. 78, a single storey dwelling. At the north-western end of the host field lies a copse of mature trees, predominantly comprised of a mix of beech and ash. The existing access to No. 78 lies on the northern side of that copse, flanked by white painted, rendered walls. The host field is slightly undulating in nature at the northern end over which the approved driveway would traverse. The southern section of the host field has a gentle slope rising eastwards towards the rear boundary. The roadside boundary of the host field is predominantly comprised of a low stone wall with fencing, though there are several mature trees at the northern end, forming part of the aforementioned copse. The southern boundary of the host field is defined by a line of mature hedge and trees, whilst its eastern boundary is defined by mature trees.
7. The previously approved access would begin at the roadside adjacent and south of the tree copse and follow parallel to the line of the northern boundary of the host field, before turning to the south-east and reaching the site for the dwelling and garage. The appeal access is proposed to start at a point approximately 65m south of the approved access point, partway along the frontage of the host field. The driveway would head east for a short section, then curve to the south-east, before straightening again to follow alongside a section of the southern boundary of the host field. The final segment would entail a 90° turn to the north that would run parallel to Benagh Road and ultimately connect to the dwelling location itself. New planting is proposed along the boundaries of the driveway and to the rear of the visibility splays, with new trees to be planted adjacent and south of the access point. Both the section from the roadside into the host field and that section connecting northwards to the dwelling site itself would not follow any established boundaries or field features.
8. The Council considered that the appeal access would not integrate sympathetically with the surrounding countryside and damage rural character. The Appellant and her representatives considered the appeal access to provide a preferable option in terms of rural character and to the environment, as it would not result in the loss of any mature trees or hedge and be less visible in the landscape. The Appellant considered that the Council's opposition to the appeal access in comparison to what it had approved amounted to administrative unfairness. In reaching its decision to refuse permission for the amended access, the Council's planning department exercised its judgement on matters which inevitably include a degree of subjectivity. I am not persuaded that the difference

of opinion in relation to the comparative merits of the previously approved and proposed alternative accesses amounted to administrative unfairness.

9. Policy CTY13 of PPS21 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. Criterion (d) requires that ancillary works integrate with their surroundings. Paragraph 5.72 of PPS21 states that where a new access drive and services are required, they should, as far as practicable, be run unobtrusively alongside existing hedgerows or wall lines and accompanied by landscaping measures. It goes on to warn that sweeping driveways which create a suburban emphasis and access arrangements will not be acceptable. Policy CTY14 of PPS21 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. Criterion (e) is that the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character. Paragraph 5.82 of PPS21 states that access arrangements can often raise awareness of and draw attention to new development.
10. The location and route of the proposed access and driveway, with its curving bend to the south-east and north facing section that travel across part of the host field away from any boundaries, would result in a long, sweeping driveway to the dwelling and garage. Despite the mid-section of the proposed driveway being set along the southern boundary of the host field, any benefits of this are offset by the aforementioned sections, both of which cut across the host field with no regard to the existing field boundaries or other features. Even if a lesser degree of excavation may be required for these sections than for the previously approved route, the proposed driveway as a whole would, regardless of the proposed planting, fail to integrate sympathetically into its surroundings and give the overall development a suburban appearance. The proposed access works would also draw greater attention to the dwelling and garage as a consequence of the overall route and winding nature of the driveway. This would be evident travelling south along Benagh Road towards the site, where from the more elevated position on the public road, open views of the driveway would be readily discerned, particularly those sections cutting obtrusively across parts of the host field. The rising land and hedgeline to the east would not provide a backdrop that would mitigate this adverse visual impact.
11. Whilst views of the appeal access and driveway would not be available from the south until reaching the southern boundary of the host field itself, this would not offset the impact from the critical approach from the north. Whilst the low stone wall along the western, roadside boundary of the host field does not have a hedge along it, the wall is longstanding, overgrown in moss and removal of a portion to facilitate the visibility splays would contribute to further drawing attention to the dwelling and garage. The proposed access works would not integrate with their surroundings and would also damage rural character. For these reasons the appeal development would not comply with criterion (d) of Policy CTY13 or criterion (e) of Policy CTY14 and given the critical nature of these elements in this case, the policies read as a whole.
12. Whilst there would be excavation required to construct the approved access, which traverses an area of undulating land, this would not harm rural character or

the overall integration of the approved dwelling and garage given the location and route of the majority of the approved driveway parallel to the existing northern boundary of the host field. Despite its position on higher land relative to that of the route of the appeal proposal, it would have the benefit of mature trees and No. 78 itself as backdrop from the Appellant's identified view travelling north towards the site.

