



September 17th, 2020

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 23rd September 2020 at 10:00 am** in **Boardroom Monaghan Row Newry** and via **skype**.

Committee Membership:

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

Agenda

1.0 Apologies.

2.0 Declarations of Interest.

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

Minutes for Confirmation

4.0 Minutes of Planning Committee Meeting held on Wednesday 26 August 2020. (Attached).

 *Planning Committee Minutes 26.08.2020.pdf*

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For Discussion/Decision

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

 *Addendum list - 23-09-2020.pdf*

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

6.0 P/2010/0904/F - 45 metres north of 18 Ballinasack Road Mullaghbawn - erection of farm dwelling to include retention of existing foundations. (Case Officer report attached).

REFUSAL

- Planners advised on 14-09-2020 that this planning application has been formally withdrawn from the planning system by the planning agent.

 *P-2010-0904-F - Ballinasack Rd Mullaghbawn.PDF*

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7.0 LA07/2019/0261/F - Sites 22 and 22a Spring Meadows Burren Road Warrenpoint BT34 3SU - 2 dwellings with detached garages (amended plans). (Case Officer Report attached).

APPROVAL

- A request for speaking rights has been received from Cormac and Edel McKinney, in objection to the application. **(Submission attached).**

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

📄 *LA07-2019-0261-F Spring Meadows.pdf*

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📄 *Item 7 - LA07-2019-0261-F Submission Cormac Edel McKinney (obj).pdf*

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📄 *Item 7 - LA07-2019-0261-F (support).pdf*

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8.0 LA07/2019/0953/F - Lands at 123 Magherahamlet Road Ballynahinch - proposed 2no Broiler Poultry Sheds to replace 2no Existing Poultry Sheds(to contain 74,000 broilers, taking the total farm capacity to 148,000 broilers) with 4no feed bins, 2no gas tanks, 1no underground wash tank and retention of weighbridge, biomass boiler shed and associated pellet bins, water tank, site office, access and associated site works. (Case Officer report attached).

APPROVAL

- A request for speaking rights has been received from Jim Wells on behalf of Mary McCann in objection to the application. **(Submission attached)**.
- A request for speaking rights has been received from Councillor Patrick Brown in objection to the application. **(Submission attached)**.
- A request for speaking rights has been received from Philip Marshall, agent, in support of the application. **(Submission attached)**.

📄 *LA07-2019-0953-F Magherahamlet Road (Poultry Sheds).pdf*

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📄 *Item 8 - LA07-2019-0953-F (M McCann - Objector).pdf*

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📄 *Item 8 - LA07 2019 0953 F Cllr Brown obj letter.pdf*

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📄 *Item 8 - LA07-2019-0953-F (SUPPORT).pdf*






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9.0 LA07/2019/1136/F - land to the south of 35 Old Belfast Road and to the south and west of 3 Orchard Lane Downpatrick - 6 detached dwellings, garages and ancillary works. (Case Officer report attached).

APPROVAL

- A request for speaking rights has been received from Lisa Byers and Catherine Edwards in objection to the application. **(Submissions attached)**.
- A request for speaking rights has been received from Councillor Enright in objection to the application. **(Submission attached)**.

- A request for speaking rights has been received from Lisa Shannon and Adam Larkin (Gravis Planning) in support of the application. **(Submission attached).**

 <i>LA07-2019-1136-F (Housing) Orchard Lane Dpk.pdf</i>	<i>Page 56</i>
 <i>Item 9 - LA07_2019_1136_F (objection L Byers).pdf</i>	<i>Page 69</i>
 <i>Item 9 - LA07-2019-1136-F (objection C Edwards).pdf</i>	<i>Page 71</i>
 <i>Item 9 - LA07-2019-1136-F (objection C Enright).pdf</i>	<i>Page 74</i>
 <i>Item 9 - LA07-2019-1136-F (support).pdf</i>	<i>Page 76</i>

10.0 LA07/2019/1362/O - adjacent and immediately South of No. 64 The Heights Loughinisland Downpatrick Co Down BT30 8PY - gap/infill site for dwelling and domestic garage. (Case Officer report attached).

REFUSAL

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

 <i>LA0720191362O 64 The Heights Loughanisland.pdf</i>	<i>Page 79</i>
 <i>Item 10 - LA07-2019-1362-0.pdf</i>	<i>Page 83</i>

11.0 LA07/2019/1807/O - 55m north of 4 Leitrim Road Hilltown BT34 5XS - site for farm dwelling. (Case Officer report attached).

REFUSAL

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

 <i>LA07-2019-1807-O Leitrim Road).pdf</i>	<i>Page 85</i>
 <i>Item 11 - LA07 2019 1807 O - Site 55m North of 4 Leitrim Road Hilltown.pdf</i>	<i>Page 92</i>

Development Management - Planning Applications for determination

12.0 LA07/2020/0924/O - approx. 70m East of 22 Drumnaconnell Road Saintfield - dwelling and garage on a Farm. (Case Officer report attached).

APPROVAL

- Addendum list

LA07-2020-0924-22 Drumnacconnell Road.pdf

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13.0 LA07/2019/1092/F - lands opposite No. 1 Ashgrove Avenue Newry BT34 1PR - residential development comprising 18 No. 3-bed semi-detached houses and 2 No. 3-bed detached houses (20 No. dwellings in total). (Case Officer report attached).

APPROVAL

- A request for speaking rights has been received from Richard O'Toole, agent, Simon Turbitt (barrister) and Phil Hill, Flooding/Drainage engineer, in support of the application. **(Submission attached).**

LA07-2019-1092-F Ashgrove Avenue.pdf

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Item 13 - LA07-2019-1092-F (support).pdf

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14.0 LA07/2020/0176/F - lands approximately 45m north of 5 Molly Road Lower Foughillotra Jonesborough BT35 8JR - proposed erection of a rural infill detached dwelling and detached garage together with associated landscaping. (Case Officer report attached).

REFUSAL

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

LA07-2020-0176-F (Molly Road).PDF

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Item 14 - LA07-2020-0176-F (Molly Road).pdf

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For Noting

15.0 Historic Actions Tracking Sheet. (Attached).

Planning HISTORIC TRACKING SHEET - Mastercopy updated 23-09-2020.pdf

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

AUGUST 2020 Planning Committee Performance Report.pdf

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17.0 August Planning Appeals and Decisions. (Attached).

 *Appeals and Decisions issued August 2020.pdf*

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Exempt Information Items

18.0 Proposed amendments to the Planning Committee Protocol. (Report to follow).

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

NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 26 August 2020 at 10.00am in Council Offices Monaghan Row Newry and via Skype

Chairperson: Councillor R Burgess

In attendance: (Committee Members)

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

(Officials)

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

P/066/2020: APOLOGIES AND CHAIRPERSON'S REMARKS / SKYPE MEETING PROTOCOL

Apologies were received from Councillor G Stokes and Councillor J Tinnelly.

Read: Skype Meeting Protocol. **(Circulated)**

AGREED: It was agreed to note the Skype Meeting Protocol.

P/067/2020: DECLARATIONS OF INTEREST

Mr F O Connor Legal Advisor declared an interest in Planning Application LA07/2019/0261/F.

**P/068/2020: 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:-

- **Item 6 - 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 - **Councillors Brown, McAteer and Trainor did not take part in the discussion/decision on this application.**
- **Item 7 - LA07/2019/1362/O** - gap/infill site for dwelling and domestic garage - adjacent and immediately South of No. 64 The Heights Loughinisland – **Councillors Brown, McAteer and Trainor did not take part in the discussion/decision on this application.**
- **Item 8 - LA07/2019/1258/F** - retention of change of use for ground floor cafe unit with 2.No. treatment rooms and ancillary services - the application site is located at Ground floor unit, 12 Seaview, Warrenpoint - **Councillors Brown, McAteer and Trainor did not take part in the discussion/decision on this application.**
- **Item 9 - LA07/2018/0048/F** - demolition of existing barns and construction of new build self-catering holiday letting unit, in substitution for barn conversion approved under application LA07/2015/1030/F - 10M NW of 56 Levallyreagh Road, Ballyagholy, Rostrevor - **Cllrs. Brown, McAteer and Trainor did not take part in the discussion/decision on this application**
- **Item 10 - LA07/2019/1449/F** – proposed infill dwelling and detached garage under PP21 - site adjacent to, and 50m south of 29 Foughilletra Road Jonesborough – **Councillors Brown, McAteer and Trainor did not take part in the discussion/decision on this application.**
- **Item 11 - LA07/2019/1087/O** - replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar – **This application was withdrawn from the Agenda.**
- **Item 12 - LA07/2019/1134/O** - replacement dwelling - 90 Manse Road, Darraghcross, Crossgar BT24 7EQ - **This application was withdrawn from the Agenda.**

MINUTES FOR CONFIRMATION

P/069/2020: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 29 JULY 2020

Read: Minutes of Planning Committee Meeting held on Wednesday 29 July 2020. **(Copy circulated)**

AGREED: On the proposal of Councillor Doran seconded by Councillor Trainor it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 1 July 2020 as a true and accurate record.

FOR DISCUSSION/DECISION

P/070/2020: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 26 August 2020. **(Copy circulated).**

AGREED: On the proposal of Councillor Doran seconded by Councillor McAteer it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 26 August 2020:

- **LA07/2020/0579/F** – play park enclosed with low level fencing – play area at Mullagh Close Ballymartin Kilkeel. **APPROVAL**
- **LA07/2019/1843/F** – proposed play park and multi utility game unit (MUGA) pitch and associated site works (amended description and address) – 20m west and 50 SW of 24 Altmore Gardens Newry **APPROVAL.**

DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION

P/071/2020: PLANNING APPLICATIONS FOR DETERMINATION

The following applications were determined by the Committee:-

(1) LA07/2019/1302/F

(Councillors Brown, McAteer, and Trainor withdrew from discussions/decision)

Location:

Rear of nos. 65-69 South Promenade Newcastle

Proposal:

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.

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Speaking rights: (via Skype)

In objection

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

In support

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

Issues raised:

- The issues raised by the Agent in regard to addressing sight lines matters, ie, preventing parking and removal of wall, was new information and did not form part of the formal application and have not been formally assessed by Planning Department.
- The level of usable amenity space is not sufficient for the proposal.
- Overlooking is an issue from the front of the property.
- The single storey style of the proposed property is not typical of the other properties nearby as they are of Victorian style.

Agreed: On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed to defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can be secured for this proposal.

(2) LA07/2019/1362/O

(Councillors Brown, McAteer and Trainor withdrew from discussions/decision)

Location:

Adjacent and immediately South of No. 64 The Heights Loughinisland

Proposal:

Gap/infill site for dwelling and domestic garage.

Conclusion and Recommendation from Planning Official:

Refusal

Agreed: On the proposal of Councillor Hanna seconded by Councillor Doran it was agreed to defer Planning Application LA07/2019/1362/O as the Agent representative was unable to attend the meeting.

(3) LA07/2019/1258/F

(Councillor Brown, McAteer and Trainor withdrew from discussions/decision).

Location:

Ground floor unit 12 Seaview Warrenpoint

Proposal:

Retention of change of use for ground floor café unit with 2 No. treatment rooms and ancillary services.

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

**Speaking rights:
(via Skype)**

Mr McKay said Councillor D McAteer and submitted a request to speak in support of the application.

In support:

Councillor McAteer presented in support of the application.

Julie McLarnon owner, explained she would be available to answer any queries regarding the application.

Issues raised:

No issues were raised.

Agreed:

On the proposal of Councillor Larkin seconded by Councillor Hanna it was agreed to issue an approval in respect of Planning Application LA07/2019/1258/F, as per the information and recommendation contained in the Case Officer Report presented to Committee and Officers be delegated authority to impose relevant conditions.

(4) LA07/2018/0048/F

(Councillor Brown, McAteer and Trainor withdrew from discussions/decision).

Location:

10m NW of 56 Levallyreagh Road Ballyagholy Rostrevor

Proposal:

Demolition of existing barns and construction of new build self-catering holiday letting unit, in substitution for barn conversion approved under application LA07/2015/1030/F

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

**Speaking rights:
(via Skype)**

In support:

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

Issues raised:

- It has not been demonstrated that there are exceptional circumstances in this case to undertake a new build rather than a renovation.

Councillor Hanna proposed to issue a refusal in respect of Planning Application LA07/2018/0048/F, as per the information and recommendation contained in the Case Officer Report presented to Committee. Councillor Larkin seconded the proposal.

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

FOR:	7
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

Agreed: On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed to issue an refusal in respect of Planning Application LA07/2018/0048/F, as per the information and recommendation contained in the Case Officer Report presented to Committee.

(5) LA07/2019/1449/F

(Councillor Brown, McAteer and Trainor withdrew from discussions/decision).

Location:

Site adjacent to, and 50m south of 29 Foughilletra Road Jonesborough

Proposal:

Proposed infill dwelling and detached garage under PP21

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

**Speaking rights:
(via Skype)**

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:

No issues.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2019/1449/F, contrary to Officer recommendation, as following a site visit, it appears No.25A does have frontage to the road and therefore constitutes an exception to Policy, and Officers be delegated authority to impose relevant conditions. Councillor Murphy seconded the proposal.

Mr McKay referred to protocol and said before Committee moved to a vote, it should be noted that the full extent of continuous and built up frontage needed to enclose the site did not exist.

He also reminded the Committee there was a well established position between the Planning Department and the Planning Appeals Commission whereby applications have previously been refused on this basis and that with regard to this application, he cautioned the Committee as they were in danger of straying into the realms of inconsistency.

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

FOR:	6
AGAINST:	0
ABSTENTIONS:	1

The proposal was declared carried.

Agreed: On the proposal of Councillor Larkin seconded by Councillor Murphy it was agreed to issue an approval in respect of Planning Application LA07/2019/1449/F, contrary to Officer recommendation, as following a site visit, it appears No.25A does have frontage to the road and therefore constitutes an exception to Policy, and Officers be delegated authority to impose relevant conditions.

(Councillor Brown, McAteer and Trainor re-joined the meeting)

(6) LA07/2019/1087/O

Location:

Approximately 50m NE of 21 Drakes Bridge Road Crossgar

Proposal:

Replacement dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

AGREED: It was agreed to note Application LA07/2019/1087/O was withdrawn from the Agenda.

(7) LA07/2019/1134/O

Location:

90 Manse Road Darraghcross Crossgar BT24 7EQ

Proposal:

Replacement dwelling

Conclusion and Recommendation from Planning Official:

Refusal

AGREED: It was agreed to note Application LA07/2019/1134/O was withdrawn from the Agenda.

(8) LA07/2019/1807/O

Location:

55m North of 4 Leitrim Road Hilltown.

Proposal:

Site for farm dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Councillor Brown was absent during the Officer presentation in respect of Application LA07/2019/1807/O and therefore did not take part in discussions/decision.

**Speaking rights:
(via Skype)**

In support:

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

Issues raised:

- Comparisons of traffic and distances relating to a laneway and a public road.
- Visual linkage
- References to suburban and ribbon development

Mr McKay cautioned the Committee with regard to relying on photographs to assess visual linkage and said this could only be done on site.

Ms Largey Legal Advisor, said given the comments made by Councillor Larkin in relation to a similar application LA07/2019/1662/F being approved, Officers should be given time to look at the information raised in advance of any decision being made on this application.

Agreed: On the proposal of Councillor Larkin seconded by Councillor McAteer it was agreed that in view of comments from Ms N Largey Legal Advisor , that Application LA07/2019/1807/O be deferred to allow for a site visit to take place and review the issues raised in relation to Application LA07/2019/1662/F which had been granted an approval.

(Councillor Brown re-joined the meeting)

(9) LA07/2019/0261/F

Location:

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

Proposal:

2 dwellings with detached garages (amended plans)

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

Speaking rights:

(via Skype)

In objection:

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

In support:

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

Issues raised:

- Overlooking other dwellings – protection of privacy and the impact on Nos 24 and 26.
- Application seeks to develop 2 No. sites on an area that was originally earmarked for the development of 1 No. site.

Agreed: On the proposal of Councillor Larkin seconded by Councillor McAteer it was unanimously agreed to defer Application LA07/2019/0261/F for a site visit to take place to examine the concerns raised by objectors.

(10) LA07/2020/0467/F

Location:

38 Lighthouse Road Ballyward Castlewellan

Proposal:

Replacement dwelling with retention of old dwelling as agricultural store

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Speaking rights:

(via Skype)

In support:

Eoin Morgan Agent, and Noel Crean Applicant, presented in support of the application, detailing and expanding upon a powerpoint presentation and written statement that had been circulated to Committee Members.

Councillor McAteer proposed to issue an approval in respect of Application LA07/2020/0329, contrary to Officer recommendation, on the basis that Application site is within the existing curtilage and integrates well with existing landscape and buildings, and that Officers be delegated authority to impose relevant conditions. Councillor Larkin seconded the proposal.

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

FOR:	7
AGAINST:	1
ABSTENTIONS:	1

The proposal was declared carried.

Agreed: On the proposal of Councillor McAteer seconded by Councillor Larkin it was agreed to issue an approval in respect of Application LA07/2020/0329, contrary to Officer recommendation, on the basis that the Application site is within the existing curtilage and integrates well with existing landscape and buildings, and that Officers be delegated authority to impose relevant conditions

(11) LA07/2020/0329/O

Location:

Approximately 60m south of 144 Loughinisland Road Downpatrick

Proposal:

Dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

AGREED: On the proposal of Councillor Trainor seconded by Councillor Brown it was agreed Application LA07/2019/1134/O be withdrawn from the Agenda.

(12.45pm – the meeting adjourned)

(1.15pm – the meeting resumed)

(12) LA07/2019/1136/F

Location:

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

Proposal:

6 detached dwellings, garages and ancillary works

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

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

**Speaking rights:
(via Skype)**

In objection:

Lisa Byers, Catherine Edwards and Councillor C Enright presented in objection to the application, detailing and expanding upon a powerpoint presentation and written statements that had been circulated to Committee Members.

In support:

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

Councillor Brown proposed Application LA07/2019/1136/F be deferred and that a site meeting be held. Councillor Larkin seconded the proposal.

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

FOR:	7
AGAINST:	0
ABSTENTIONS:	0

The proposal was declared carried.

Agreed: On the proposal of Councillor Brown seconded by Councillor Larkin it was agreed Application LA07/2019/1136/F be deferred for a site visit.

(13) LA07/2019/0638/F

Location:

230m NE of 31 Church Road Forkhill

Proposal:

Change of house type to that approved under P/2006/1759/RM

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

(1.50pm – Councillor Brown left the meeting)

Speaking rights:

(via Skype)

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.

Ms Largey said the relevant test was not whether or not the applicant believed they had commenced the planning approval but it was a matter for the Committee to be satisfied that commencement had in fact taken place.

Councillor Larkin proposed to issue an approval in respect of Application LA07/2019/0638/F, contrary to Officer recommendation, on the basis that the works carried out to sight splays, access, widening of the lane and fencing of the site, constitutes a material start and secures the planning approval going forward and Officers be delegated authority to impose relevant conditions. 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:	8
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 Application LA07/2019/0638/F, contrary to Officer recommendation, on the basis that the works carried out to sight splays, access, widening of the lane and fencing of the site, constitutes a material start and secures the planning approval going forward, and that Officers be delegated authority to impose relevant conditions.**

(14) LA07/2019/1346/F

Location:

200m west of Shaughan Road Belleek

Proposal:

Change of house type under previous approval

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

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

Speaking rights:

(via Skype)

In support:

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

Issues raised:

- Access is not in compliance with previous approval conditions
- No commencement of development on site
- The lane does not have vehicular access

Ms Largey said that where construction has not been in accordance with the approved plans that permission cannot have been lawfully commenced. She suggested that a site visit might assist the Committee to determine this issue.

Councillor Hanna proposed to issue an approval in respect of Application LA07/2019/1346/F, contrary to Officer recommendation, on the basis that a material commencement of works had taken place on site at the correct location and that Officers be delegated authority to impose relevant conditions. Councillor Larkin seconded the proposal.

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

FOR:	6
AGAINST:	1
ABSTENTIONS:	2

The proposal was declared carried.

Agreed: **On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed to issue an approval in respect of Application LA07/2019/1346/F, contrary to Officer recommendation, on the basis that a material commencement of works had taken place on site and that and that Officers be delegated authority to impose relevant conditions.**

FOR NOTING

P/072/2020: HISTORIC ACTION SHEET

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

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

P/073/2020: JULY 2020 PLANNING COMMITTEE PERFORMANCE REPORT

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

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

P/074/2020: CURRENT APPEALS AND DECISIONS

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

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

The Meeting concluded at 2.20pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 23 September 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 23 September 2020

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

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

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



Application Reference: P/2010/0904/F

Date Received: 19.07.2010

Proposal: Erection of farm dwelling to include retention of existing foundations

Location: 45 metres north of 18 Ballinasack Road, Mullaghbawn

Site Characteristics & Area Characteristics:

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

Site History:

P/2003/0168/O – Site for dwelling and garage was approved on 20th June 2003.

P/2006/2002/F – Erection of dwelling was approved on 11th January 2008.

P/2010/0108/CA – Enforcement case opened with complaints regarding unauthorised commencement of works on the site. This case was closed on 9.3.17.

Consultations:

DARD/ DAERA – several consultation response received.

3.10.12 – (DARD) – Farm Business ID in existence for more than 6 years and no single farm payment or DARD support claimed in the last 6 years.

5.12.17 – (DAERA) – Farm Business ID in existence for more than 6 years and no single farm payment or Areas of Natural Constraint Payment or Agri Environment Scheme Payment in the past year.

6.3.19 – (DAERA) – Farm Business ID in existence for more than 6 years with the Farm Business ID allocated on 12.3.93 and it is a Category 1 Business ID. The farm business has not claimed payments through the Basic Payment Scheme or Agri Environment Scheme in each of the last 6 years, with no claims made in any of

these years. The application site is not on lands for which payments are currently being claimed by the farm business. The land is currently let out to another farmer.

DFI Roads – Content subject to conditions and informatives on 9.4.19.

NI Water – Content subject to informatives on 11.4.19.

Environmental Health – Satisfactory arrangements must be made for the effectual disposal of foul sewage. Recommended that full planning approval not be granted until NIEA is satisfied that consent to discharge can be issued in respect of this proposal. Other septic tank and energy efficiency informatives recommended.

Objections and representations:

13 objections received

Planning Policies & Material Considerations:

Banbridge Newry and Mourne Area Plan 2015

Strategic Planning Policy Statement (SPPS) for Northern Ireland

Planning Policy Statement 21 – Sustainable Development in the Countryside

Planning Policy Statement 2 – Natural Heritage

Planning Policy Statement 3 – Access, Movement and Parking

DCAN 15 – Vehicular Access Standards

Building on Tradition – Design Guide for Rural Northern Ireland

Consideration and Assessment:

It is first necessary to outline the long and complex history with regards to this application site. Outline approval was granted on this site for a house on 20th June 2003 under planning reference P/2003/0168/O. Subsequently on 11th January 2008 a full application for the erection of a dwelling was granted under planning application reference P/2006/2002/F with a one year time limit to commence development. On February 19th 2010, the Department of Environment opened an enforcement case P/2010/0108/CA on the site in response to complaints regarding unauthorised commencement of works on the site. On May 20th 2010 the Department served a planning contravention notice on the landowner and in response the applicant stated that he had started work on the site in autumn 2009. This date would have been beyond the time limit of the previous approval which

should have commenced by 11th January 2009. On 19th July 2010, the Department received the current application for the erection of a dwelling to include retention of existing foundations. The proposed description has since been amended to erection of farm dwelling to include retention of existing foundations.

Over the period from July 2010 to November 2011, objections as well as amended plans and additional information were submitted to the Department. Then on 8th December 2011 the application was presented to the legacy Council as an approval and was subsequently deferred. The application was then reconsidered by the Department and it was agreed that there was no evidence to prove that work started on the site in accordance with the previous application approved. This recommendation for refusal was then deferred at Council on 10th February 2012. A meeting was then held between the Department and the applicant/ agent in May 2012 and the applicant/ agent contended that they had an active farm and agreed that they would submit farm maps as well as a P1C farm form so that a case could be made for a farm dwelling approval on the site.

A P1C form as well as a farm map were submitted to the Department in May 2012, DARD were consulted on this information and on 3rd October 2012 they confirmed that the Business ID had been in existence for more than 6 years, however single farm payment or less favoured allowances had not been claimed in the last six years. The application was then re-assessed by the Department and it was considered that there was an established farm and erroneously that the site complies with Policy CTY 10 and approval was recommended. This recommendation was then deferred by the Council on 7th March 2013. Following this deferral, a meeting was held between the Department and the objectors in May 2013 and the information raised in the meeting was considered and a further assessment was made and the application was again recommended as an approval and was agreed by the Council on 8th August 2013, however the approval did not issue due to a further review by the former Planning Department.

On 7th September 2016, a meeting was held between the Planning Department and the new planning agent as well as the applicant and a Councillor. The issues raised in this meeting related to the complex history of the application site as well as arguments as to why the application should be approved.

Subsequently, on 24th November 2016, an amended proposed site layout as well as an existing site layout survey and cross section were submitted by the new planning agent. The intention was then for the application to be quickly assessed by the Planning Department however this was held back due to the Planning Department requesting legal opinion on the issue of active farming in general terms on all such affected planning applications.

When this application was first recommended as an approval in 2011, the former Planning Department were recommending approval on the basis that the previous approval had commenced however this recommendation was deferred by the legacy Council. Following a reassessment of the proposal in 2012 it was realised by the Planning Department that no evidence was submitted to prove that the works started prior to the previous approval lapsing and so the application was then recommended as a refusal and was deferred by the Council.

The now Planning Department has assessed and considered the issue of commencement of the previous planning approval. The previous full permission was granted on 11th January 2008 with condition 1 requiring that the development hereby permitted shall be begun before the expiration of 1 year from this date. Condition 4 also required that the vehicular access including visibility splays and any forward sightline shall be provided in accordance with the approved plans, prior to the commencement of any other works or other development hereby permitted. This pre-commencement condition 4 was not complied with and currently in 2019 the access, splay and forward sightline have not been completed or indeed were never implemented on the site. Failure to comply with condition 4 means that the permission has lapsed and has not commenced. Furthermore, aerial photography as well as superimposed drawings provided by the former agent show that the foundational work is built in the wrong position on the site and is not in accordance with the approved plans and so the permission has not commenced. Additionally, the applicant has previously stated that he started work on the site in autumn 2009 which would have been after the one year expiry date of the previous approval which would have been 11th January 2009. In light of this, the Planning Department consider that the previous approval on the site was not commenced and this permission has lapsed. At a meeting in May 2012 the applicant and former agent appeared to accept that the previous approval had not commenced and said that had a small active farm and Business number and subsequently a P1C form and farm map were submitted for consideration and assessment in May 2012 and the proposal was also amended to the erection of farm dwelling to include retention of existing foundations.

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

In September 2015, a new Strategic Planning Policy Statement was produced which applies to the whole of Northern Ireland. It must be taken into account in the preparation of Local Development Plans (LDP) and is material to all decisions on individual planning applications and appeals. However, a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS i.e. where there is a change in policy direction, clarification or conflict with the existing policies then the SPPS should be afforded greater weight. However, where the SPPS is silent or less prescriptive on a particular planning policy matter than the retained policies this should not be judged to lessen the weight to be afforded to the retained policy.

This application is described as being the erection of a farm dwelling, the SPPS does not contain any new direction in relation to this type of proposal, therefore under the provisions of Paragraph 1.12 it is the retained policy which is afforded greater weight in this case.

PPS 21 Sustainable Development in the Countryside:

Policy CTY 1 restricts new development in the countryside, but makes an exception for farm dwellings which are acceptable if in accordance with Policy CTY 10. Under Policy CTY 10 planning permission will be granted for a dwelling house on a farm where all the listed criteria A to C are complied with as well as the requirements of CTY 13, 14 and 16. Under Criteria A it must be demonstrated that the farm business is currently active and has been established for at least 6 years. In their latest consultation response DAERA have confirmed that the farm Business ID has been in existence for more than 6 years which satisfies the establishment section of criteria A. However, DAERA have also confirmed that no basic payment scheme or agri environment scheme have been claimed by the farm business in any of the last 6 years and no claims made in any of these years. They also highlight that the application site is not on land for which payments are currently being claimed by the farm business and this response demonstrates that the farm Business is not currently active. Importantly DAERA also state that the land is currently let out to another farmer. The P1C form also indicates that the applicant currently lets the land in conacre to another farmer. As the land is let in conacre the farm business is not active and it is incorrect to suggest that conacre letting is sufficient to establish a business. Lands let in conacre do not and cannot satisfy the test that the landowner is in an active farm business. The landowner is a landlord, that is the essence of conacre. As a consequence this proposal does not comply with Criteria A in that, it has not been demonstrated that the farm business is currently active.

Under Criteria B of CTY 10 no dwellings or development opportunities out-with settlements have been sold off from the farm holding within 10 years from the date of this application. The Planning Department has no concerns with regards to this criteria.

Under Criteria C of CTY 10 it must be demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be from an existing lane. The proposal is contrary to criteria C as it is not visually linked or sited to cluster with an established group of buildings on the farm. There is no existing building groups on the farm as verified by the farming statement provided in this application. In later correspondence, the former agent referred to a building in a state of ruin within the farmland situated in field 7 of the farm maps. This ruin is some 340 metres away from the proposal and regardless the ruin does not equate to an established group of buildings on the farm. Furthermore, the proposal does not meet the exceptionality clause of criteria C in that it has not been demonstrated that health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm or that verifiable plans exist to expand the farm business at the existing building groups to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm. The proposal fails to comply with policy CTY 10 and as a consequence does not comply with Policy CTY 1 in that there are no overriding reasons why this development is essential in this rural location and could not be located within an settlement.

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

an appropriate design. A new building is unacceptable if any of the Criteria A to G are applicable. It is considered that the proposal will be a prominent feature in the landscape, the site lacks long established boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, it relies primarily on the use of new landscaping for integration, ancillary works do not integrate with their surroundings and the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm. The site is open and exposed with little in the way of screening and is elevated in nature in relation to the surrounding topography. Furthermore, it is the proposed intention to infill/ raise the levels in the site by up to 3 metres which will further exacerbate issues of prominence on the site and any little screening that there is will be removed and it will not be possible for the proposal to integrate if approved. Sight splays, access and forward sight line work will be required to the front of the site which will further expose the issues of integration and prominence and primarily new landscaping would be required and relied upon for integration of the entire site. The ancillary works which would be required to facilitate the proposal, and in particular the infilling would not integrate with their surroundings. Also, as previously mentioned under Policy CTY 10, the proposal is not visually linked or sited to cluster with an established group of buildings on the farm.

Under Policy CTY 14, planning permission will be granted for a new building in the countryside where it does not cause demonstrable change to, or further erode the rural character of the area and a new building will be unacceptable if any of the criteria A to E apply. It is considered that the proposal is contrary to this policy as the building would, if permitted be unduly prominent in the landscape, result in a suburban style build-up of development when viewed with existing and approved buildings, creates a ribbon of development and the impact of ancillary works would damage the rural character. As the proposal is contrary to criteria D in that it creates a ribbon of development then the proposal is also contrary to Policy CTY 8 of PPS 21 which is the primary policy for assessing ribbon development in that the proposal would, if permitted, result in the creation of ribbon development along the Ballinasack Road.

The objector has raised concerns with regards to septic tanks and soakaways under Policy CTY 16, however, any approval notice would contain a negative condition for the applicant to provide the Council with the consent to discharge before work commences. The proposal is in general compliance with CTY16.

Planning Policy Statement 2: Natural Heritage

Policy NH6 of Planning Policy Statement 2 is applicable as the application is located within the Ring of Gullion AONB. The siting of the proposal is considered unsympathetic to the special character of the AONB in general and of the particular locality due to its inability to group with existing buildings on the farm.

Planning Policy Statement 3: Access, Movement and Parking

No concerns are raised with regards to this planning policy and DFI Roads have confirmed that they are content with this proposal subject to appropriate conditions and informatives.

Objections/ Representations:

13 objections have been received on this application. All of these objections have been received from a representative of the owner of the house to the south of the proposed site.

The issues raised are as follows:

- Inaccuracies in drawing scales;
- Septic tank and soakaway concerns;
- Detrimental impact on local amenity;
- Excessively obtrusive and adversely intrusive to land and skylscapes;
- Hugely intrusive and adversely intrusive to occupiers of No.18;
- Misleading information;
- Previous report lacking in care;
- Contravention of PPS 21;
- Does not meet with Policy CTY 1, 10, 13, 14 and 16 and it is not visually linked and clustered, is not an active farm and is prominent in the landscape;
- Foundations not in accordance with previous approvals;
- Contrary to PPS 4 and PPS 7;
- Negligence on the part of the former Planning Department;
- Should be a legal challenge/ judicial review and
- Land rented to another party and not operated as a farm business.

All of the issues raised in these objections have been fully considered in the assessment of this planning application. The majority of the points raised by the objector are relevant and have been reflected in the concerns raised throughout this report and have also been reflected in the below refusal reasons. Discrepancies with regards to scale of drawings and misleading information have now been corrected and resolved and a recommendation can be made on this basis of the information submitted. Issues raised regarding PPS 4 and PPS 7 are the incorrect policy with regards to this proposal. It is considered by the Planning Department that the proposal, if approved would not cause a detrimental impact on the amenity of No.18 and would not be intrusive on this property. It is considered that the separation distance of approximately 41 metres at the closest point between the proposed house and the existing house coupled with the re-orientation of the house so that the front of the proposed house faces the main Ballinsack Road is enough along with tree planting to ensure there will be no overlooking or negative, dominant impact on No.18.

Recommendation:

Refusal is recommended as the proposal is contrary to the SPPS, PPS 21 and PPS 2.

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
 - The farm business is currently active;
 - The proposed new building is visually linked or sited to cluster with an established group of buildings on the farm and that health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm or that verifiable plans exist to expand the farm business at the existing building groups to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to 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 Ballinasack Road.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - The proposed building is a prominent feature in the landscape;
 - The site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
 - It relies primarily on the use of new landscaping for integration;
 - Ancillary works do not integrate with their surroundings; and
 - It is not visually linked or sited to cluster with an established group of buildings on the farm.
5. The proposal is contrary to the Strategic Planning policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - The building, would, if permitted be unduly prominent in the landscape;

- Result in a suburban style build – up of development when viewed with existing and approved buildings;
- It creates a ribbon of development and
- The impact of ancillary works would damage rural character.

6. 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

Authorised Officer



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0261/F

Date Received: 06.02.2019

Proposal: 2 dwellings with detached garages (amended plans)

Location: Sites 22 and 22a Spring Meadows, Burren Road, Warrenpoint

BT34 3SU

The site is located within the settlement limits of Warrenpoint and within a committed housing zoning WB03 Spring Meadows, Burren Road. The site is also contained within the Mournes Area of Outstanding Natural Beauty as defined in the Banbridge, Newry and Mourne Area Plan 2015.

The site is located within Spring Meadows housing development.
The existing dwellings within the housing development are a mix of chalet bungalows and 1 ½ storey detached units of similar styles and finishes.

Site and surrounding planning history:

P/1992/0346- site for housing development (28 dwellings)- Approval

P/2003/2731/F- Erection of 2 no. dwellings no. 18 &24- Approval

P/2004/2248/F Erection of 2 no. dwellings no. 19&21- Approval

P/2004/3236/F- Erection of 2 no. dwellings no. 18&24- Approval

P/2006/0959/F- Erection of dwelling no. 28- Approval

P/2006/1540/F- Erection of 4 no. dwellings No's 23, 32, 34, 36- Approval

LA07/2017/1754/F- Erection of 2 no. dwellings no. 26&30- Approval

LA07/2019/0288/F- Proposed garage at no.30

Objections & Representations

No. of neighbours notified=16

No representations received= 7 responses received, 6 objections lodged from 4 different addresses and 1 letter requesting additional information.

Last neighbour notification expiry- 18.06.2020

Advertise expiry= 12.02.2020

Summary of Issues raised through the above objections:

- Potential impact on the private amenity of no. 16, 24 and 26 Spring Meadows and 8 Gortnahowen;
- Potential overlooking of rooms within no. 24 Spring Meadows;
- The proposed house type not being in keeping with the surrounding area; and
- Overdevelopment.

All the issues are considered within the main consideration and assessment of the proposal.

Consultations

Rivers Agency- no objections, attached informatives to the decision.

TransportNI- no objection.

NIW- capacity available, attach planning conditions to the decision.

HED- Historic Environment Division: Historic Monuments has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Environmental Health- no objections raised subject to the development connecting to the mains sewer with NI water approval.

Consideration and Assessment:

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, so far as material to the application, and to any other material considerations. The site is located just within the settlement limits of Warrenpoint and within an Area of Outstanding Natural Beauty as defined in the Banbridge, Newry and Mourne Area Plan 2015. The application site forms part of a committed housing zoning.

Having considered the Housing in Settlements policy contained within the provisions of the SPPS, the SPPS is less prescriptive than the retained policy, therefore the retained policy is afforded the determining weight.

This application seeks to gain planning approval for 2 additional detached units within the existing housing development, Spring Meadows. The proposed units are to be served by the existing access arrangements.

The proposal will be assessed in line with the policy provision contained within PPS 3, PPS 7, AD PPS 7 and PPS 12.

The proposed detached 1 ½ storey dwellings are to be of the same design with only a slight variation in the position of the first-floor windows to the side and rear elevations. The dwellings will have a maximum ridge height of 6.9 metres above finish floor level (ffl). The design includes wall dormers to the front and rear elevations with a 1 ½ storey projection to the front of the properties. The roofs are to be pitched with external chimney breasts to both gables. The chimneys are to be positioned mid-way on the roof slope.

The existing dwellings within the housing development are a mix of chalet bungalows and 1 ½ storey dwellings with several of the dwellings having been extended. The proposed dwellings are similar in size, scale and design to that exhibited within the housing development. The existing dwellings are of various designs all of which complement each other. The proposed dwellings are to be finished in a smooth render with a concrete roof tile. This range of finishes are similar to those used on the neighbouring properties.

The proposed layout of the dwellings is considered to respect the existing pattern exhibited within the development. The dwellings are to be sited facing onto the access road with the plots providing small front garden areas. The associated garages are to be sited to the side and rear of the properties. In terms of site area, the proposed plots are similar if not slightly greater in size to that exhibited within the development. The proposed layout of the dwellings ensure the ratio of built form to gardens and spaces around them is in keeping with the existing urban grain of the area.

It is considered that the proposed density of the housing, together with its form, scale, massing, and layout will respect the local character of the area.

The main properties potentially impacted by this development are no's 6 and 8 Gortnahowen and no's 24, 26, 28 and 30 Spring Meadows also no.66 Burren Road

Site no.22

The proposed dwelling on site no. 22 is to be sited back to back with no. 8 Gortnahowen. There is to be a maximum separation distance of 13.5 metres between the properties. Although this is below the recommended guidelines contained within the Departments Creating Places, the Planning Department must also consider the surrounding context. There are several other dwellings within Spring Meadows (single and 1 1/2storey) that are sited back to back with the dwellings located within Gortnahowen (single storey). These dwellings present similar relationships to that proposed with separation distances ranging from 12- 17 metres, most being in the lower end of the range. Having considered the surrounding layout of the development the proposed 13.5 metre separation distance is not considered to be out of character.

The proposed impact on the residential amenity of no. 8 Gortnahowen must also be considered.

The site section provided proposes a ffl of 30.8 within site no.22. This ffl is 1.8metres below the ffl of no. 8 Gortnahowen. With the proposed drop in the ffl, the proposal when viewed from the rear of no. 8 Gortnahowen will appear single storey in height and in turn reduce any issues regarding dominance, overshadowing or loss of light to this property. It is also noted that the only first floor window facing no. 8 Gortnahowen is to serve a bathroom and therefore will utilise obscure glazing to ensure no unreasonable overlooking occurs between the properties.

Given the position and orientation of the windows on the side elevation facing no. 6 Gortnahowen no unreasonable overlooking between the two dwellings will occur as a result of the proposal. The proposal will not cause any loss of natural light or overshadowing to no.6 Gortnahowen given the proposed levels and natural sunpath e-w.

There has been a number of objections raised regarding the impact of the dwelling on site no.22 on no. 24 Spring Meadows. The front of the proposed dwelling is to face the back of no. 24 Spring Meadows. Front to back there is to be a minimum separation distance of 21 metres. The proposed dwelling no. 22 is to be sited on a ffl similar to that of no. 24, as shown in the section provided. Having considered the separation distance (which is above the back to back 20m Guideline stipulated within the Departments, Creating Places) and the proposed ffl of the dwelling, it is

considered that the proposal will not cause an unreasonable degree of overlooking to the private amenity area associated with no. 24 Spring Meadows nor will there be a direct uninterrupted view into the main rooms of this property.

Site no.22A

The proposed dwelling on site no. 22a is to be positioned at an angle to those properties sited to its rear. Given the orientation of the dwelling and position of the windows no unreasonable overlooking will occur as a result of this proposal to no. 26, 28 and 30 Spring Meadows. The position of the proposed garage and the garages associated with no. 26 and 28 will ensure no unreasonable overlooking will occur from the proposed first floor bedroom window to the gable facing these properties.

No's 26, 28 and 30 all lie to the south of site no. 22a, therefore the proposal should not cause any issues with overshadowing or loss of natural light to these properties.

Having considered the separation distance and position of the private amenity space associated with no. 66 Burren Road, site no. 22a is not considered to cause any unreasonable overshadowing, loss of natural light or overlooking to this property.

As stated above the proposal dwelling on site no. 22a is to be positioned at an angle. It also sits at an angle to no. 6 Gortnahowen. Having considered the position and orientation of the dwelling no unreasonable overshadowing, loss of natural light or overlooking will occur between these dwellings.

An objection was received regarding the proposed impact on the private amenity of no. 16 Spring Meadows. Having considered the position of the private amenity associated with no. 16, and the proposed separation distances the proposal will not impact upon the amenity of no. 16.

There should be no issues of conflict between the proposed units on sites no.22 and no.22a given the position and orientation of the windows.

The private amenity area for both dwellings is to be provided to the rear. The proposal will provide an area of approx. 120 sq metres private amenity to the rear of site no. 22 and approx. 175 sq metres to the rear of site no. 22a. This level of

private amenity space is considered acceptable and in line with the Departments, Creating Places.

The site section shows the applicants intention to erect a 1.8 metre close boarded fence on top of a 1.65-metre-high concrete rendered retaining wall to the rear of the development between the site and Gortnahowen. There is an existing boundary wall between no. 66 Burren Road and part of the application site which is approx. 3 metres in height which is to be retained.

Having considered the position of the development in front of the proposed retaining structure and fence, any views of this boundary will be minimal. Given the difference in the levels between the application site and housing to the rear within Gortnahowen, only the proposed fencing will be viewed from this perspective.

The front boundary to the sites and the proposed party boundary between them is to be defined by a 0.9 metre close boarded fence.

The access to the dwellings is to be taken from the existing housing development. The access is in accordance with the previously approved housing scheme and DFI Roads have raised no objections to the proposal. The sites provide space for at least 2 in- curtilage car parking spaces.

Recommendation:

It is considered that the proposed density of the housing, together with its form, scale, massing, layout and design will respect the local character as well as safeguarding the amenity of the existing residents.

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: 30661p, 3066sp, 3066gar, 2950 fp/ele dated Sept 2019.

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

3. 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
4m (or 1.5 times the depth whichever is greater) of watermain <350mm diameter or 8m of watermain of 350mm diameter or greater.

A diversion may be necessary. Consultation with NIW is required at an early design stage.

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

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

Reason: In the interests of visual amenity

5. Development shall not be occupied until the onsite works have been completed in accordance with the drainage details submitted to and approved by the relevant authority.

Reason: In the interest of public health

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

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

7. 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. The works shall be carried out prior to the occupation of any part of the development in accordance with a programme to be submitted to and agreed by the Planning Department of the Council.

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

8. No development shall take place until proposed plans have been submitted to and approved by the Planning Department of the Council indicating the position, height and materials of any retaining walls. Development shall be carried out in accordance with the approved plans.

Reason: To ensure the development takes account of the site's natural features and to safeguard the amenities of the proposed dwellings.

9. The first-floor rear bathroom window of no.22, which faces no. 8 Gortnahowen shall be in obscure glass and be permanently retained as same.

Reason: In order to preserve the amenity of the adjoining property.

Joanne McVeigh 26/06/2020

Jacqui McParland 26/06/2020

Addendum to Case officer Report

LA07/2019/0261/F

Proposal: 2 dwellings with detached garages (amended plans)

Location: Sites 22 and 22a Spring Meadows, Burren Road, Warrenpoint

BT34 3SU

Consideration of late objection received on 30 June 2020 and call in submission.

The section drawings submitted by the agent do not include a finish floor level (ffl) of no's 24 & 26 Spring Meadows.

This is correct.

A-A- provides a cross section from no. 8 Gortnahowen through site no.22 and no.24 Spring Meadows.

B-B- provides a cross section from no. 6 Gortnahowen through site no.22a and no.26 Spring Meadows.

Although the ffls of no. 24 and 26 Spring Meadows have not been annotated within the section, they are still relative when measured to scale.

Consideration of the developments potential to overlooking no.24 Spring Meadows

No. 22a is positioned at an angle to the rear of no. 24. Given the proposed position and orientation of the first-floor windows on no. 22a, there is no direct overlooking into the rear windows of no. 24.

Overlooking of gardens may be unacceptable where it would result in an intrusive, direct and uninterrupted from a main room, to the most private area of the garden, which is often the main sitting out area adjacent to the property. As a general rule of thumb this area is the first 3-4 metres of a rear garden, closest to the residential property. The existing layout and position of the garage within the rear garden of no. 24, is considered to obstruct any direct views from the proposed first-floor bedroom windows of no. 22a into this area of private amenity space.

The case officer report had previously considered the potential overlooking between the proposed dwelling no. 22 and no. 24. The front, first-floor bedroom windows of no. 22 are to be the closest windows facing the rear amenity space and rear windows of no. 24. There is a proposed separation distance of over 21 metres between the front and back of the

dwellings. The rear boundary of no. 24 abuts the existing turning head and part of the front driveway to no. 22a. The section provided indicates that the proposed dwelling is to be sited on similar ffl to that within no.24. Therefore, the need to apply a greater distance is not necessary.

Although this is a front to back relationship, the same principle applies. If a dwelling was to be sited back to back with no. 24, a lesser separation distance of 20 metres could apply to this case given the surrounding context. The position of the existing turning head between the dwellings, with the proposed separation distance will ensure the proposal will not cause a direct uninterrupted view into the rear windows and private amenity space of no. 24.

Consideration of the developments potential to overlooking no.26 Spring Meadows

No. 22 is positioned at an angle to the rear of no.26. Having considered the dwellings orientation and the proposed separation distance, front to back in excess of 23metres, the proposed dwelling on site no. 22 is not considered to cause unreasonable overlooking to no.26.

No.22a will also be sited an angle with no. 26. The side gable of no.22a is to be positioned closest to the rear of no. 26. This layout and relationship between the dwellings is similar, if not considered the same as the layout between no. 28 and 30 Spring Meadows.

There is to be one 1st floor window on this gable which is to serve an ensuite bathroom.

The ensuite window is to be fitted with obscure glazing and can be conditioned to be permanently retained, to ensure no future issues regarding overlooking of no. 26 can occur.

It is noted that the revised floor plans and elevations dated the 24th Sept 2019, did not include the amendment as referred to in the agents accompanying letter dated the 23/09/2019. This letter referred to the removal of the first-floor gable window to serve bedroom 2 within no.22a. This plan has been submitted by the agent, following review of plans on the public portal.

Therefore, the only window on the gable is to serve an ensuite bathroom which is to be fitted with obscure glazing.

The objector also raises concerns with the potential loss of light, overshadowing and noise disturbance that the development may cause.

As stated within the case officer report the existing dwellings, 24, 26, 28 & 30 within Spring Meadows are positioned south of the proposed development site. The proposed development on sites no. 22 and no. 22a is not considered to raise issues with loss of light or overshadowing to the existing properties referred to above, given the sun's natural path E-W.

The proposed development is not considered to exacerbate the existing levels of natural light received by these properties or the level of overshadow.

The potential for noise disturbance is considered minimal and short term limited to the construction phase.

The objector refers to the Departments Guidance: Creating Places para. 7.12 where is states:

“Layouts that include dwellings and apartments facing onto the rear garden spaces of other dwellings (or that back onto the fronts of other dwellings) **should be avoided**. Such layouts generally provide an unsatisfactory relationship between dwellings, even where dual aspect designs are employed, and can adversely affect privacy, reduce safety and be detrimental to the quality, character and appearance of the development as **a whole**.”

Creating Places as stated above is guidance and not Planning Policy. The use of the word ‘should’ suggests that this rule is not definitive. Each case must be considered on a case by case basis. It is considered that where a front-back layout would create an unsatisfactory relationship between dwellings, result in a loss of privacy, reduce safety and have a detrimental impact on the quality, character and appearance of the development as a whole, then this type of development should be avoided.

As considered above and within the case officer report, the proposed layout of the development on both sites will not adversely affect the privacy of the neighbouring dwellings.

The access arrangements to the proposed units are largely in place with a turning head separating the front of no.22 with the rear of no.24. The development of these lands will promote safety and create a natural surveillance within this area of the housing development.

Both site layouts provide adequate areas of private amenity space over and above that recommended. The site layouts allow for separation distances in line with the guidelines. The guidance refers to good practice allowing for 20metres or greater separation distances on greenfield sites and in low density development.

This is a brownfield site within a housing development that presents an average housing density. It is considered that a smaller separation distance would meet the overall objectives of the guidance in this circumstance. Our consideration for the reduction in the separation distance between no.22 and no. 8 Gortnahowen is provided within the case officer report.

The objector has questioned the existence of a front-back separation distance. There is no recommended separation distance provided for a front-back relationship but as stated above this does not exclusively rule this type of development as being unacceptable and each proposal must be considered on a case by case basis.

The proposal for two dwellings with a front-back relationship is not considered to detrimentally impact on the quality, character and appearance of the development as a whole.

There are a number of properties sited beyond the rear boundary of no. 24. No. 18 Spring Meadows (1 ½ storey dwelling) is positioned with its front facing the rear and side amenity of no. 24. Although the relationship between these sites is not a direct comparison given their orientation, they do present a similar relationship to that proposed between no. 22 and no. 24 and no. 22a and no. 24. No. 18, 20 and the proposed sites are all sited beyond the rear boundary of no. 24 with vehicular access on the turning head between the sites.

The position of no. 22a with the side gable orientated towards the rear of no. 26 presents a layout and relationship similar, if not considered the same, as the layout between no. 28 and 30 Spring Meadows.

The proposal is not considered to have a detrimental impact on the quality, character and appearance of the development as a whole.

Having considered the above it is felt that the proposed front-back relationship is acceptable in this case.

The proposal is considered compliant with Policy QD1 (a) as the development although not like for like will still respect the surrounding context and is appropriate to the character of the site in terms of layout, scale, proportions, massing, design and landscaping.

Overall the design and layout of the proposed development is also considered compliant with Policy QD1 (h) as the development will not create conflict with the adjacent land uses and there is to be no unacceptable adverse effect on the existing and proposed properties in terms of overlooking, loss of light, overshadowing, noise disturbance or other disturbance.

15th September 2020

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Representation in objection to recommendation to approve application reference LA07/2019/0261F for two dwellings with detached garages (amended plans) at sites 22 and 22a Spring Meadows, Burren Road, Warrenpoint.

Preamble

We appreciated the opportunity to speak at the previous Planning Committee meeting on the 26th August and are grateful for the time afforded us by the Committee. We also are appreciative of the time the Committee took to visit the site, and to see first-hand the clear breach of **Creating Places** paragraph 7.12 that would occur if this proposal was to go ahead. The representation mainly addresses arguments raised in the updated addendum to the Case Officer's first report.

Objection

Our central objection remains the issue of unacceptable overlooking, using Planning Services own 'Thumb Rule' referred to in the addendum. We contend that if No 22 were approved in its current siting it would result in an intrusive, direct and uninterrupted view from its principle first floor rooms into the first three to four metres of our rear garden i.e. closest to the rear wall, kitchen window and main sitting out area. The Case Officer has applied this Thumb Rule to plot No.22a but has failed to apply it to No.22 where it is much more relevant.

Creating Places warns clearly that front to back orientations should be avoided. (There are none anywhere else in the development). The Case Officer argues that **Creating Places** is not policy, and relies on arbitrary distances and levels, yet the Case Officer uses the same 'Guidance' repeatedly in the first report to defend the layout.

We look forward to the completion of Spring Meadows which is a wonderful place to live. However, we continue to object to the form and massing of the final portion of the proposed development of two, one and a half storey houses on a plot that was initially laid out to support a single dwelling (chalet bungalow). If approved it would result in obvious and unacceptable overlooking, by way of direct uninterrupted view from the principle first floor rooms of No.22 into our rear garden. It would also create all the other negative impacts referred to in our previous representations. Our objection is to a proposal which will negatively affect the neighbouring properties, and which will have a detrimental impact on the lives of the people resident in the surrounding properties and specifically our family.

We implore the Planning Committee to request that the Planning Services reconsider the proposal.

Yours sincerely

Mr & Mrs Cormac and Edel McKinney

Contact details

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Email: cormacmmckinney@gmail.com

LA07/2019/0261/F – Proposed 2 dwellings with detached garages at 22 and 22A Spring Meadows Burren Road, Warrenpoint.

This application is being made on behalf of MCK Developments for 2 dwellings with detached garages located at 22 and 22A Spring Meadows Burren Road. Spring Meadows is currently a development of 29 dwellings. The makeup of these dwellings is a mixture of storey and a half dwellings and chalet dwellings, of which there is 20 storey and a half dwellings and 9 chalet bungalows. A number of the storey and half dwellings have carried out storey and a half extensions. There has also been a recent approval for a two storey dwelling LA07/2020/0089/F.

Further to your site visit we would like to reiterate a number of points previously raised:

- From the statutory bodies that were consulted in relation to this application, all came back with no objections.
- Two case officers reports have been carried out in regards to this application. The addendum was carried out after receiving objections and addressed all the points raised but the objectors and still came to agreement with the first report to recommend for approval
- The proposed dwellings are *'similar in size, scale and design to that exhibited in the development'* as stated in the case officers report. In the addendum to the first case officers report it is stated that *'the proposal is compliant'* and *'is appropriate to the character of the site in terms of layout, scale proportions, massing design and landscaping'*
- In the case officers first report it is stated that the layout of the proposed dwellings *'is considered to respect the existing pattern exhibited within the development'* and goes further in the addendum to state *'the proposal is not considered to have a detrimental impact on the quality, character and appearance of the development as a whole'*

The concerns raised by objections are, potential impact on private amenity of adjacent dwellings and potential overlooking, house type not being in keeping with the surrounding area and over development.

- In regards to impact on private amenity and overlooking the separation distance between proposed dwelling at 22 Spring Meadows and 24 Spring Meadows is 21.25 metres. Although this orientation is front to back given the separation distance which is greater than that set in creating places document of 20m this will as stated by the case officer *'not cause an unreasonable degree of overlooking to the private amenity area associated with No.24 Spring Meadows'* and in the addendum to the case officers report it is stated that *'it is felt that the proposed front to back relationship is acceptable in this case'*
- The proposed dwelling at 22A Spring Meadows is positioned at an angle to No.26 and has a separation distance of 23 metres with 24 Spring Meadows, again over the recommended distance in creating places document, with the addition of the garage at No 24 preventing any overlooking to private amenity space.
- The positioning of windows and proposed garage at 22A will as stated by the case officer cause *'no unreasonable overlooking'* of this proposal on 26, 28 and 30 Spring Meadows. The proposed garage will as stated by the case officer *'ensure no unreasonable overlooking will occur'* from the proposed gable first floor window of 22A, which will be a frosted window.
- The existing dwellings at 24, 26, 28 and 30 all lie South of the two proposed dwellings which will cause no over shadowing or loss of light to these properties.
- An objection raised the issue of the house type not being in keeping with the surrounding area. As previously stated this development is a mixture of chalet bungalows and storey and a half dwellings. The storey and half dwelling far out number the number of chalet bungalows present in Spring Meadows. Further to that a two storey dwelling has recently been approved in Spring Meadows.

- Another issue raised was over development of the site, the proposed two plots as stated by the case officer *'ensure the ratio of built form to gardens and spaces around them is in keeping with the existing urban grain of the area'*
- A further report was carried out by the planning department addressing the concerns raised. The case officer agreed with the initial report that the proposed dwellings do not cause any over looking in to the adjacent properties.
- The case officer goes further to state that given the character of the area *'a smaller separation distance would meet the overall objectives of the guidance in this circumstance'* The second case officer agrees with the first report recommending the proposed two dwellings for approval. Which we agree with.

At the previous comitte meeting the Planning Department felt that they could not sustain an arugment if this application was brought to the planning appeals commission. With the information presented at previous committte meeting and the two case officers reports which both recommend the application for approval. We feel that this application should be granted approval.



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

Application Reference: LA07/2019/0953/F

Date Received: 14th June 2019

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

Location: Lands at 123 Magherahamlet Road Ballynahinch



Site Characteristics & Area Characteristics:

The site is comprised of a 1.37 hectare portion of land, which is currently occupied by a derelict dwelling and associated out buildings. The site is immediately adjacent the existing poultry sheds to the east of the site. The site is accessed directly from Magherahamlet Road via an existing and improved laneway.



The site and the land immediately surrounding it is relatively flat. The boundaries of the site are defined by mature trees and hedges

The topography of the surrounding area is typically flat agricultural land, there are, however, a number of detached single dwellings and farm holdings dispersed throughout the area.

Site History:

Q/2009/0328/O - 123 Magherahamlet Road, Dunbeg Upper, Ballynahinch - Site for replacement dwelling and garage - PERMISSION GRANTED 20.11.2009

Q/2010/0042/F - Adjacent to 123 Magherahamlet Road, Ballynahinch - Erection of farm dwelling and garage - PERMISSION GRANTED 20.04.2010

LA07/2016/0699/F - Land at 123 Magherahamlet Road, Ballynahinch - Proposed 2no broiler poultry sheds with 4no feed bins, 2no gas tanks, office and changing building (to contain in total 74,000 broilers) PERMISSION GRANTED - 28.04.2017

LA07/2017/0821/O - 123 Magherahamlet Road, Moneynabane, Ballynahinch, Co Down, BT25 2JS to location adjacent and east of 196 Dundrum Road, Moneynabane, Dromara - Proposed off site replacement dwelling and garage – Pending

LA07/2018/1309/PAN - Lands at 123 Magherahamlet Road, Ballynahinch, - Proposed 2no broiler sheds to replace two existing poultry sheds (to contain 74,00 birds taking the total farm capacity to 148,000 birds) with 4no feed bins 2no gas tanks, 1no underground wash tank and retention of weighbridge, biomass boiler house and associated pellet, water tank, site office access and associated site works

Planning Policies & Material Considerations:

I have assessed the proposal against the following relevant policies:

- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge, Newry and Mourne Area Plan 2015
- Planning Policy Statement 2 – Natural Heritage
- Planning Policy Statement 3 – Access Movement and Parking
- Planning Policy Statement 15 – Planning and Flood Risk
- Planning Policy Statement 21 – Sustainable Development in the Countryside

BNMAP 2015 – the site is located within the rural area outside any defined settlement area.

Consultations:

It was considered necessary in the assessment of the proposal to consult with Environmental Health, Northern Ireland Water, DAERA, Rivers, NIEA, SES, DfI Roads from which no objections have been received.

Objections & Representations

A number of objections have been received regarding the proposal and a brief summary of the issues raised is provided below.

The owner / occupier of 94 Magherahamlet Road objects to the proposal on the grounds that the proposal combined with that existing is excessive and questions its sustainability. In addition, concerns are also raised regarding animal welfare, air pollution, noise and general disruption to the area and its residents.

Anonymous objection has raised concerns about offensive odour from the existing sheds and the potential for this to increase with the approval of two more sheds.

Anonymous objection has raised concerns about the appearance of the existing sheds in the landscape, along with issues regarding nuisance of smell, noise and light pollution.

Anonymous – objects to the proposal on the grounds of odour, noise and light pollution, lack of integration and impact on the environment.

Cllr Patrick Brown objects to the proposal on the grounds that it is unsuitable for the area, and would increase the adverse effects currently impacting residents of the area i.e. odour, noise and light pollution.

Jim Wells MLA – raises issues regarding the scale of the development and its potential impact on traffic progression along this rural road, and on the countryside.

Friends of the Earth raise concerns about the cumulative impact of the proposal given its proximity immediately adjacent an existing facility. In addition, they are concerned about the impact of ammonia emissions.

Consideration and Assessment:

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

SPPS

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.

The SPPS states in relation to Agriculture and Forestry development provision should be made for development on an active and established (for a minimum 6 years) agricultural holding or forestry enterprise where the proposal is necessary for the efficient operation of the holding or enterprise. New buildings must be sited beside existing farm or forestry buildings on the holding or enterprise. An alternative site away from existing buildings will only being acceptable in exceptional circumstances. Policy CTY 1 of PPS 21 identifies a range of types of development that are, in principle, considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is an agricultural shed in accordance with Policy CTY12.

Major Development

The proposal constitutes Major development in accordance with The Planning (Development management) Regulations (Northern Ireland) 2015 in terms of criteria 1 -EIA Development and criteria 9 All other development.

A Proposal of Application Notice (PAN) was submitted LA07/2018/1309/PAN. The mandatory public consultation required under section 27 of The Planning Act (Northern Ireland) 2011 was held on Tuesday 18th October 2018 at Spa Golf Club Grove Road Ballynahinch. Notification of said event appeared in the local papers as required.

A PACC (Pre-Application Community Consultation Report) was submitted and is included in Appendix 1 of the Environmental Statement.

Environmental Impact Assessment

The application falls within Category 17 (a) of Schedule 1 of The Planning (EIA) Regulations (NI) 2017. Category 17 identifies that development will require an EIA where it comprises:

Installations for the intensive rearing of poultry or pigs with more than

- (a) 85,000 places for broilers or 60,000 places for hens;

An Environmental Statement was submitted and accompanied the Planning application.

Description of the Proposal

The proposal seeks full planning permission for the erection of Proposed 2no Broiler Poultry Sheds to replace 2no Existing Poultry Sheds (to contain 74,000 broilers, taking the total farm capacity to 148,000 broilers) with 4no feed bins, 2no gas tanks, 1no underground wash tank and retention of weighbridge.

PPS 21 – Sustainable development in the Countryside

With regard to non-residential development, CTY 1 states that planning permission will be granted in the countryside in nine instances, one of which is agricultural development in accordance with PPS 21 policy CTY 12.

CTY 12 indicates that planning permission will be granted for development on an active and established agricultural holding where it is demonstrated that it complies with stated criteria. Paragraph 5.56 of PPS 21 advises that "for the purposes of this policy (i.e. CTY 12) the determining criteria for an active and established business will be that set out under policy CTY 10".

Criterion (a) of CTY 10 refers to a farm business being currently active and having been established for at least 6 years. The amplification text states that an applicant will be required to provide a DARD business ID number along with other evidence to prove active farming.

CTY 12 refers to development on an active and established holding. The Justification and Amplification section states that for the purposes of this policy the determining criteria for an active and established business will be that set out under Policy CTY10. Policies CTY 13 and CTY 14 will also be considered.

Policy CTY10 advises that

-the farm business is currently active and has been established for at least 6 years;

The applicant will therefore be required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period.

CTY 12

Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural or forestry holding where it meets the list criteria. It is therefore necessary for the farm holding to be active and established as set out in Policy CTY 10. In this case it is noted that the applicants farm is active and established and therefore complies with the initial criterion.

Proposals are also expected to demonstrate that

- (a) It is necessary for the efficient use of the agricultural holding or forestry enterprise
- (b) In terms of character and scale it is appropriate to its location
- (c) It visually integrates into the local landscape and additional landscaping is provided as necessary
- (d) It will not have an adverse impact on the natural or built heritage; and
- (e) It will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

In assessment of the criterion

- (a) It is necessary for the efficient use of the agricultural holding or forestry enterprise

It is noted that the applicant considers the buildings are necessary for the efficient use of the holding as there are no suitable buildings on the farm that can be used. The applicant (Mr Colin Kane) considers the proposal to be in line with the "Going for Growth" strategic plan prepared by the NI Agri- Food Strategy Board and Moy Park Farm Expansion programme.

The new buildings are required to meet the requirements of Moy Park, who insist upon efficient, climate-controlled buildings for cost effective poultry production. The proposal seeks to create two new houses within this established Moy Park poultry farm, run by the applicant and is considered necessary in order to facilitate additional bird capacity on site as part of the wide Moy park expansion programmed.

- (b) In terms of character and scale it is appropriate to its location

In consideration of the character, siting, scale and design of the proposed dwellings, it is noted that the buildings are purpose built and therefore the character and scale are appropriate for the nature of the development. They are noted to be 20m x 85m (1700sqm) in size and are therefore substantial buildings. They are noted to have low elevation with a maximum ridge height of 5.6m and will be finished with juniper green cladding with smooth render blockwork base.

- (c) It visually integrates into the local landscape and additional landscaping is provided as necessary

The buildings will be positioned immediately west of the existing sheds which are of similar size and design. The buildings are to be positioned on relatively flat land, approximately 100m from the public road behind a mature boundary. It is considered given all of the above and in light of that already existing that, while the buildings are substantial, their low elevation,

position from the road and design allow them to integrate into the surrounding landscape satisfactorily.

(d) It will not have an adverse impact on the natural or built heritage

The site is not affected, nor does it impact on any built heritage within the area.

In terms of the assessment of natural heritage interests and potential problems arising from noise, smell and pollution, the application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry, Mourne and Down District Council.

Having considered the nature, scale, timing, duration and location of the project SES have concluded that the proposal will not have an adverse effect on site integrity of any European site.

They note in their assessment of the proposal in its construction phase, that there is no pathway to any designated site. The nearest mapped open watercourse is approx. 170 m to the south with another the same distance to the north east.

In assessment of the proposal when operating, SES note that there is no pathway to any designated site either from the poultry houses or from litter disposal which is to Tully Biogas Plant. The nearest international site is Murlough SAC at 12.7 km. This is significantly beyond the NIEA advised distance for consideration of nitrogen deposition. Litter will be exported to Tully Biogas Plant.

In assessment of designated site, NIEA NED advised the Planning Authority that the application site is within 7.5km of Black Lough (Down) ASSI, Ardglass ASSI & Slieve Croob ASSI which are of national importance and are protected by The Environment (NI) Order 2002.

NED is content that the proposal, as described is in line with DAERA's operational protocol on nitrogen emissions

(e) It will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

As noted above, several objections have been received regarding this proposal. Neighbouring residents are concerned about the potential problems arising from noise, smell and pollution.

The key environmental issues associated with the operation of poultry farms are

(a) the potential impacts of emissions (odour, dust, ammonia) on sensitive receptors and

(b) utilisation of manures.

Litter utilisation:

Sustainable utilisation of litter is a critical environmental aspect of the operation of the farm, particularly since the cumulative impact of poultry litter generated by this and other proposals may be significant. The applicant has submitted an additional document "Litter Utilisation Information", dated 13th June 2019, which states that the litter produced on this installation will be exported for land-spreading in RoI, combustion for energy production and disposal via anaerobic digestion. This litter will be utilised according to the Moy Park's Litter Utilisation Strategy. The litter from this farm will be utilised through Tully Biogas plant in Ballymena.

Air quality impacts:

The applicant has submitted an "Air Quality Impact Assessment" dated 11th November 2019. This report concludes that the odour, ammonia, dust and bioaerosol emissions produced from the proposal would be within the appropriate limit levels and should not be considered negative determining factors in assessment of the proposal and that any areas of ecological interest will not be adversely affected by the proposal.

In assessment of these reports and indeed all the supporting information, the Planning Authority carried out consultations with various bodies to inform the decision-making process.

It is noted that

NIEA Land, Soil and Air confirm that a PPC Permit was issued to the applicant in April 2018 permitting the rearing of 148,000 poultry in 4 houses

NIEA Natural Environment Division have considered the impact of the proposal on the designated site and on the basis of the information provided confirmed that the proposal is in line with DAERA's operational protocol on nitrogen emissions

Environmental Health were also consulted as part of the planning process. They state that The Northern Ireland Environment Agency (NIEA) are responsible for permitting this process under the current Pollution Prevention and Control (PPC) regime; therefore conditions for the control of odour and noise should be contained within any such permit granted by the NIEA.

Environmental Health also considered the proposed lighting and advised provided only that proposed for installation as stated in 3.10, page 17 of the Environmental Statement (single low-wattage light fitting on the gable of each shed) they would have no objections.

On this basis it is deemed that the proposal will not result in a detrimental impact on the amenity of residential dwellings outside the holding.

CTY 12 continues that in cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following

- There are no suitable existing buildings on the holding or enterprise that can be used
- The design and materials to be used are sympathetic to the locality and adjacent buildings; and
- The proposal is sited beside existing farm or forestry buildings.

In assessment of these criterion, the applicant has advised that there are no suitable buildings on the existing farm which can be used. It is considered that the design and materials of the proposal are considered to be acceptable, typical of its use and are to be located beside existing buildings on the farm.

In conclusion, therefore, it is considered that the proposal is necessary for efficiency of the farm business, the siting of the buildings is satisfactory, and their development would not result to demonstrable harm to interests of acknowledged importance.

It is considered therefore that the proposal complies satisfactorily with the requirements of CTY 12.

Policy CTY 13 – Integration and Design of Buildings in the Countryside

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

A new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or

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

As mentioned previously above the proposed buildings are typical of agricultural buildings in the rural area. They will be sited to cluster with the existing adjacent poultry houses to the east. The site is set back from the public road and well screened by mature vegetation. It is considered therefore that the proposal complies satisfactorily with CTY 13.

PPS 21 - CTY 14 – Rural Character

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A new building will be unacceptable where:

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

The site is an established poultry business, it is deemed that the addition of these two further poultry sheds and ancillary works would not cause unacceptable damage to the rural character of the area.

PPS 2: Natural Heritage

Policy NH 1 – European and Ramsar Sites – International

This policy states that planning permission will only be granted for a development proposal that either individually or in combination with existing and / or proposed plans or projects, is not likely to have a significant effect on:

- A European site (Special Protection Area, proposed Special Protection Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance); or
- A listed or proposed Ramsar Site.

Likewise, policy NH3 – Sites of Nature Conservation Importance – National states that planning permission will only be granted for a development proposal that is not likely to have an adverse effect on the integrity, including the value of the site to the habitat network, or special interest of

- An area of Special Scientific Interest (ASSI);
- A Nature Reserve;
- A National Nature Reserve; or
- A Marine Nature Reserve

As indicated above the Planning Authority has sought advice from SES and NIEA with regard to assessment of the designations which impact the site and it has been concluded by both bodies that the proposal will not have a detrimental impact on the relevant designated sites listed above.

PPS 3: Access, Movement and Parking

PPS 3 sets out matters pertaining to roads to be considered in determining a planning application. PPS 3 states that the potential impacts that a development may have on the efficiency of the public road network or on road safety is an important material consideration.

The site is located along the minor Magherahamlet Road therefore, Policy AMP 2 is applicable which states that planning permission will only be granted for a development involving direct access, or the intensification of the use of an existing access onto a public road where :

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

Following a consultation with Transport NI, it is considered that the proposed access complies satisfactorily with the criteria above

PPS 15: Planning and Flood Risk

In assessment of drainage and flood risk a consultation was carried out with DfI Rivers, who have advised the Planning Authority that there are no issues relating to FLD 1, 2, 4 or 5. In an assessment of a Drainage Assessment produced by Flood Risk Consulting date April 2019, DfI Rivers accept its logic and have no reason to disagree with its conclusions – FLD 3 has therefore been complied with.

Summary

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

Supporting Information

The following supporting documents were considered as part of this proposal

Forms P1, P1c, P1A, Farm Maps, Drainage Assessment, Transport Assessment, Farm Management Plan, Moy Park Broiler House Expansion Plan, Litter Utilisation Info, Environmental Statement and non-technical supplement, Air Quality Impact Assessment

Drawings

The Drawings considered as part of this assessment are as follows

18101-01, 18101-03, 18101-04 & 18101-05

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 18101-01, 18101-03, 18101-04 and 18101-05

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

3. The maximum number of chickens within the proposed facilities shall not exceed 37,000 broilers per house.

Reason: In order to control the number of chickens at this facility

4. A suitable buffer of 10 metres shall be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc and the swale/any watercourses within the application site.

Reason: To protect the integrity of designated sites.

5. All contaminated run-off (from the facility and concrete apron) shall be directed to an appropriate collection tank, with no overflow or outlet to any waterway or soakaway.

Reason: To protect the integrity of designated sites.

6. All litter from the proposed facility shall be utilised as detailed within the Moy Park Litter Utilisation Strategy (date stamped, 13.06.2019).

Reason: To ensure an orderly use / disposal of the litter.

7. The poultry sheds shall be fitted on each gable end with a single low-wattage light fitting. All external lighting will be downward facing and protected with a cowl to reduce light spill as detailed in paragraph 3.10 on page 17 of the Environmental Statement accompanying this application.

There shall be no use of high intensity security lighting or external lighting outside of normal working hours.

Reason: To protect the amenity of the neighbouring residents

8. The existing natural screenings of the site, as shown on 18101-03 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

9. The newly created boundary to the NW of the site shall be defined by native trees and shrubs of mixed woodland species along the inside of a timber and wire boundary fence. The new boundary planting shall be allowed to grow on to a minimum height of

2m and retained thereafter. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.

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

Case Officer: Claire Cooney

Date: 08.07.2020

Authorised Officer:

Date:

Submission received from Mary McCann – LA07/2019/0953/F

Living directly opposite and 130m from the two existing poultry houses whilst they have operated for the last two years has been an ongoing nightmare. Should this site be allowed to double in size and be located even closer to my property will only make living in my home totally unbearable.

I can only anticipate as bad as the current impacts of the two existing sheds are, the effects are only going to be twice as bad with two additional sheds. When the smell currently effects my home on average 2 days a week, two additional sheds will increase this to 4 days a week.

The existing poultry sheds produce ongoing significant adverse impacts that directly impacts upon my family's ability to enjoy our home.

Prolonged offensive odour – as the nearest property the smell effects my home the most. The farm operator does not live onsite and the site is unmanned most of the time. Therefore, no one more than me is fully aware of and experiences the full extent of the very significant offensive smell that comes from this site. How am I meant to measure the extent of the smell? When smell issues are raised with NIEA it takes them days to come out to investigate and naturally the original smell that was reported has dispersed. The reality of the ongoing smell means my family are unable to open the windows, hang clothes on the washing line or enjoy our garden on a daily basis.

Intensive Intrusive Lighting – the use of several high intensity security lights at the site was originally raised in initial objections to this planning application. Furthermore a site visit would have easily identified the existence of these lights (1) the gable of the office building (2) on a green hayshed to the rear of the site (3) at the bottom of the lane of the site – all of which are directly in front my property and are not 'low wattage bulbs'. They luminate at all hours of the night and early morning shining through my windows.

Noise nuisance during unsociable hours – Lorries waiting 50m from my home to enter the site at 7am, chickens being taken from the site in multiple lorries and forklifts at 3-6am this process lasts for hours.

Dust – On a weekly basis the front windows and cars at my home are covered in a fine white dust that never occurred before these sheds were erected.

Litter – There are very concerning discrepancies relating to the disposal of litter from this site. The existing poultry sheds planning application LA07/2016/0699/F contained litter disposal information and this planning application LA07/2019/0953/F contains an Environmental Statement stating all the litter will be disposed of in the Republic of Ireland. Yet submissions to NIEA Integrated Pollution Prevention and Control (IPPC) permit P0536/16A for 2018 and 2019 states that the final destination of litter is 500 tonnes disposed of in Northern Ireland.

<https://apps.d.aera-ni.gov.uk/IPRI/docs/P0536-16A%20Colin%20%20Nathan%20Kane%202019%20Annual%20report%20%20PRTR.pdf>

It is of serious concern that officials assessing this planning application have not identified this significant contradiction.

In the past when I have made fully reasonable and legitimate complaints of smell and noise from the site to the Northern Ireland Environment Agency responsible for regulating the site I have been meet with a reluctance to meaningfully enforce the conditions of the PPC permit.

Furthermore, shortly before the current LA07/2019/0953/F planning application was submitted to the Council I received a solicitors letter from the operators of the site threatening legal action if I continued to raise complaints to the relevant authorities about my concerns with the site. I consider this as a deliberate attempt to intimidate me from raising concerns with the site. I have been left with no other option other than to put up with it.

Having experienced and lived with the significant adverse impacts from two poultry sheds, permitting two additional sheds in such close proximity to un-associated third-party dwellings where detrimental impacts are already causing a significant nuisance and demonstratable harm to the amenity of residents homes by way of odour, dirt, dust, noise and light pollution can only escalate the already significant existing impacts.

I would urge the Planning Committee members to please consider what it would be like living in these conditions day in day out and not being able to do anything about it other than put up with it.

Please be clear my issues are entirely with the significant impacts the sheds are causing to me, my family, and my home. These sheds should and could be located elsewhere in an area where the impacts are significantly less.

Please see below examples of the intrusive lighting form the site.



< Dromore - Dromara 30 May 01:20 Edit



Councillor Patrick Brown
Alliance Party of Northern Ireland
 5c Gaol Lane
 Downpatrick
 BT30 6BD
 E-Mail: patrick.brown@nmandd.org
 Tel: 07971783252



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

53

Objection letter for LA07/2019/0953/F, 123 Magherahamlet Road

1st July 2019

To Whom It May Concern:

I am writing to formally record my objection to the planning application listed above for 2 new broiler sheds at 123 Magherahamlet Road.

I initially objected to this application in 2016 with significant misgivings about the size of the development which was proposed to house over 140,000 broiler chickens and the negative impact this development would have on the surrounding area including through noise and air pollution. Unfortunately this development was granted planning permission subject to a number of conditions and it was also significantly reduced in size to accommodate the slaughter of 74,000 live animals.

It is clear that in applying for this new development on the same site the applicant is attempting to fulfil the scale of the initial planning application for 144,000 chickens. I stand totally opposed to this on a matter of principle as I believe it makes a mockery of the planning system in general. How can someone simply reduce the size of their initial application in order to be granted planning permission, only to re-apply for the full size a few years later when things have settled down?

Specifically this application is inappropriate under PPS21 Sustainable development in the countryside as the extent of the development would be unsuitable within the AONB and would increase (in fact, could double), the adverse impacts being experienced by local residents as a result of the existing development.

This includes but is not limited to:

- Noise pollution from large vehicles and farm machinery entering and exiting the site outside of social hours including past 10pm, causing significant disturbance to neighbours
- Light pollution from vehicles and lighting at the farm left on well into the night which shine right into local residents' homes
- Smell pollution from the chicken farm itself, which is easily carried on the wind and is quite evident as soon as you approach the boundary of the farm

In addition, I am of the understanding that the applicant has since planning permission was granted for his original development, been in breach of a number of conditions placed on them by the Planning Department, listed below. This allegedly includes under conditions:



@Paddy_JBrown



www.facebook.com/cllrpatrickbrown

Ag freastal ar an Dúin
 agus Ard Mhacha Theas
 Serving Down
 and South Armagh



4. Lack of a bat survey carried out. Having written previously to the Planning Department's enforcement office, I never received any confirmation that a bat survey was carried out 24 hours prior to demolition and submitted to the Department within 2 weeks.

And under informatives:

2. Disposal of poultry litter. There is photographic evidence that the applicant has not been disposing of poultry litter in the appropriate manner. Doing so would require the applicant to fully cover any vehicles containing litter leaving the premises. This has not been done on a number of occasions.

Given the clear concerns around development in the countryside, ongoing pollution and its negative impact on local residents and possible breach of planning conditions, I would ask that planners do not grant permission for this additional and unnecessary development on this site.

Best,
Cllr. Patrick Brown
Rowallane Ward – Alliance Party
Newry, Mourne and Down District Council

RE: LA07/2019/0953/F - Magherahamlet Road - Colin Kane (18101) Item 8

I intend to speak briefly in support of the above application and if required to will seek to answer any questions or queries the committee may have.

I shall cover the following points:

- The length of time the application has been in the system.
- The 'state of the art' existing enterprise on the site
- The fact all statutory bodies are content with the proposal
- Confirm my agreement with the planners recommendation and urge the committee to approve the application without further delay.

Regards,

Philip Marshall



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

Application Reference: LA07/2019/1136/F

Date Received: 17th July 2019

Proposal: 6 detached dwellings, garages and ancillary works

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

Site Characteristics & Area Characteristics:



The site is comprised of a 0.53 hectare portion of land comprising open land and a portion of public road – Orchard Lane. The site is positioned to the south of No 35 Old Belfast Road (Portland House) and south and west of No 3 Orchard Lane.

The site has varying levels throughout and is noted to be positioned above the Old Belfast Road to the west, with land falling steeply in this and the southern portion of the site.

The site is defined by mature vegetation, with timber post and wire fencing along the western boundary, some of the trees along this boundary are noted to be the subject of a Tree Preservation Order (TPO). The northern boundary is defined by young trees which separate the site from that adjacent at Portland House.

The site is located within the settlement limits of Downpatrick, as designated in the Ards and Down Area Plan 2015. It is noted that the site is also located within the Strangford and Lecale AONB and within the Local Landscape Policy Area (LLPA 1) as identified in the Area Plan. The application site is also in close proximity to the River Quoile which is hydrologically connected to the Strangford Lough Special Area of Conservation (SAC)/ Special Area of Protection (SPA)/ Ramsar and Quoile Area of Special Scientific Interest (ASSI) (hereby referred to as the designated site) which is of national and international importance and is protected by

Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002.

The character of the surrounding area is typically residential and is characterised by medium to low density detached housing along Orchard Lane, Old Belfast Road Quoile Park and Lecale Park. The house types and plot sizes within this area vary.

Site History:

R/2009/0501/F - Lands to the South of No 35 Old Belfast Road (Portland House) and to the South and West of No 3 Orchard Lane, Downpatrick. - Proposed residential development comprising 9 no 2 storey detached dwellings, 8 no 2 storey semi-detached dwellings and 5 no garages with access of Old Belfast Road and Orchard Lane. - PERMISSION REFUSED – 23.03.2010

R/2003/0115/O - Adjacent to Orchard Crescent, Strangford Road, Downpatrick - Site for 3 no detached dwellings. - PERMISSION GRANTED – 09.05.2003

R/2001/1144/O - Adjacent to Orchard Crescent, Strangford Road, Downpatrick - site for a Detached Dwelling (amended scheme) - PERMISSION GRANTED - 26.01.2002

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, PPS3, 7 and 12, Creating Places (Guidance Document), in addition, to the history and any other material consideration.

The application was advertised in the local press on 07.08.2019

Consultations:

In assessment of the proposal consultations were carried out with DfI Roads, NIW, Rivers Agency, Historic Environment Division, SES and NIEA.

The relevant neighbours were notified of the proposal 01.05.18

Objections & Representations

2 letters of support from 31 Old Belfast Rd have been received and along with 7 letters of objection from 4 different households and one anonymous objector.

Objections

- Owner / Occupier 19 Orchard Crescent raises concerns regarding traffic progression through the site, parking provision, and considers that the proposal poses potential

problems for pedestrians using the site. In addition, there are concerns that the density of the proposal will have implications for the existing sewerage systems, along with the adverse impact on the environmental quality of the area. The objector has raised the issue of developer contributions relating to water pressure in the Orchard Area. Concerns have also been raised about the provision of public and private space within the development and the impact of the proposal on protected species within the locality.

- Owner / Occupier 3 Orchard Lane also raise the above issues in addition to the apparent under-occupation of dwellings currently present within the locality.
- Owner / Occupier 14 Orchard Crescent raise issues as above relating to traffic, parking provision, pedestrian and cycle routes, density, existing housing stock, privacy and environmental and ecology issues
- Owner / Occupier 17 Orchard Crescent and an anonymous objection repeat the concerns listed above.

Consideration and Assessment:

The proposal seeks full planning permission for the erection of 6 Dwellings.

The proposed dwellings have been designed so that they front onto the private road serving the development. The plans show that 3 dwellings are proposed to the south of No 3 Orchard Lane and 19 Orchard Crescent and 3 dwellings to the north of these dwellings on the land between them and Portland House.

The dwellings will be detached, with in-curtilage parking for at least 2 cars.

The plans indicate that 3 house types are proposed.

House type A (plots 2 and 3) is a detached 1½ storey 3 bed dwelling, with a maximum ridge height of 6.07m.

House type B (plots 1 and 5) is a detached 2 storey 3 bed dwelling, with a maximum ridge height of 6.90m

House Type C (plots 4 and 6) is a handed version of HT B.

All dwellings will be finished natural grey slate roof, white rendered walls and chimney with grey render plinth.

Principle of development

The application site is located within the Settlement Limit of Downpatrick 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 which seeks full planning permission for the erection of 6 dwellings.

PPS 7 – Quality Residential Environments

In assessment of the proposal Policy QD1 of PPS 7 provides the policy context. All proposals for residential development will be expected to conform to criteria (A) – (I):

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

As described in the supporting Design and Access Statement, the site is a vacant portion of land to the immediate south and north of No 3 Orchard Lane. The site is accessed via Orchard Crescent and is positioned on land elevated above Old Belfast Road.





The context in terms of development is noted to be detached dwellings of varying designs – single, one-and-a-half and two storey.

The surrounding area is characterised by its varying topography.

It is considered therefore that the proposal respects the surrounding context and is appropriate to the character and topography of the site.

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

There are no features of archaeology or built heritage within the vicinity of the site.

The site is immediately east of the Quoile River and while not affected in terms of flooding, given its elevated position above the river, the impact of the proposal on the river has been assessed, a detailed consideration will be provided below.

The site is affected by a number of mature trees, and as indicated above a number of TPO trees are located to the western boundary of the site. The applicant engaged Dr Philip Blackstock to carryout a tree survey which provide supporting information in this application. Tree Survey covers the site and lands surrounding Portland House and along Old Belfast Road.

While the survey recommends the felling of a number of trees within the surveyed area, trees within or immediately adjacent the site are to remain in situ and are to be protected from development, they will not be removed.

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

The proposed layout shows that all dwellings will have an above average provision of private amenity space to the rear of each property. There is no requirement in a development of this size to provide public open space.

A Landscape Management Plan has been submitted as part of the proposal with the aim of creating an attractive, high quality landscape setting for the residential development. This plan proposes a woodland boundary along the northern and southern boundaries, with hedging and street trees adding interest along the road side boundaries of each plot and within the development, with feathered trees and boundary planting proposed to the rear gardens of plots 1 -3 to soften the landscape.

The details of the above including species, height, spacing etc are found on Drawing No 19-053 L101 Rev A and are considered to be acceptable.

- (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 provision for the above within a development of this size.

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

The development is considered to be accessible by various modes of transport including walking and cycling.

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

The proposed plans show that each dwelling will have parking space for at least two cars within their curtilage.

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

As described above 3 house types are proposed which provide a good mix of dwelling types for buyers. The design and form of the dwellings is good. The materials are simple with

render and slate type roof but considered to be aesthetically pleasing. The detailing is simple which is also good.

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

The proposed layout shows that each dwelling will be sufficiently separated from each other so not cause any adverse effects. It is noted that the dwellings have been designed to ensure that overlooking is minimal, with mirrored gables or minimal openings.

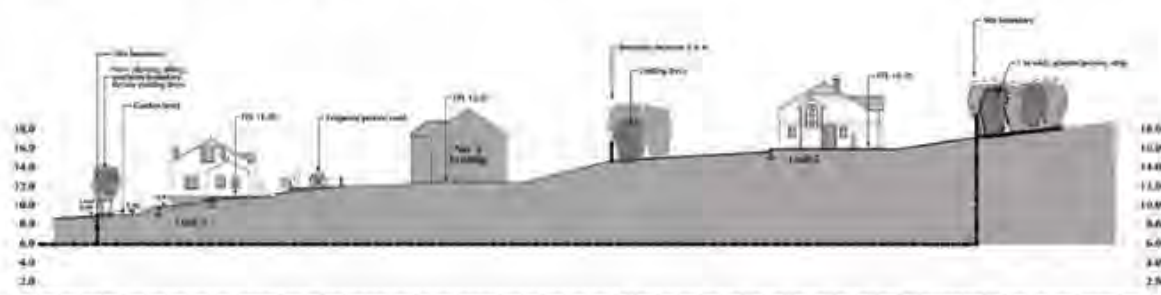
Each plot will also be defined with a timber fence which will aid screening and privacy between properties.

The concerns regarding privacy, raised by the interested parties above are noted. In assessment of this, the proposed plans show that development is not proposed to the immediate rear of No 17 Orchard Crescent.

Those dwellings proposed in plots 4-6 will be positioned on average 15m from the boundary they will share with Nos 3 Orchard Lane, 19 and 17 Orchard Crescent with a total back to back separation of on average of 30m. While the proposed dwellings are noted to be sited on land elevated above 3, 19 and 17, the separation distance is considered sufficient to minimise overlooking or loss of privacy. In addition, it is noted that a row of conifers is present between the existing and proposed dwellings discussed and that the landscaping plan shows a woodland boundary is proposed, all of which will ensure that the privacy and amenity of the existing and proposed is not detrimentally affected.

With regard to the proposed at plots 1-3, there is no doubt that the current outlook for No 3 Orchard Lane will change dramatically if the development is constructed. However, the proposed dwellings have a modest ridge height and will have a finished floor level below that of the private road serving the development. Plot 2 which faces directly opposite No 3 Orchard Lane will be located 15m away – such a separation is considered to be acceptable within this context.

A cross section of the site, shows the separation distance and levels of those dwellings affecting No 3 and clearly demonstrates that their privacy and amenity will not be detrimentally affected by the proposal.



No 19 Orchard Crescent will continue to overlook the existing turning head which Orchard Crescent and Orchard Lane meet. Plot 1 will face towards No 19 but not directly and with a separation distance of over 20m.

There is no new development proposed to the front of No 17 Orchard Crescent and it is noted that the proposed layout replicates the current separation and layout of that between 17 – 14 Orchard Crescent and thereby in keeping with the character of the area.

To the immediate south of the site lies No 31 Old Belfast Road and No 10 Orchard Crescent. Both dwellings are affected by the proposal, however, it is considered that they are sufficiently separated from that proposed and benefit from an existing belt of mature planting which will aid screening of the development.

It is acknowledged however, that the proposed dwellings at Plots 1 – 3 will be positioned on land elevated above No 31 and No 10, however, windows on the rear elevations of the proposed dwellings are limited to a ground floor dining room at plots 2 and 3, with a ground floor dining and first floor study room at Plot 1. Given this arrangement, the levels, the separation distance and intervening vegetation, it is considered that Nos 31 and 10 will not be detrimentally affected by the proposal.

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

The proposal appears to comply with this aspect of the policy.

On the basis of the above assessment, it is considered therefore that the proposal complies satisfactorily with the requirements of Policy QD1 of PPS 7.

PPS 2 – Natural Heritage Interests

The application site is in close proximity to the River Quoile which is hydrologically connected to the Strangford Lough Special Area of Conservation (SAC)/ Special Area of Protection (SPA)/ Ramsar and Quoile Area of Special Scientific Interest (ASSI) (hereby referred to as the designated site) which is of national and international importance and is protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002.

NED have considered the impacts of the proposal on the conservation management of the designated sites and are content that there is a sufficient buffer in place between the proposal and the nearby watercourse.

As the site is surrounded by mature vegetation and assessment has been carried out as to the impact of the proposal on birds and bats within the vicinity. As no trees are scheduled to be

removed it is unlikely that the proposal will have a significant impact on bats therefore negating the requirement for any further surveys.

In the event where by any retained tree will require removal/modification in order to facilitate the development, NED recommends that written permission must be obtained from planning authority prior to any works.

NED is content that the protective provisions set out to protect any national or international protected species (not associated with the nearby designated sites) within the Strategic Planning Policy Statement for Northern Ireland or Planning Policy Statement 2: Natural Heritage are no longer engaged.

A number of objectors have suggested that badgers use the site. The applicant engaged Celia Spouncer BSc, MSc, MLI MA to undertake a Biodiversity Checklist and Preliminary Ecological Appraisal (PEA) of the site, which concluded, following a survey of the site and surrounding area that there was no evidence of breeding or foraging badgers on the site or adjacent to the site and that there were no tracks across the site.

PPS 3 – Access, Movement and Parking

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

- (A) Such an access will not prejudice road safety or significantly inconvenience the flow of traffic.
- (B) The proposal does not conflict with Policy AMP3 Access to Protected Routes

Category A is applicable.

Following a consultation with DfI Roads and their assessment of the proposed plans they have advised, there are no objections to the proposal. It is considered that PPS 3 has therefore been complied with.

The new road servicing the dwellings proposed will not however, be adopted by DfI Roads and will remain private.

With regard to parking, turning and manoeuvring of vehicles, it is considered that there is sufficient space within the curtilage of the dwelling, to ensure that 2 vehicles can adequately park and move in and out of the site.

PPS 15 Flooding Interests

DfI Rivers Planning Advisory Unit has informed the Planning Authority that there are no watercourses which are designated under the terms of the Drainage (NI) Order 1973 within the site and the site does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain. FLD 1 is satisfied.

FLD 2 – not applicable in this case.

FLD 3 – Development and Surface Water - There are no watercourses within the immediate vicinity of the site, however in assessment of the development and surface water flooding, DfI Rivers have been consulted and state in their response that they have no reason to disagree with the conclusions of the Drainage Assessment. FLD 3 is satisfied.

FLD 4 & 5 are not applicable in this case.

Other Matters

Following a consultation with NIW, the Council have been advised that the site is within 20m of a public water supply and a surface water sewer that can serve the proposal. There is a public foul sewer located within Old Belfast Road however, its capacity is limited, and the applicant is advised to apply to NIW for a Network Capacity Check. NIW have also advised that the nearest Waste water Treatment Works have available capacity for the development.

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 Council's consultees, it is determined that the proposal is acceptable.

Drawings

The drawings considered in this assessment are as follows

2962.01, 2962.04 Rev A, 2962.05, 2962.06, 2962.07, 2962.08, 2962.11 (Rev A), 2962.12 (Rev A), 2962.13 (Rev A) 19-053 L101 Rev A, P424-R01d, C10457/04 (Rev B).

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 2962.01, 2962.04 Rev A, 2962.05, 2962.06, 2962.07, 2962.08, 2962.11 (Rev A), 2962.12 (Rev A), 2962.13 (Rev A) 19-053 L101 Rev A, P424-R01d, C10457/04 (Rev B).

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

3. The vehicular access, including visibility splays and forward sight distance shall be provided in accordance with Drawing No P424-R01d prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

5. The drainage infrastructure from the proposed development shall remain completely isolated from the Strangford Road Stream throughout the construction phase. Final connection to the stream shall only be constructed after all other construction works have been completed.

Reason: To prevent any adverse effect to any designated European Site from the proposal.

6. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Newry, Mourne and Down District Council

in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

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

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

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

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

8. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 6. These measures shall be implemented, and a final archaeological report shall be submitted to Newry, Mourne and Down District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Newry, Mourne and Down District Council.

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

9. The existing natural screenings of the site, as shown, on approved drawing No. 19-053 L101 Rev A shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

10. The erection of fencing for the protection of those TPO trees and retained trees as indicated on Drawing No 19-053 L101 Rev A shall be undertaken in accordance with British Standard document BS 5837:2005 (Trees in relation to construction) and shall be erected before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. The fencing shall be comprised of a protective barrier 2.3m high and comprising a vertical and horizontal framework scaffolding, well braced to resist impacts and securely

supporting weld mesh panels (as per Fig 2 of BS5837:2012) erected around all trees to be retained on site.

The line of the fence shall be along the Tree Root Protection Zone. No construction traffic, fire, material or debris shall be permitted within this zone of protection.

Reason: To ensure the continuity of amenity afforded by existing trees .

11. 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 take place on any retained tree to be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority. Any arboricultural work or tree surgery approved shall be carried out in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction.

Reason: To protect bats and ensure the continuity of the biodiversity value afforded by existing trees.

12. All hard and soft landscape works shall be carried out in accordance with the approved details as shown on drawing No 19-053 L101 Rev A and the Landscape Management Plan dated July 2019. The works shall be carried out prior to the occupation of any part of the development.

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

13. 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.

Case Officer: Claire Cooney

Date: 29.07.2020

Authorised Officer: Annette McAlarney

Date 29 July 2020

Re Proposed Development Ref LA07/2019/1136/F. Letter of objection to supplement earlier submission.

Lisa Byers. 3 Orchard Lane, Downpatrick BT306SS.

16th Sept 2020.

The objection points I raised in my presentation on the 26th August 2020, outlined the reasons why this application undermines the strategic objectives of the key department policy- Strategic Planning Policy Statement (SPSS) which underpins the Planning Act (NI) 2011. The SPSS recognises the importance of adherence to local policies, i.e. in this case the Ards and Down Area Plan (ADAP) 2015.

I now put forward supplementary reasonable reasons for refusal, where the application seems to deviate from the ADAP.

Local Landscape Policy Areas (LLPA1) are protected and are designated in accordance with Policy CON 2 in Volume 1 of the ADAP as indicated on the Downpatrick Settlement Map (No. 3/002a) and the relevant Down Countryside Map. The planners referred to in their report the proposed application is in the Downpatrick settlement Policy area SETT1 I note that there are a number of housing zoned areas that have not been built on. The planners have ignored that the proposed units 1-3 are on land not zoned for housing and the Portland House site (ie the northernmost area of the site, where Units 4,5,6 are proposed) is a LLPA1 designated area. Would the committee sanction allowing building of houses in the area of Down Cathedral, also located within area zoned as LLPA1?

In 2003, the application to build my property No 3 Orchard Lane, (R/2003/1115/F) was approved. Outline planning permission was also agreed for one house on the site where units 2 and 3 are proposed in front of my property. A number of other parties later sought advice on planning for one house on the same site (where Units 1-3 are proposed) which did not proceed.

The proposal is contrary to Policy QD1 of the Department's Planning Policy Statement 7: 'Quality Residential Environments' in that it has not been demonstrated that the development would create a quality and sustainable residential environment. The proposed development fails to meet the requirements of QD1 in that it has not been shown 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 and overshadowing of adverse effect on existing properties by proposed properties in terms of overshadowing. I refer in particular to my property which will have the proposed unit 2 built directly opposite and at maximum 15m separation and a similar distance between unit 2 and my property. This is not acceptable, and is less well considered than the separation distances propose between each of the new units.

Later in 2009, an application by this developer (R2009/0501/F) was refused with a number of reasons given including; 5. Development was deemed contrary to the Departments plan, policy statement 3: access, movement, and parking Policy AMP1, in that safe and logical pedestrian priority to facilitate pedestrian movement within and between land uses could not be provided within the scope of this application.

Committee members who attended the site visit may have noted that traffic from the proposed houses units 4-6 (Portland house site), would come down a sloping hill from them, then take a near 90 degree left bend past my property to exit onto the slalom of the single lane of Orchard Crescent, onto Orchard Way and Strangford Road to leave the development. Contrary to previous determinations, do the planners now propose that there is no issue with exit from the 3 houses (Units 4,5,6 Northernmost region of site) the LLPA1 zoned area? What has changed in the ADAP policy or Planning (NI) Order 1991 from 2010 to present day? It's also not clear if Roads Service performed a desktop review or site visit of this area.

There is also an omission from the planners report 'Site History'. On 15th February 2017, the NMD planning council refused an application (LA07/2015/0951/F) for two houses on the area to the front of my property, 3 Orchard Lane. This area forms part of the current proposed planning application, where units 1 to 3 are proposed. (Agenda item 6. [https://www.newrymournedown.org/media/uploads/Planning_Committee_Agenda_15-02-2017\(2\).pdf](https://www.newrymournedown.org/media/uploads/Planning_Committee_Agenda_15-02-2017(2).pdf)) Effectively, the same NMD planning department are now proposing approval for houses on this area, contrary to previous determinations.

Among the reasons for refusal are stated -that the proposed development was contrary to: 1) SPSS and Policy QD1 (a) Planning Policy Statement 7, unacceptable development form out of keeping with local character of an existing area and 2) Contrary to LC1 and 2 of the addendum to PPS7, in that it would create density higher than, and in pattern, not keeping with the established residential area.

The area of the site where housing units 4, 5 and 6 are proposed is within Downpatrick Settlement Map as stated in the planners report. However, what is not clear in the planners report is that it is also identified as part of a series of distinctive localised hills around the Quoile River and in a LLPA1 area. This site and area is designated in accordance with Policy CON 2 in Volume 1 of the Ards and Down Area Plan (ADAP) (indicated on Map No. 3/002a). The overall site contributes to the setting on entrance to the town of Downpatrick, driving in from the Quoile bridge or using the public footpaths and facilities along the Old Belfast Road. As stated in the ADAP this area of the Quoile River provides access to a diversity of wildlife and heritage interest for passive recreation for all the people of Downpatrick and surrounding areas. The building of these houses, in such a prominent location, would substantially change the vista, amenity values and quality of the setting on the approach routes to and from Downpatrick via the Old Belfast Road. The ADAP supports protection of these areas.

Also, being adjacent to an Area of Outstanding Natural Beauty, Orchard Lane/ Crescent and Portland House site areas are very different in terms of character and housing density to Roughal and Lecale Park, contrary to what is suggested in the planner's report.

3 Orchard Lane is 1.5 stories, in keeping with the height of those properties of the Orchards development. Two-story houses are not seen in the development, nor is it acceptable to use the precedent of other developments situated at some distance away as suggested in the planners report.

This application therefore is also contrary to Planning Policy Statement PPS7 Policy QD1 in that it does not comply with the following criteria: a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings.

In summary, the SPSS provides that developments considered outside local Area Plans guidance, (in this case, the proposed is in an area not zoned for housing and a LLPA1 area), should only be permitted where there are overriding reasons why the proposed development is essential and could not be located in a planned zoned area within the settlement of Downpatrick. This has not been proven.

These 6 houses are now proposed for approval on the same area of land as R2009/0501/F and LA07/2015/0951/F which were refused. What has changed in the ADAP policy or Planning (NI) Order 1991 from 2010 to present day to allow this proposal by the NMD planning department?

Lisa Byers 16/9/2020.

Request for speaking rights and to make representations at the Planning Committee Meeting scheduled for Wednesday 23rd September 2020

Proposed Development Ref LA07/2019/1136/F

As per the **Ards and Down Area Plan 2015 Vol 3**: In order to ensure that the **Development Strategy** for Downpatrick is consistent with the **Regional Development Strategy (RDS)**, and so as to protect heritage and landscape, its goals are '...to retain the existing housing zonings between Ardglass and Saul Roads and to zone additional lands for housing development between the Saul and Strangford Roads' (**Emphasised**). We contend that the proposed development is contrary to this undertaking as its location sits outside the parameters.

Further, as can be determined from Map No. 3/002a, it is clear that the majority of the proposed development is situated in Local Landscape **Policy Area LLPA1**. This area designated in accordance to **CON 2** (for reference Cathedral Hill, Mound of Down and Inch Abbey fall within the designation). Under the LLPA, areas such located are '...considered to be of greatest amenity value, landscape quality or local significance, therefore worthy of protection ...' from development.

Development Strategy seeks '...to protect and enhance the towns environmental quality by safeguarding ...attractive local landscapes and areas of important natural heritage on the urban fringe'...

There are vast swathes of undeveloped land (Map 3/002a) zoned within and surrounding Downpatrick, that are set to form a leading role in proposed housing requirements for the area. We contend therefore that, contrary to Case Officers Recommendations and Design and Access Statement (Gravis 2019) that the proposal is in conflict with Development Strategy. In actuality it appears to undermine the objectives of key departmental policies, in particular the **Strategic Planning Policy Statement (SPSS)** whereby '...housing...should only be permitted where there is overriding reason why this development is essential and could not be located in a planned zoned area...'. In this instance the intent to 'approve' appears to have afforded little regard, to local development plan, contrary to the **Planning Act (NI) 2011**.

Neighbour notification of identified occupiers is a Statutory requirement. As indicated previously and contrary to Case Officer Report which states that the 'relevant neighbours were notified.' More than 70% of households located within a 90m radius of the proposed site were not notified regarding intended development. This is contrary to **Development Management Practice Note 14** Publicity Arrangements and Neighbour Notification (April 2015) 4.3 – 4.8. The lack of consultation with residents of the neighbourhood, has by default, denied us of our rights to consider, challenge and object as a right.

PPS7 Quality Residential Environment: In assessment of the proposal **Policy QD1 of PPS7** (policy context). All proposals for residential development will be expected to conform to criteria a – i.

We contend that contrary to the Case Officers Report, these criteria have not been met in whole or part. (a)the Orchards development contains only bungalow and chalet/dormer bungalow style dwellings. There is no precedent to approve two-storey as per proposed development.

Further, the **Design and Access Statement** (Gravis 2019) referenced by the Case Officer, contains inaccuracies. 4.2 Character appraisal of the area: Precedent is implied by citing No 3 Orchard Lane as a two -storey, the owner declares otherwise. A photo purporting to be of 'Residential properties on Orchard Lane', is in fact an image of dwellings on Orchard Crescent. Context has been suggested by citing Lecale Park and Quoile Park, neither of which is visible from the proposed site, nor would prospective residents have to drive through such to access Orchard Lane, the type and density of these developments therefore loses relevance. 6.3 'Higher density housing is located within Orchard Lane'. [Reiterated in speaking rights submission (Higher density Housing is located in Orchard Lane (14dph)] We fail to see how this determination has been arrived at; there is only one property on Orchard Lane! We contend that the Case Officers determinations have been made in part on inaccuracies and misrepresentations from the Design and access Statement. The criteria set out PPS7 QD1 (a) is not satisfied. The proposed development is not in keeping with the scale and density of the neighbouring area.

PPS7 QD1 (e) contrary to the Case Officers report, and notwithstanding the movement pattern: Form P1 completed by developer: 12. Access arrangements-alteration of existing road, applicant has ticked that this is only for Vehicular Use. As indicated previously, no regard has been given for those on foot, cycling or with impaired mobility. This is pertinent, related and further addressed also under PPS3, see below. Residents have raised many concerns about the lack of footpath and safety of those road users on foot and cycle.

PPS3 Access Movement and Parking: sets out the Department's planning policies for vehicular and pedestrian access and includes undertakings regarding promotion of healthier living and improved road safety. 1.5 New development should not'... be located and designed on the assumption that the car represents the only realistic means of access for the vast majority of people. Choice of access is important for everyone, especially those whose mobility is impaired and those people who do not have regular use of a car'. 2.3 The policy context of strategy of PPS3 has undertaken to improvement of road safety for pedestrians and other vulnerable road users and ensuring that safety continues to be a primary objective. We contend that scant regard appears to have been paid to the safety of current residents nor prospective residents on these matters. While we have drawn attention to the lack of pavement provision in Orchard Crescent, there is absolutely no provision for the proposed development either. The requirements of PPS3 have not been satisfied.

Respectfully, I refer the committee's attention to previous applications to develop this site and reason for refusals, as detailed by Lisa Byres.

PPS2 Natural Heritage: it has been recognised by the Case Officer and Gravis that the site overlooks an Area of Natural Beauty, proposed as it is on a ridge overlooking the Quoile River. Not only is this a recogniser walking route, The Quoile River walk approaches the Site from Jane's Shore path along the Quoile for approximately 1.2 km until reaching the Old Belfast Road. The vista currently is one of rolling hills and tree line. Should this site be approved, houses, in particular Unit 3 will dominate the vista.

We very much appreciate that Downpatrick is undergoing much needed investment in regard to housing, infrastructure etc. This is most welcomed and supported in the main by the vast majority including ourselves where it continues to enhance the overall appeal of the town for residents, industry, tourism and further. However, regard must be uppermost in mind of planners to ensure that such development is undertaken within the guiding principles that ensure not only the appropriateness of such development for prospective residents, but established residents are not disadvantaged.

Catherine Edwards 5 Orchard Crescent

Planning Committee 'Call in' Request Form

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Delegated Application List w/c: 03 August 2020	Planning Application Number : LA07/2019/1136/F	Requested by: Councillor Cadogan Enright
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PLEASE NOTE THAT SUBMISSIONS SHOULD BE ON THIS FORM AND LIMITED TO TWO PAGES. ANY ADDITIONAL INFORMATION BEYOND TWO PAGES WILL BE DISREGARDED.

Description of the application - LA07/2019/1136/F 6 detached dwellings, garages

Land to the south of 35 Old Belfast Road and to the south and west of 3 Orchard Lane Downpatrick for 6 detached dwellings, garages and ancillary works.

Proposed decision (including reasons if the decision is refusal) –

It is proposed to approve this development – I want to call this decision in - I note that I have only opposed 2 housing developments in 16 years as a councillor, so my concerns are not based on any habitual reflex as I normally support developments and the planning process.

This appears to be an aberration and I explain my request that this approval be reviewed.

Set out the valid and credible planning reasons why this application should be referred to Committee (including reference to relevant planning policies) –

1. The proposed development is at odds with the planning policy for this site established by previous refusals. For instance, the planning application in 2009 ref R/2009/0501/F proposing similar high density for this site was refused. Outline planning was received for 3 units on this land in 2013/4. **The current decision is at odds with previous decisions over density on this site.** Existing established development consists of individual dwellings. The proposed new development would appear to have a much higher density of detached housing per acre which would not be in keeping with the character of the existing development. Departmental Policy statement PPS1 specifically refers in Page 10 para 20 to the impact of development on the character of areas of outstanding natural beauty.
2. Inadequate public space There does not appear to be any provision for public open spaces and insufficient provision for private open spaces in the proposed development (see page 23 of PPS7, "provision of adequate private garden space is particularly important").
3. Access to a water supply. Downpatrick Councillors are aware of the ongoing difficulty in getting satisfactory water pressure in existing developments along this hill and , and have been working with NIWater for some years to resolve this problem where water becomes periodically unavailable. Existing developments in the area are making this crisis worse. PPS1 paragraph 61, page 24 and paragraph 66, page 26 refers to a similar requirement for developer contributions in Northern Ireland to facilitate development proposals. Page 34 of the Ards & Down Area Plan 2015 mentions "it is presently government policy to require developers to bear all or part of these infrastructural costs".
4. Access to sewerage infrastructure. On one side of the hill the Strangford sewerage line is at capacity, and on the other the sewerage system overflows into Harry's Loney every time it rains. There is insufficient **localised** capacity for the large number of developments in the Strangford Road area over the last few years in getting to the actual capacity at Downpatrick sewerage works. PPS1 paragraph 61, page 24 and paragraph 66, page 26 refers to a similar requirement for developer contributions in Northern Ireland to facilitate development proposals. Page 34 of the Ards & Down Area Plan 2015 mentions "it is presently government policy to require developers to bear all or part of these infrastructural costs".

Planning Committee 'Call in' Request Form

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5. Overlooking and intrusion. The design and layout contravenes the privacy provisions as recommended in the DOE policy document, Creating Places pages 63-64, where a separation distance of greater than 20m is recommended to minimise overlooking development.
6. Wildlife Hotspot. I am not satisfied that a bat survey has been properly conducted. I manage the annual bat survey in County Down for Bat Conservancy Ireland. I am aware that this area has several roosts. I have been deeply involved along with my predecessor on Council Bill Corry in the development on the nearby Down High site where badger sets were moved and other sensitive arrangements were made. This site is home to hedgehogs, badgers and is a wildlife hotspot. I refer planners to the Council's current Bio-diversity Plan which speaks to these issues.
7. Community Safety and Access. The neighbouring cul-de-sac though which access must be obtained was never designed for through traffic. This small oval of houses merge into each other at the boundaries and have no pavement. It is a play area for local children. Having traffic going to and from a development of this density is unconscionable and against best planning practice. Any development needs to merge in sympathetically and not present a dangerous stream to traffic that will end the community neighbourhood character of this area.
8. I believe this is a private road and there appears to be no requirement for any new owners in the new development to contribute to the upkeep of the existing road. This road is a single lane, not a double-lane style road and local councillors have had to deal with complaints over the inability of the Council Rubbish Trucks to access the area when street side parking has occurred. The size and ownership of the access road does not seem to have been properly considered by planners.
9. Uncompleted Archaeology. The dig on the Iron Age Rath on this hill has not been completed due to the C19 virus and is not expected to recommence until September. The outer bank and ditch 'fortification' appear to encompass these boundaries extend up to and encompass the site LA/2019/1136/F. No decision should issue until we see the outcome of this report.

Set out why this application should be determined by Committee rather than officers –

Councillors are familiar with the long history of proposed developments on this site where higher density has not succeeded in the past, but lower density did find support.

Councillors are also familiar with the history of poor or non-existent infrastructure at this location - see details above – especially older councillors who used to work at the nearby old Strangford Road Council HQ where meetings about these issues were held in the period around 2008, and have not improved since.

There are a whole series of planning issues referred to above that suggest that Councillors need to review this decision.

**Speaking Note for Newry, Mourne and Down
District Council Planning Committee on 23.09.2020**

Planning Ref: LA07/2019/1136/F

Proposed erection of 6 detached dwellings, garages and ancillary works
on lands to the south of 35 Old Belfast Road and to the south and west
of 3 Orchard Lane, Downpatrick



Gravis Planning
1 Pavilions Office Park
Kinnegar Drive
Holywood
BT18 9JQ
T: 028 90 425222
F: 028 90 422888

September 2020

Chairman and members of the Planning Committee, thank you very much for the opportunity to speak here today on behalf of the applicant Mr Oliver Sloan.

In summary, as members, you have been presented with a recommendation by your officers to approve the application. We fully concur with your officer's recommendation and would also point out that all statutory consultees have no objections to the proposal subject to the implementation of appropriate conditions.

Principle of Development

- The proposal fully complies with all relevant Area Plan and regional planning policies.
- The site sits within Downpatrick settlement limit. The principle of residential development is therefore acceptable and can be accommodated on the lands without causing any harm to the features of the AONB, LLPA, or the character of the surrounding neighbourhood.
- As the Planning Act (NI) 2011 requires determinations to be made 'in accordance with' the plan; the recommendation to approve the proposal fully complies with legislative requirements.

Objections

We acknowledge that there have been objections mainly focused on traffic, ecological impacts, developer contributions, sewage, density, impact on LLPA, storm water runoff, privacy and built heritage and archaeological impacts.

Traffic and Access

- All dwellings will utilise the existing access point off Orchard Lane. The new road servicing the dwellings will remain a private road. Internally the layout will maintain low vehicle speeds, and turning heads are provided to allow vehicles to enter and exit the site in forward gear.
- Due to the scale of the development and associated numbers of cars generated, it is not anticipated that the development will have any detrimental impact on the existing road network or noise and air quality of the surrounding environment.
- Objectors have also raised queries regarding the lack of footpaths throughout the development. This is a private development, not a thoroughfare, therefore footpaths are not required. Creating Places states that footways may also be omitted in order to create a shared surface, provided the carriageway serves no more than around 25 dwellings. The proposals are therefore in line with Creating Places guidance.
- DfI Roads have been consulted and have raised no objections with the proposals.

Ecological impacts

- As part of the application, a Biodiversity Checklist and Preliminary Ecology Appraisal was carried out and accompanies this application. The assessment concluded that the site is small in scale and is devoid of protected habitats and species.
- Given that the proposals retain the existing mature trees and includes tree protection measures, it is unlikely that the proposal will have significant impact on bats and there is in fact scope to enhance the biodiversity of the site through a proposed landscape plan associated with the new development. Overall, NIEA have reviewed the proposal and is content that the proposals will not have any harmful impacts on biodiversity.

Developer contributions

- Objectors have requested developer contributions for update to infrastructure in the area with reference to poor water pressure however the development is not of a scale to necessitate developer contributions and water pressure is not a material consideration to allow refusal of a planning application. Also, in terms of sewage, NI water have been consulted in respect of the proposal and have no objections.

Density

- The scale and density of the proposal is also in keeping with the density of development in the neighbouring area. Lower density detached housing exists along the Old Belfast Road. Higher density housing is located within Orchard Lane (14dph), Lecale Park (12dph) and Quoile Park (16dph). The proposed development in creating six new dwellings on site creates a density of 12dph which compliments a transition in density between the Old Belfast Road and Orchard Lane properties in terms of density.

Separation Distances/Privacy

- The proposed layout shows that each dwelling will be sufficiently separated from each other so not cause any adverse effects in terms of residential amenity.
- Each plot will also be defined with a timber fence which will aid screening and privacy between properties.

Built Heritage and Archaeological impacts

- Objectors have made reference to heritage and archaeological impacts and Gahan and Long's excavations as part of the new Down High School development.
- HED have considered the impacts of the proposal and are content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This will identify and record any archaeological remains in advance of new construction, or to provide for their preservation in situ, as per Policy BH 4 of PPS 6. Conditions are attached to this effect (6,7,8).

LLPA

- The site is located within the Inch Abbey, Mound of Down, Down Cathedral, Quoile River and associated lands including Cotter Hill, Hollymount and Ballydugan LLPA.
- The most relevant feature of the LLPA on the site is the tree groupings located on the boundaries of the site which are protected by Tree Preservation Order's. As part of the proposals, all trees are to be retained and the proposed dwellings are also sensitively positioned ensure the protection of the trees not compromised. All built form is located away from the trees and root protection areas to ensure their retention. As such the proposal will not have any adverse impact on the notable tree groupings or the wider LLPA designation in accordance with Policy CON 2.

Storm run off

- Objectors have raised concerns regarding storm water runoff in the direction of the Old Belfast Road.
- A Drainage Assessment (DA) has been prepared by Marrac Design in accordance with the requirements of PPS15.
- Rivers Agency have reviewed the proposals, agree with the findings of the DA and offer no objection to the proposals.

Conclusion

- The application has been thoroughly assessed by Council officers and it has been demonstrated to fully comply with all relevant area plan, regional planning policies and design guidance.
- On this basis, we respectfully request that the committee endorse the officer's recommendation for approval and grant permission for this proposal. Thank you.



Application Reference: LA07/2019/1362/O

Date Received: 13th September 2019

Proposal: Infill dwelling and garage

Location: Adjacent and immediately south of no. 64 The Heights, Loughinisland

Site Characteristics and Area Characteristics:

The site is located on the northern western side of the minor road known as The Heights, Loughinisland. The site comprises an elongated narrow plot which rises steadily in height from the roadside up to the north west. The site is much higher in level to the north than to the south. The site contains a number of farm buildings and a large shed abuts the site to the west. To the north is no.64 which is on a higher level than the site. There is a large area of gorse to the roadside portion of the site. The northern boundary of the site, shared with no. 64 is defined by hedging. The southern boundary is largely undefined. Part of the south eastern boundary is defined with a wall, the rest with a post and rail fence along the roadside.

Site History

LA07/2019/0489/F – 40m South of 64 The Heights, Loughinisland

Infill Dwelling

Refused 13.06.2019

LA07/2019/1478/F – 40m South of 64 The Heights, Loughinisland

Infill dwelling

Refused 13.08.2018

Planning Policies and Material Considerations:

The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document which is read in conjunction with PPS 3 and PPS21.

Consultations:

DFI Roads – No objections subject to conditions

NI Water – no objections

Objections & Representations:

The application was advertised in the local press on 2nd October 2019 which expired on 16th October 2019 and neighbour notification issued on 26th September 2019 expired on 29th August 2019. To date there have been no objections received in relation to the proposal.

Consideration and Assessment:

Ards and Down Area Plan

Section 45 of the Planning Act (NI) 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 application is located in the open countryside outside the settlement of Loughinisland. There are no specific policies in the Plan material to this application. Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside. The SPPS states that in the case of infill/ribbon development provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. This is less prescriptive than the content of PPS21 regarding infill dwellings, however, the SPPS states that the policy provisions of PPS21 will continue to operate until such time as a Plan Strategy for the whole of the Council area has been adopted.

PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 states that a range of types of development are acceptable in principle in the countryside. Planning permission will be granted for an individual dwelling house in the countryside in which a number of cases which are listed, CTY 8 – titled Ribbon Development is one such instance. Integration and design of buildings in the Countryside CTY 13 and Rural character CTY 14, CTY 16 will also be considered.

The proposal seeks outline permission for the erection of a dwelling and garage. The indicative location is shown to be to the south of no. 64 and to the east of the large agricultural shed. Given that this is an outline application, no details of design have been submitted.

Policy CTY 8 states that planning permission will be refused for a building, which creates or adds to a ribbon of development. It continues that any exception to the policy 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. Paragraph 5.33 of Policy CTY 8 makes specific reference to 'buildings sited back, staggered or at angles and with gaps between them' representing ribbon development, if they have a common frontage or they are visually linked.

Paragraph 5.33 of Policy CTY 8 reads 'For the purpose of this policy, the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear'. When considering what a small gap site is for the purposes of the Policy, the Policy headnote's wording directs the reader to consider the existing development pattern along the frontage in terms of size, scale, siting and plot size.

The justification and amplification in paragraph 5.34, comments that the infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built up frontage. Applicants must take full account of the existing pattern of development and can produce a design solution to integrate the new buildings.

Accordingly, it is the gap between buildings that is required to be assessed.

The gap is set out in the Design and Access statement as being between no. 60 and 64, The Heights. In assessment of whether this site represents a gap site within an otherwise substantial and continuously built up frontage, it is considered that No 64, no 60 and the agricultural shed to the west have a frontage to the roadside. As such, there appears to be a substantial and built up frontage. It must also be considered whether the application site constitutes a 'gap' for the purposes of the policy. The site subject of this application is a parcel of land to the front of the shed, some of which has been taken from no. 64. The Council does not consider that the site constitutes a gap site owing to the fact that the gap between the shed and no. 64 is not sufficient to accommodate one building. The building to building distance between no 64 and the shed is 21m which is insufficient to comfortably accommodate a new dwelling. In considering the existing line of development, there does not appear to be a gap between dwellings.

Policy CTY8 further requires all proposals to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. Officers consider that the proposed development would not respect the existing development pattern in terms of size and scale given that the area and size of the plot would be sufficiently below that of surrounding plots. The plot is furthermore shallower than the surrounding plots, which when combined with its reduced size, makes it appear out of keeping with the character of the area in conflict with CTY14.

In terms of siting, the site extends to the front of the existing building line and so, does not read as a gap in a line of buildings but rather a new artificially subdivided site to the front of a line of existing development, further in conflict with CTY14.

Considering that the proposed development is not considered to form a gap site, it would add to a ribbon of development along this stretch of The Heights, which conflicts with CTY8.

As such, the proposed development would not be in accordance with Policy CTY8 and CTY14 of PPS21.

Recommendation:

Refusal is recommended.

Reasons for refusal:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policies CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not respect the existing development pattern of development in terms of plot size, depth and siting, and would, if permitted, result in the creation of ribbon development along The Heights.

Case officer:

Authorised by:

Date

Planning Committee 'Call in' Request Form

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Delegated Application List w/c:	Planning Application Number : LA07/2019/1362/O	Requested by: Collins & Collins
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PLEASE NOTE THAT SUBMISSIONS SHOULD BE ON THIS FORM AND LIMITED TO TWO PAGES. ANY ADDITIONAL INFORMATION BEYOND TWO PAGES WILL BE DISREGARDED.

Description of the application -

Gap site for dwelling and domestic garage adjacent and immediately South of No. 64 The Heights Loughinisland, Downpatrick

Proposed decision (including reasons if the decision is refusal) –

In relation to the application above and its status on the delegation list for refusal we would ask if you could represent our client Mr Paul Bloomfield and have speaking rights at the meeting dated the 20th February 2020

Set out the valid and credible planning reasons why this application should be referred to Committee (including reference to relevant planning policies) –

The site is located on a minor road known as the Heights Downpatrick, our red line has been increased from the initial application to allow for the road frontage to be similar to that of the neighbouring properties. The neighbouring dwelling No. 60 has since been constructed and is now habitable again allowing for a stronger evidence that this site is an infill site as there is existing dwellings and buildings on either side of the proposed site. In our professional opinion the proposal would not create ribbon development as per CTY8 as this building line is already built up with this existing gap between No. 60 and 64.

The Northern and Southern boundaries of the site have existing dense vegetation which are client is going to retain and enhance so as to allow the proposed dwelling to integrate into the surrounding landscape. The Western and Eastern boundaries are not defined but he plans to plant with native hedgerow and trees to again blend the new build into the rural landscape. In the previous full application the dwelling was of different design to that of the neighbouring dwellings, we propose because the proposed site plot has been increased that the dwelling would be of single storey build with a front elevation of 16m—18m long so as to be of consistent design of the existing dwellings as per CTY14 of PPS21.

We feel that there is genuine need for this dwelling as our client is from the immediate locality and would love to remain in the rural community beside all their relatives and family. The proposed dwelling will be of similar scale and size of the existing dwellings, the dwelling will not be a prominent feature in the landscape and will integrate with the other dwellings and landscape. The existing dwellings 54, 56,60 and 64 on this stretch of road are all relatives, it would mean a lot to our client to be situated beside his family.

Our client's parents reside in No. 64 and by building close to them they will be able to help their aging parents in their later years. We feel that the permission of this proposal would benefit both sets of families in that they would be living in close proximity enhancing both their quality of lives, allowing them to have their own space but still close enough to help with daily chores and emergencies.

Set out why this application should be determined by Committee rather than officers –

The application should be determined by the committee as the client is a local constituent who wants to reside in the immediate area beside his family.

We feel that the council can put across his reasons for a planning approval on his behalf and will be sympathetic for his reasons wanting to be close to some of the more elderly members of his family so as they have a close support network in this rural community.

Planning Committee 'Call in' Request Form



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1807/O

Date Received: 29/11/2019

Proposal: Site for farm dwelling

Location: 55m north of 4 Leitrim Road, Hilltown, BT34 5XS



Site Characteristics & Area Characteristics:

Characteristics of site: The lands outlined in red are irregular in shape, with a square shaped plot located approx. 50.0m north east of number 4 Leitrim Road. The square shaped plot is carved out of an agricultural field, which rests slightly higher in elevation than the road level. To the west of the site is a group of agricultural buildings. The site is accessed via a shared access laneway which serves approx. 13 dwellings. In terms of site boundary treatments, the western boundary is defined by a stone wall with post and wire fencing on top. The northern boundary is defined by post and wire fence with patches of hedgerow. There is no defined eastern boundary, and a post and wire fence defining the boundary to the south.

Characteristics of area: The application site is located outside any settlement development limits as designated in the Banbridge/Newry and Mourne Area Plan 2015. The area is of typical rural character and predominately agricultural use, located within a designated Area of Outstanding Natural Beauty (AONB).

Site History:

P/2006/0887/O - Opposite and 80 metres north east of no. 4 Leitrim Road, Hilltown. Site for dwelling and garage. Application withdrawn.

Planning Policies & Material Considerations:

Banbridge/Newry and Mourne Area Plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

PPS 2 - Natural Heritage

NH 6 - Areas of Outstanding Natural Beauty

PPS 3 - Access, Movement and Parking

AMP 2 - Access to Public Roads

PPS 21 - Sustainable Development in the Countryside

CTY 1 - Development in the Countryside

CTY 10 - Dwellings on Farms

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 - Rural Character

CTY 16 - Development Relying on Non-Mains Sewerage

Building on Tradition, a Sustainable Design Guide for the Northern Ireland Countryside

Consultations:

DAERA – The Business ID number has been in existence for more than 6 years and has claimed payments through the Basic Payment Scheme or Agri Environment scheme in each of the last 6 years.

NI Water - Generic response

DFI Roads - No objections subject to access being constructed in accordance with the RS1.

DFI Rivers – Content (recommended planning informatives)

Objections & Representations:

4 Neighbours within close proximity of the site were notified on 14/01/2020, 24/02/2020 & 06/03/2020. This application was advertised in the local press on 06/01/2010 and 08/01/2020. No objections or representations have been received.

Consideration and Assessment:

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

PPS 21 - Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside, but makes an exception for farm dwellings, which are considered acceptable if in accordance with policy CTY10. Criterion (a) require the farm business to be currently active and to have been established for at least 6 years. DAERA advised in a consultation response dated 16/01/2010 that the associated farm has been in existence for 6 years, and the farm business has claimed the Single farm payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment Schemes within each of the last 6 years. This information provides the Council with the main means to determine if farm is currently active and established. Based on this information the application meets the policy requirements of CTY10(a).

The farmland has been checked for any development opportunities. After an inspection of the farm maps, which provide full details of land owned by the farm which accompanied the application, the Council are content there has been no development opportunities have been sold off from the farm holding. The application therefore meets policy requirements of CTY10(b).

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

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

The site outlined for the dwelling is located to approx. 50.0m north east of number 4 Leitrim Road. To the west of the site is a large agricultural shed, and approx. 27.0m south of this building is a second agricultural building. There is an additional farm building and dwelling on the farm further south. These existing farm buildings are

sited in a linear position which run along the existing shared access laneway. The red line that forms the site is located on the opposite site of this laneway.

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

The farm buildings are positioned beside each other within the farm complex making them read as one long 'I' shaped visual identity. It is the Council's opinion that the proposal is visually separated from the site by the intervening shared access laneway. The applicant's farm buildings and the proposal are considered not to form an integral part of the building group or be visually interlinked with those buildings when travelling north along Leitrim Road. As a consequence, it appears as a separate entity to the applicant's farm complex.

The applicant was made aware of the concerns raised by a letter dated 1st May 2020. The applicant was given 14 days to respond to the concerns raised. In a rebuttal dated 10th May 2020 and 21st May 2020, a case was put forward demonstrating how this site clusters or visually links. After considering the information put forward by the applicant, Case Officers remain under the opinion that a dwelling on the subject site is not considered to meet this criterion in terms of visually linking or clustering with the established group of farm buildings at Number 4 Leitrim Road, meaning it would not form an integral part of that building group or be visually interlinked with those buildings. Furthermore, the physical separation between them would be readily apparent.

Whilst the applicant disagreed with the Council's opinion, did make the case that this application meets the requirements of the exceptions test.

Applicant pointed out that the extent flooding as depicted by DFI River Flood Maps is at odds with local knowledge. Having checked the most up to date flood maps available, it appears that none of the land is within a flood plain, and development of a farm dwelling may be possible. The applicant was requested to provide the Council with the evidence of the local knowledge of the flooding incidents referred to which excludes all lands to the rear of the buildings, within blue line. No evidence was provided and in practice the Council will base their guidance from the current flood maps available.

The applicant put forward the case that due to the position of the current buildings on the farm, there is no space along the lane frontage to provide access arrangement to serve these lands without having determinantal impact on the existing farming operations and the financial viability of the business. Furthermore, stating that access via the laneway to lands to the rear are not achievable due to gradient of

access whilst safeguarding the financial viability of the existing farm holding. No evidence was put forward to substantiate this claim.

Reference is drawn to the option of taking access from Leitrim Road to the lands immediate west of the site. On page 6 it is stated that "visibility splays are not achievable and even if they were the change of levels at the point of entry would make the site impossible to develop without unimaginable earth works and retaining structures". I note from my site visit that the greatest change in levels was immediately adjacent to the bridge. The change of levels immediately west of the rear boundary of no. 4 is much less, therefore achieving access arrangements may in fact be possible.

Reference is drawn to verifiable plans to expand the farm business. The applicant was requested to provide evidence of this. To date no evidence has been provided.

Taking the above into consideration, I do not find that the applicant has demonstrated health and safety reasons or verifiable plans to expand the farm business at the existing building group(s) which would justify a site away from the existing group of farm buildings under the above policy. Criterion (c) has failed to be satisfied, therefore the principle of development has not been established and refusal will be recommended.

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. The area inside the red line takes in an agricultural field, and no specific siting has been pin pointed. As this is an outline application the siting and design would be determined at the Reserved Matters stage. However, as it has been established that the proposed dwelling is not sited to visually link or cluster with an established group of buildings on the farm, it fails CTY 13, therefore planning permission will not be granted.

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 the area. Given the location of the site, when travelling along shared access laneway at Leitrim Road the proposal if approved, would add to a ribbon of development, which is considered detrimental to the rural character of an area. The proposal is considered contrary to this policy.

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

PPS 2 - Natural Heritage

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 siting of a potential dwelling within the lands in red are considered unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

PPS 3 - Planning Policy Statement 3 – Access, Movement and Parking

Having received several amendments to the site location plan, DFI Roads confirmed on the 26/06/2020 that they have no objections to the proposal with regard to the above policy criteria subject to access being in accordance with the RS1 form.

Recommendation:

The proposal is contrary to the Strategic Planning Statement for Northern Ireland, Policy NH6 of PPS2 and Policies CTY1, CTY8, CTY13 & CTY14 of PPS 21, and is recommended for refusal.

Refusal Reasons:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to 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.
3. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
 - a. 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;
 - b. Demonstrable reasons to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.

4. The proposal is contrary to 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.
5. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would add to a ribbon of development.
6. The proposal is contrary to Paragraph 6.186 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and PPS2 'Natural Heritage' Policy NH6 in that a) the siting and scale 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 Signature: S. Maguire

Date: 02/07/2020

Appointed Officer Signature: M Keane

Date: 02-07-2020

LA07/2019/1807/O – Site for farm dwelling on lands 55m north of 4 Leitrim Road Hilltown for Mr and Mrs Tony Wilson.

Members will recall from the Committee meeting of the 26th August that Officer's recommendation to refuse permission was based solely on their view that the application site fails to meet the visual linkage test as set down in Policy CTY 10 criterion (c).

Members will be aware that the visual linkage test is a matter of planning judgement and a site specific test. Further to Members visiting the site on the 4th September 2020 it is envisaged that Members will have had an opportunity to see first-hand how the site visually links with the existing farm buildings from identified critical views.

Trusting that Members have viewed the site from the junction of Leitrim Road and the private laneway it is hoped that Members will agree with the applicant's assertion that the application site does visually link with the established group of farm buildings with little appreciation of any physical separation.

Members are reminded that the application site is located on the opposite of a 4m wide private laneway (not a publicly adopted road) and the site is 8m distant from the largest of the applicant's farm buildings.

At the last meeting one of the Members made reference to a previous decision taken by Council planning officers under the scheme of delegation that he deemed materially relevant to the current application (Ref LA07/2019/1662/F approved Feb 2020). This application was also for a farm dwelling located on the opposite side of a private laneway only this time in excess of 40m distant from the closest agricultural building. Critically the case officer report states that *"the application site is located to the south west of a number of farm buildings, although there is a small separation distance between the site and the buildings on the farm it is considered that a dwelling on the site will be visually linked and sited to cluster with an established group of buildings on the farm. The proposal is considered to broadly meet the policy requirements of CTY10c"*.

At the last Committee meeting Officers were unaware of this decision and its undoubted relevance to the current application. It is an untenable position for Council Officers to in one hand grant approval for a farm dwelling on the opposite side of a private lane in excess of 40m from the existing farm buildings yet recommend refusal for a farm dwelling on the opposite side of a private laneway on a site only 8m away. This decision is materially relevant as it sits on all fours with the application before Members and sets a clear precedent. In the interests of equity and fairness the applicant would ask Members to approve the proposal to avoid an unnecessary planning appeal.

In the five PAC decisions presented to Members at the Committee meeting of the 26th August in support of Officers position, not one of these was immediately opposite the largest farm building on the holding across a 4m wide private laneway.

In Appeal 2011/A0152 the Commissioner states *"the appeal site lies on the opposite side of the road on lower ground, and about 40m north west of the farm buildings. Given this, general topography and the site's southern boundary and roadside vegetation the proposed dwelling would appear as a distinct and separate built element in the landscape"*. This appeal decision is not in any way relevant to the application before Members in that there is no public road, the site is located 8m from the farm buildings and there are no significant boundaries to provide a visual separation.

In Appeal 2016/A0192 the Commissioner states *"the proposed dwelling is approximately 20-25m from the closest farm building on the opposite side of the road. The intervening physical separation would be readily apparent on both approaches especially as the proposal would be at a different level below the road to that of the farm buildings"*. This appeal decision is also not comparable as the application site as it does not involve separation across a public road and does not suffer from a level difference that accentuates the visual separation.

In Appeal 2017/A0177 the Commissioner states *"It is contended that the proposal would be visually linked and sited to cluster with the buildings on the farm however these are visually separated from the appeal site by an intervening public road.....the separation distance that would result.....would dictate that the site would not be visually interlinked with those buildings"*. This appeal decision is based upon the site being on the opposite side of a public road and the other determining factor appears to be the separation distance. Neither of these determining factors are relevant to the application before Members as the site is on the opposite side of a private laneway (not a publically adopted road) and is only 8m from the largest farm building in the holding.

In Appeal 2016/A0009 the Commissioner states *"The proposed buildings curtilage would be undefined on two sides and the public road would separate them from the farm group"*. Again in this appeal the PAC found a 7m wide public and the particular site specifics to be determining in dismissing the appeal. In the application before Members we are dealing with a private laneway measuring 4m wide.

In the most recent decision referred to by Officers in Appeal 2019/A0188 the Commissioner states *"The appeal site is located on the southern side of Castlewellan Road, a protected route. It comprises a small roadside field on the opposite side of the road from the established group of buildings on the farm. Because of the changes in topography, physical detachment by virtue of the juxtaposition of the appeal site with the farm complex and the intervening road, a dwelling and garage on the appeal site would not be visually linked with established group of buildings on the farm"*. In this decision the protected route and the topography are determining factors in the appeal being dismissed. Neither of these factors provide any support for the assertion that the application site does not satisfy the visual linkage test of CTY 10 criterion (c). The application site before Members is immediately adjacent to the largest agricultural building across a 4m wide private laneway and there is no topographical variation in levels to accentuate an appreciation of any physical separation.

It is simply not written anywhere in Policy CTY 10 that a farm dwelling will not visually link with the established farm buildings if it is on the opposite side of a private laneway. The visual linkage test is a matter of planning judgment on the individual merits of each application site. The applicant's assertion and we hope that of Members following on from their site visit is that a farm dwelling on the proposed site will visually link with the existing farm buildings when travelling north along Leitrim Road (see annex A & B of Critical Views).

I would remind Members that 'Planning authorities should be guided by the principle that development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance'. There is clearly no demonstrable harm associated with the application before Members and it the applicant's assertion that the proposal complies with all relevant Planning Policies and should be approved.

Annex A Critical Views of Visual Linkage Test of CTY 10 Criterion C

Critical View 1 Looking towards farm buildings and site along private lane from junction with Leitrim Road (Note Visual linkage with little appreciation of physical separation)



Annex A Critical Views of Visual Linkage Test of CTY 10 Criterion C

Critical View 2 Looking along private lane towards junction with Leitrim Road (Note Visual linkage with little appreciation of physical separation)



Annex B Aerial View of site in juxtaposition with farm buildings highlighted in green. (Clear visual linkage and little appreciation of physical separation)



Annex C Potential location of large scale agricultural building that could be erected under permitted development rights through the active farm.



Annex D Appeal Reference 2018/A0247



Annex D

Critical View 1



Critical View 2





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/0924/O

Date Received: 20th July 2020

Proposal: dwelling and garage on a farm

Location: Approx. 70m East of 22 Drumnaconnell Road, Saintfield

Site Characteristics & Area Characteristics:

The site subject of this application is comprised of a regular shaped plot along with access via an existing drive, onto the Drumnaconnell Road, Saintfield. The site rises slightly in level from west to east so that the site is slightly higher than road level. There are a number of farm buildings on site as well as the adjacent farm dwelling at no 22, Drumnaconnell Road. The farm buildings are all accessed via a private drive.

The area surrounding the site is generally agricultural and rolling drumland in topography. The site is not within any settlement development limits as defined in the Ards and Down Area Plan 2015

Site History:

No recent or relevant planning history found for this site.

Planning Policies & Material Considerations:

The application is considered against Ards and Down Area Plan 2015, PPS 3 Access, Movement and Parking and PPS 21 Sustainable Development in the Countryside and SPSS.

Consultations:

NI Water was consulted and responded with no objections to the proposal.

DFI Roads was consulted and responded with no objections in principle to this proposal subject to compliance with attached RS1 form.

DAERA responded to say that the farm business has been in existence for more than 6 years, the farm ID having been allocated in 1987. Their response also confirms that the applicant has claimed payments through the Basic Payment Scheme or Agri Environment Scheme in each of the last 6 years. DAERA also confirm that the application site is on land which payments have been claimed by the farm business.

Objections & Representations

The application was advertised in the local press on 5th August 2020 which expired 19th August 2020; neighbour notification was not issued for this application given the distance to the nearest neighbouring properties. To date there have been no representations received in relation to the proposed development.

Consideration and Assessment:

As this application is for a dwelling on a farm the initial policy context considered is CTY 10 Dwellings on Farms.

The farm business in question appears to be currently active and established and the farm has been active since 1987.

DAERA confirms that the farm business was established in 1987. Point A of CTY 10 has been met.

A site history check has been carried out on the lands submitted and shown on the farm maps and there does not appear to have been any development opportunities sold off from the farm holding. This is further confirmed by the answer to Q5 of form P1C which states that there have been no dwellings or development opportunities sold off from the farm holding within the last 10 years.

The submitted red line shows that the proposed dwelling would be set to the west of the farm, behind the farm yard and farm sheds. Officers consider that there is scope within the site for a dwelling that would visually link to the farm buildings in place given that the site sits adjacent to a number of farm buildings, has rising land, trees and hedges as a backdrop in views from the west. Officers consider that the site would be well set back from the road and largely concealed behind the sheds and farm buildings.

Any views from the northern end of Drumnaconnell Road would show the proposed dwelling visually clustering and appearing visually linked with the existing built form on site. The dwelling would not be considered visually obtrusive within the streetscene given its proposed siting as well as the backdrop of rising land. There are no public views to the rear west of the site, however if there were the dwelling would be viewed with the backdrop of farm buildings and so would be visually linked and would appear to cluster.

CTY10 has been met on the above three points however policy also states that CTY 13, 14 and 16 must be adhered to.

CTY13

It is considered that a suitably designed dwelling would be acceptable on the land in question. In line with CTY 13 the dwelling would not be a prominent feature in the landscape given that it would not be highly visible from Drumnaconnell Road, in any event, it would be viewed as part of a cluster with the farm buildings or with the farm buildings as a backdrop. This application is for outline permission only, the design elements of the dwelling would be considered under a subsequent reserved matters application however it is considered that a building could be successfully accommodated on the site given the existing buildings on site and the set back from the road. There is nothing to suggest that ancillary works would not integrate with the surroundings. The proposed dwelling would make use of an existing access and would not involve the creation of an additional access onto Drumnaconnell Road.

CTY 14

A suitably designed dwelling could be accommodated on the site in question without being a prominent feature in the landscape given its set back from Drumnaconnell Road. The site would be largely hidden in views from the road given the trees and farm buildings; any views would be from limited angles and would be fleeting. The main views would be from adjacent fields, but not from public vantage points. The proposed dwelling is not likely to lead to a suburban style build-up of development when viewed with existing farm buildings and the traditional pattern of development would be respected with suitable design. Given the proposed site and surrounding plot sizes, officers consider that the proposed development would respect the traditional pattern of development. The proposed development would not create or add to ribbon development as this site does not have road frontage. There is nothing to suggest that ancillary works would not integrate with the surroundings. The access is already in place and used and would not require further works.

CTY16

Foul Sewage is proposed to be disposed of via a septic tank. Further details of this would be submitted at reserved matters stage and the necessary permission from NIEA Water Management Unit and NI Water are required. The proposal is not contrary to CTY16.

ACCESS

DFI Roads were consulted as part of this application which makes use of an existing access track. They have no objections subject to compliance with RS1 form at a Reserved Matters stage.

Recommendation:

Approval

Conditions:

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

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

2. The development hereby permitted shall take place in strict accordance with the following approved plans: A 3790.

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

3. The proposed dwelling and garage shall be sited in the area shaded blue on the approved plan date A3790. The shaded area shall define the curtilage for the proposed dwelling.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

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

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

5. The proposed dwelling shall have a ridge height of less than 6 metres above finished floor level.

Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of Planning Policy Statement 21.

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

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

7. The dwelling hereby permitted shall not be occupied until the southern and western boundaries of the site have been defined by a timber post and wire fence with (a native species hedgerow/trees and shrubs of mixed woodland species) planted on the inside.

Reason: To ensure the proposal is in keeping with the character of the rural area.

8. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.

Reason: To ensure the dwelling integrates into the landform.

9. The existing hedgerow and vegetation boundaries along the northern and eastern boundaries of the site shall be retained and shall be allowed to grow on or as agreed in writing with the Council.

Reason: To ensure the maintenance of screening to the site.

10. Prior to commencement of development the applicant shall submit a copy of an NIEA Consent to Discharge of Effluent for the proposed site, to be agreed in writing by the Planning Authority.

Reason: To protect the environment and to comply with policy CTY 16.

Case officer: Jane McMullan

Authorised by: A.McAlarney

Date: 04 Sept 2020



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1092/F

Date Received: 10.07.2019

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

Address: Lands opposite No. 1 Ashgrove Avenue Newry

Site Characteristics & Area Characteristics:

The site, an area of 0.83 hectares of vacant ground, is located between Newry High School, to the west, and the Sacred Heart Grammar School, to the east. It is located on the northern side of Ashgrove Avenue. The land rises up sharply from west to east towards a crest beyond the eastern boundary. The general topography then falls beyond its eastern boundary towards a lower area of ground, beyond which is the Sacred Heart Grammar School, and St Ronan's Primary School. There are a number of mature trees along the western boundary adjacent to the Newry High School and its Playing Fields. The southern and eastern boundaries are undefined while there is some fencing on the northern boundary.

Ashgrove Avenue is an established residential area, characterised by detached bungalows positioned along its southern side. Cloverdale is an older residential area located to the north of the site. Ashgrove Avenue joins on to Ashgrove Road south west of the site. This is another mature and established residential area with

detached bungalows and two storey dwellings situated on large plots. The site is whiteland in the Banbridge, Newry and Mourne Area Plan 2015.

Site History:

The application site formed part of an area of open space within a previously approved housing development, (approved on November 13th 2012, under File Ref P/2011/1067/F).

This housing approval of P/2011/1067/F was for 2 No. detached dwellings, 28 No. semi-detached dwellings, 9 No. terraced dwellings (in 3 blocks) and 8 No. apartments (in 4 blocks) - 47 No. units in total, to include 16 No. social housing units).

LA07/2018/1074/F – Erection of 2 detached dwellings and 26 apartments was subject to a Section 60 appeal. The Planning Authority put forward draft refusal reasons, and the proposal was dismissed by the PAC.

Planning Policies & Material Considerations:

The planning policy context for this application is provided by:

- The Planning Act (Northern Ireland) 2011
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge, Newry & Mourne Area Plan 2015
- PPS3 – Access, Movement and Parking
- DCAN15 – Vehicular Access Standards
- Parking Standards
- PPS6 – Planning, Archaeology and the Built Heritage
- PPS7 – Quality Residential Environments
- Addendum to PPS7 – Safeguarding the Character of Established Residential Areas
- PPS 8- Open Space, Sport and Outdoor Recreation
- DCAN8 – Housing in Existing Urban Areas
- PPS12 – Housing in Settlements
- Creating Places
- Living Places Urban Stewardship and Design Guide

Consultations:

DfI Roads

No objection to the proposal. PSD requested.

DfI Rivers: Concerns have been raised in relation to policy FLD 3. These will be discussed in detail under the PPS 15 considerations later in the report.

Water NI:

NI Water have advised that a valid Article 17 agreement is in place for the site allowing for connection to the public sewerage system. Both Storm and Foul.

SES:

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

Environmental Health:

No Objections

HED:

No Objections

Objections and Representations:

Details of the initial application were advertised in the local press on 24.07.2019, 06.07.2020 and 28.07.2020. Nearest neighbours were notified about the initial and revised scheme on 30.07.2019, 15.07.2020 and the 13.08.2020. No representations have been received to date.

Consideration and Assessment:

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the local development plan so far as the material to the application, and to any other material considerations. Section 6 of the Planning Act (NI) 2011, which deals with local development plans, states, where, in making any determination under this Act, regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

The site is located within the development limit of Newry, as identified in the Banbridge, Newry and Mourne Area Plan 2015. It is on a white land site, not zoned for any specific purpose. It is adjacent to an approved housing zoning, under Policy NY50 of the Plan.

Applications within designated settlement limits must comply with relevant regional planning policy. The proposal does comply with prevailing planning policy for the reasons outlined in this report.

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 development is within the settlement area and is considered acceptable in principle,

as its form and design are in keeping with the local character and environmental quality and the residential amenity of the area, for the reasons outlined in this report. The SPPS sets out core planning principles and the need 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 proposal is considered to be compliant with the provisions of the SPPS, as set out under: Paras 4.23 to 4.36 'Supporting Good Design and Positive Place making' in particular the requirement for planning authorities to ensure the compatibility of a development with its immediate and wider context and the settlement pattern of a particular area; Para 6.137 'increased housing density without town cramming', which states that in established residential areas it is imperative to ensure that the proposed density of new housing development, together with its form, scale, massing and layout will respect local character and environmental quality as well as safeguarding the amenity of existing residents; and Paragraphs 4.11 and 4.12 "Safeguarding Residential and Work Environs," in particular the need for planning authorities to take into account *"a wide range of environment and amenity considerations... when proposing policies or managing development."*

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

The SPPS also retains existing regional planning policy documents, including PPS 7 'Quality Residential Environments' which, it states, should be applied by the planning authority until a Plan Strategy for the whole of the council area has been adopted. The SPPS document overall is less prescriptive than the retained policy PPS7 and under the transitional provisions the weight to be afforded to this retained policy should not be lessened. Any relevant supplementary and best practice guidance will also continue to apply.

PPS 7: Quality Residential Environments. Policy QD 1 of PPS 7 states, amongst other things, that 'Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas'.

The policy sets out several criteria which proposals for new residential developments must comply with.

Criterion (a) *requires that development must respect the character and scale of the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaping and hard surfaced areas.*

This proposal following several amendments, now respects the character of the surrounding area, in terms of appearance, layout scale and proportions. The introduction of the detached dwellings at the entrance, together with the increase in spacing between the semi-detached dwellings to allow for in curtilage car parking significantly reduces the appearance of density and the need for large hard retaining structures on site. The overall density is now 23.5 per hectare, which would be the maximum density that the Planning Authority feels is appropriate for this site given the surrounding context. The appearance of the buildings, both semi and detached are in keeping with what is both within the character of the immediate area and the design, massing and scale are acceptable on this sloping site and suitable for the sites topography. There are retaining structures proposed however these have been minimised, with ground regrading to ensure that there will now be limited impact on the private amenity for the proposed residents or the character of the overall area. While the estate road is still a long linear design, it has been softened significantly from the previous refusal on site by introducing in curtilage car parking, and garden areas to the front of the proposed dwellings to minimise the impact of the hard surfacing.

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

The Planning Authority have consulted with HED who have advised that there are no archaeological concerns.

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

The proposal has made adequate provision for private amenity throughout the site. The smallest private amenity space provided 79m² with the largest being 218m². Existing vegetated boundaries are being retained and supplemented with new planting of trees throughout the site, with smaller trees being planted along the estate road. The landscaping plan provided will significantly soften the visual impact of the proposed development both from critical viewpoints along Ashgrove Avenue and on approach through the proposed estate road.

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

This is a relatively small development and it is not envisaged that there are necessary neighbour facilities required.

Criterion 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 proposed layout has integrated connectivity from within the development to the main public road. These include the provision of standard width footpaths to encourage pedestrian usage and safety throughout the development, dropped curbs to ensure impaired mobility movement is not disadvantaged and convenient use of

footways. There are also traffic calming measures located at two points along the proposed estate road to ensure that road and pedestrian safety is prioritised.

Criterion (f) requires that adequate and appropriate provision is made for parking. An indicative required level of parking provision is provided in Table 7 of the 'Creating Places' document and the Planning Service Parking Standards document. The proposal has adequate car parking provision for the house types proposed. With all houses having 2 spaces in curtilage and the development allowing for on street spaces at several locations throughout the layout. This is also compliant with the provisions of the parking standards.

Criterion (g) requires that the design of the development draws upon the best local traditions of form, materials and detailing.

The proposal is in keeping with the character of the existing local residential area, in terms of its height, massing, design and layout. The site proposal utilises the topography of the site, ensuring that existing residential amenity is maintained while providing a satisfactory layout and design for the proposed dwellings. The materials are in keeping with those found on nearby developments and would add to the character of the immediate area.

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

The proposal will not cause an unacceptable adverse impact on neighbouring land uses or create conflict with them. Given the topography of the site there will be no unacceptable impacts in terms of overlooking, loss of light or overshadowing.

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

The proposed development is designed in a linear format, giving neighbouring dwellings a good view of people approaching on the main estate road. There are no alley ways or areas that would give rise to concerns of crime or which would impede safety.

Policy LC 1 of the Addendum to PPS 7, 'Safeguarding the Character of Established Residential Area' States that in Established residential areas, planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites.....to accommodate new housing, where all criteria set out in QD 1 of PPS 7 and all additional specified criteria are met. These include:

- (a). The proposed density is not significantly higher than that found in the established residential area; and
- (b). The pattern of development is in keeping with the overall character and environmental quality of the established residential area....
- C) all dwelling units and apartments are built to a size not less than those set out in Annex A.

The previous appeal on site went into detail of the dwellings per hectare ratio within the immediate area. The development to the NY 50 has now commenced on site, as has the new development directly across Ashgrove Avenue. When these developments are taken into consideration the dwelling per hectare plot ratio is alerted from that which was under consideration at the appeal stage. The PAC deemed at the stage that the average dwelling to hectare ratio was 15 per hectare, while acknowledging that the development of LA07/2016/1441/F was out of character at 29 per hectare. When the new development of P/2011/1067/F is added into the consideration an average ratio within the immediate area is 20 per hectare. The proposal before us has a density of 23.5. While this is slightly higher than the average and is at the upper limit of what would be acceptable, I do not believe that this proposal is so detrimental in plot density to warrant a refusal on this basis solely. The proposal therefore blends with the character of the area and complies with LC 1 of PPS 7.

Planning Control Principle 1 of PPS 12 Housing in Settlements states that when considering an increase in housing density in established residential areas, great care should be taken to ensure that local character, environmental quality and amenity are not significantly eroded and that the proposed density, together with the form, scale, massing and layout of the new development will respect that of adjacent housing and safeguard the privacy of existing residents. The proposal respects the layout and density within the immediate area, and there are no adverse impacts on existing neighbouring land uses. The area is predominantly residential and educational land uses, so further residential uses on a white land, green field site are in keeping with the spirit of PPS 12, to encourage housing in existing urban areas without town cramming. The proposal therefore meets the requirements of Planning Principle 1 of PPS 12.

FLD 3 of PPS 15 Revised

The proposal is for more than 10 units and therefore meets the criteria for a Drainage Assessment under FLD 3. Consultation has taken place with Rivers Agency who have stated that a Drainage Assessment is submitted. They have also stated that due to an out of watercourse flood event which has taken place downstream that the site should achieve a greenfield rate run off, or else employ the use of SUDs to achieve a greenfield rate run off. The agent has submitted a drainage assessment; however, he has submitted a Schedule 6 agreement from 2007 which grants discharge to the storm sewer on Ashgrove Avenue. Unlike Schedule 6 consents issued normally, this Schedule 6 consent had no expiry date and Rivers Agency section office have confirmed that it remains valid. Critically, the applicant also requires an Article 17 consent to discharge into NI Water infrastructure. Showing due diligence, I have contact NI Water to seek their opinion of whether an amended or revised Art 17 would be required for the connection of this site to the public sewers. NI Water have returned correspondence stating that the existing Article 17 remains valid and does not require amendments to connect this development to their infrastructure. It should be noted that the map accompanying these consents and agreement contains all of the site currently under consideration as well as the land contained within P/2011/0167/F.

I have also noted that the Article 17 approval from NI Water states that a maximum of 80 dwellings can be connected with a maximum discharge rate of 285l/s. Again, the I raised with the agent the requirement to ensure that both sites (the one approved under P/2011/1067/F and this application) would not breach the discharge rate of 285l/s. The agent has submitted information from the drainage engineer showing that

237.83l/s would be the maximum discharged from both sites. Therefore, the proposal as it stands is within the thresholds of both the existing Schedule 6 consent and the Article 17.

I have contacted Rivers to seek queries as to why they are not giving weight to the existing valid schedule 6 consent and Article 17 agreement and also to seek an explanation as to why their comments have changed since the previous consultation response in 2018 when the Planning Policy PPS 15 hasn't changed. They advise that they are considering the current climate emergency, with increasing awareness on the impacts of climate change on our built and natural environment in their most recent correspondence and are also considering the climate change modelling in their most recent response. They are of the belief that the current scheme should provide for mitigation measures against the climate change modelling.

To fully assess this proposal, I revert back to the *existing* Policy requirement for FLD 3. The policy text of FLD 3 does not include the words climate change emergency. Rather the policy states *"Such development will be permitted where it is demonstrated through the Drainage Assessment that adequate measures will be put in place so as to effectively mitigate the flood risk to the proposed development and from the development elsewhere.* Therefore, in line with Rivers comments for a previous application on this site in 2018 for a greater number of units and hardstanding I find that the agents reasoning that Rivers Agency are over reaching in their requests are valid. A more stringent test cannot be applied now as Rivers Agency wish, given that it would be tantamount to a change in the Planning Policy, which has not been consulted on or followed due process.

The documentation submitted (both the schedule 6 consent and the Article 17 agreement) show that there remains a valid discharge from this wider site for a maximum of 80 dwellings or 285l/s. This proposal would bring the number of units to 67 and the proposed discharge of 235.83l/s which is well within the parameters allowed by both current valid agreements/consents. Therefore, Rivers Agency's insistence that the site achieves greenfield run off rate because of climate change is not a stance that I believe the Planning Authority could defend at an appeal. Rivers agency have also requested that a condition requiring a revised Drainage assessment is submitted prior to commencement of development on site is submitted. Having considered this condition, I do not believe it is necessary given the existing consents and agreements for discharge remain valid. I believe that this proposal therefore meets policy FLD 3.

The proposal is located in an area of archaeological constraint. Consultation has occurred with HED Monuments who have advised that they have no objections as they believed the proposals comply with the provisions within the SPPS and PPS 6 archaeology policies. It should also be noted that having had due regard to policy CNV 2 of the Banbridge Newry and Mourne Plan Strategy 2015 that the proposal also complies with this strategic policy.

The proposed access to the development is from Ashgrove Avenue. The proposed access is situated to the lower slopes of the existing hill and achieving a 4.5m by 60m sight lines to the development. Consultation with DfI Roads has taken place and DfI roads have advised the Planning Authority that the proposed access is safe and won't impede the traffic progression and therefore meets the requirements of AMP 2 of PPS 3.

Recommendation

The proposal when considered against all material considerations is considered to be compliant with the Banbridge, Newry and Mourne Area Plan 2015 and with the existing Planning Policies discussed above. Approval is recommended subject to the conditions detailed below.

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: xx xx

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

3. All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No xxx and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the development.

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

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

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

Members are also advised that PSD conditions from DfI will be added and that this should be delegated to Officers to attach if they agree with the recommendation.

Case Officer Signature: Jacqui McParland

Date: 01/09/2020

Appointed Officer Signature: A McKay

Date: 07/09/2020

APPLICANT'S WRITTEN SUBMISSION

116

Application Reference: LA07/2019/1092/F

Site Location: Lands opposite No. 1 Ashgrove Avenue, Newry, BT34 1PR

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

Case Officer

Recommendation: Approval

1. We support of the case officer's recommendation to approve the above application.
2. DFI Rivers have made submissions in respect of this application, stating that greenfield runoff rates should be secured for this development. They have requested a condition that would require the submission of a further Drainage Assessment and greenfield runoff rates.
3. The case officer agrees that DFI Rivers' submissions and their proposed condition are unreasonable, because the development has a Schedule 6 Consent from DFI Rivers for the discharge of stormwater from the site and an Article 17 Agreement for the adoption of the storm sewers.
4. The Schedule 6 Consent and Article 17 Agreement were originally granted to take the stormwater from both this application site and the previously approved development on the adjacent site (P/2011/1067/F), with a combined discharge rate of 285 litres per second for up to 80 dwellings.
5. The proposed development together with the approval on the adjacent site will produce a lower combined discharge rate of 235.83 litres per second for a total of 67 dwellings. **The proposed stormwater discharge is less than what is already approved for this site by the relevant Schedule 6 Consent and Article 17 Agreement.**
6. Both DFI Rivers and NI Water have confirmed that both the Schedule 6 Consent and Article 17 Agreement remain valid for the proposed development.
7. Given there is both a valid Schedule 6 Consent for the discharge of stormwater from the site and an Article 17 Agreement for the adoption of the storm sewers, DFI Rivers' submissions and their request for a condition to secure greenfield runoff rates is unreasonable - adequate drainage by discharge to the mains storm sewer network has already been secured for the site, and the proposal will produce a lesser discharge rate to the mains sewer than what is already approved for the application site.
8. The case officer agrees with the above and is not proposing a condition to require a further drainage assessment or greenfield runoff rates. The case officer specifically states in her report that *"Rivers Agency's insistence that the site achieves greenfield run off rate because of climate change is not a stance that I believe the Planning Authority could defend at an appeal"*.
9. DFI