13. The Appellant, as well as a supporting elected representative, pointed to what they considered were the environmental benefits of the proposed alternative access over those of the approved access. They considered that the appeal access would allow for the retention of up to 7 mature trees and a section of wall and roadside hedge which would have to be removed for the visibility splays. There was also concern at the potential damage to roots of other trees. The loss of mature trees or vegetation is never to be welcomed. However, even with the approved access entailing the removal of several mature trees and part of an existing roadside wall and hedge, these works would ultimately be less detrimental to the overall rural character and draw less attention to the approved dwelling and garage. This would be a consequence of the shorter overall length of the previously approved driveway, its route and the more restricted views available of it in comparison to the location and route of the proposed alternative access. Although it is possible that the approved access could potentially impact on the roots of other trees, careful excavation could assist with mitigating this and I am not persuaded that this matter would justify the appeal development.
14. Whilst the Appellant and her father wished to plant further trees next to the existing copse, the previously approved access and driveway would not prohibit the planting of new trees to the southern side of the previously approved driveway, nor elsewhere within the host field. In my judgement the stated benefits of the appeal access taken as a whole do not represent betterment over the access as was approved. Nor would they outweigh the overall harm to rural character that would arise. The Appellant's analysis, including supporting material submitted during application stage, would not persuade me otherwise.
15. For the reasons given above I find that the proposed alternative access and driveway would not comply with Policies CTY13 and CTY14 of PPS21 when read as a whole. As the appeal development does not comply with all environmental requirements of PPS21 it would also not comply with Policy CTY1 of PPS21 read as a whole, nor the related provisions of the SPPS. The Council's reasons for refusal are sustained. The appeal must fail.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
01	Site Location Map	1:2500	02/07/2019
02	Site Plan	1:500 & 1:250	02/07/2019

**COMMISSIONER MARK WATSON**



**List of Documents**

Planning Authority:-	'A' Statement of Case & Appendices (N M & D DC) 'B' Rebuttal Statement (N M & D DC)
Appellant:-	'C' Statement of Case (M J Bailie) 'D' Rebuttal Statement (M J Bailie)
Third Parties:-	'E' Letter of Support (Ms S Bradley, MLA)



# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0248
<b>Appeal by:</b>	Mr J Rogan
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	New end of terrace dwelling and associated site works
<b>Location:</b>	Adjacent to 33 Dunwellan Park, Newcastle
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2019/1130/O
<b>Procedure:</b>	Written representations and Commissioner's site visit on 16 October 2020
<b>Decision by:</b>	Commissioner McShane, dated 26 October 2020.

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## Decision

1. The appeal is dismissed.

## Reasons

2. The main issues in this appeal are:
  - whether the proposal would comprise a quality residential environment that would respect the surrounding context;
  - its impact on residential amenity; and
  - car parking provision.
3. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Ards and Down Area Plan 2015 (ADAP) operates as a LDP. The appeal site is located within the settlement development limit of Newcastle as designated in the ADAP. There are no operational policies material to the proposal in the plan. Therefore, I turn to other material considerations.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) is material to all decisions on individual planning applications and appeals. The guiding principle of the SPPS is that sustainable development should be permitted having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS identifies Planning Policy Statement 7: Quality Residential Environments (PPS 7) as a retained policy document.
5. Policy QD 1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. It goes on to state that 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 amenities of these areas. Nine criteria listed in Policy QD 1 of PPS 7 are required to be met. The parties dispute Criteria (a), (f) and (h).

6. Criterion (a) of Policy QD 1 requires the development to respect the surrounding context and be appropriate to the character and topography of the site, including in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas.
7. Dunwellan Park is an established residential area within Newcastle. It comprises three and four storey high maisonette apartments and two storey high pitched roof terraced dwellings.
8. The terraces are arranged in rows of three, four and five dwellings that have front and rear gardens. A strong building line is maintained. There is no vehicular access to the front of the properties. Rather, narrow rear alleyways provide access to groups of garages and areas of hardstanding located at the back. Further marked parking bays are located contiguous with the carriageway.
9. The appeal site (111sqm) comprises the side garden of No.33, an end of terrace dwelling. It stands at the northern end of a terrace comprising four dwellings (Nos. 33-36). It faces a matching terrace of four dwellings standing directly opposite (Nos. 37 – 40). The two rows of four dwellings are separated by footpaths that run alongside their front gardens either side of a narrow communal green area. The gable end properties have larger gardens than those located mid terrace. A dwelling located on the appeal site, irrespective of its design, would not respect this original planned form of development. Rather, it would disrupt the legibility and as such it would appear out of place with its surroundings.
10. Policy promotes a drive to provide more housing within existing urban areas and advocates an increase in the density of urban housing; however it stresses that this must not be achieved at the expense of over development or town cramming. A terrace of five dwellings (Nos.28 – 32) is located north of, and perpendicular to, the two terraces described above. Small front gardens and a narrow footpath separate the two properties that are located at the eastern end of it (Nos.28 and 29) from the appeal site. The proposed development, which does not constitute permitted development, would extend the built form unacceptably close to their front elevations. Notwithstanding that adequate private amenity space could be provided, the overall appearance would be of a dwelling squeezed onto an unsuitable and highly restricted site and the loss of a garden in an area that is comprised overwhelmingly of hard surfaces. This would have an unacceptable and negative impact on the area.
11. My conclusions in this respect are reinforced by the proposed design submitted “for information purposes”. Elevations and floor plans for a 71sqm, two bedroom dwelling were provided. The height of the ridge and eaves in relation to the existing dwellings is reduced resulting in a storey and a half dwelling with a hipped roof that would break the building line. The design, which is dictated by the constraints of the site, bears no relationship to the two storey high pitched roof terraced dwellings. The Appellant made a passing reference to the broad diversity

of new buildings and extensions, which have been granted planning approval in developed areas, that have different ridge heights and roof profiles; however no examples were provided that replicate the context of the appeal proposal. In any event, urban design features that undermine the overall character of an area should not be used as a precedent.

12. I have not been persuaded that a quality residential environment could be delivered on the constrained appeal site that would respect the surrounding context. Any dwelling would have an unacceptable detrimental impact on the environmental quality and character of the established residential area. Accordingly, the Council has sustained its first reason for refusal based upon Criterion (a) of Policy QD 1.
13. Criterion (h) of Policy QD 1 requires that the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties, in terms of overlooking, loss of light and overshadowing.
14. The narrow side garden of No.33 ranges from 5.5m to 6.5m wide. In order to maximise space, any new dwelling would by necessity extend to or close to the boundary line. Consequently, its gable elevation would come within approximately 6m of the front elevations of Nos.28 and 29. It has already been concluded above that the design submitted "for information purposes" would be unacceptable. Irrespective of height or finish materials, given the limited spacing between the buildings, Nos.28 and 29 would be hemmed in and the outlook from their front south facing elevations would be dominated by built form. While this may not result in an unacceptable loss of daylight to the dwellings, it would nonetheless have an unacceptable adverse impact on residential amenity. Accordingly, the Council has sustained its second reason for refusal based upon Criterion (h) of Policy QD 1 of PPS 7.
15. Criterion (f) of Policy QD 1 requires that adequate and appropriate provision is made for parking. The houses and apartments within Dunwellan Park are served by unassigned communal parking spaces; no incurtilage parking is provided. The Appellant states that the proposed dwelling would avail of the communal parking area.
16. Table 7 of Section 20 of Creating Places, which provides guidance on the total number of parking spaces per dwelling required for apartments and houses that have only communal parking provision, indicates that the total no. of parking spaces required for 1 and 2 bed terraced houses would be 1.5 per dwelling (unassigned spaces). However, associated text goes on to state that this is the normal car parking provision required on green field sites or in low density areas and that lesser provision may be acceptable in inner urban locations and other high density areas.
17. The Council argues that insufficient information on the use of existing car parking had been provided by the Appellant. However, I note it did not request such information on the basis that it found the proposal unacceptable in other respects. A Third Party argues that parking provision in the area has already been surpassed and that there is a problem being able to park every day. There is, however, a large amount of hard standing available in this high density

development, which is less than 0.5 of a mile from the town centre. Furthermore, there were large numbers of free car parking spaces available throughout Dunwellan Park at the time of my site visit. As such, I have not been persuaded that the proposed development merits refusal on the basis of inadequate car parking provision. Accordingly, the Council has failed to sustain its third reason for refusal based upon Criterion (f) of Policy QD 1.

18. Notwithstanding the failure of the Council to sustain its third reason for refusal, I have already concluded above that the proposal is contrary to Criteria (a) and (h) of Policy QD 1 of PPS7; therefore the appeal must fail.

This decision is based on the following drawing:-

- LPA Drwg No.01: Site Location Plan (Scale 1:1250)

**COMMISSIONER MCSHANE**

**List of Documents**

Planning Authority:- "LPA 1" Statement of Case and Appendices

Appellant:- "APP 1" Statement of Case and Appendices  
"APP 1a" Rebuttal Statement

Third Party Objector:- "TP 1" Statement of Case  
(29 Dunwellan Park)

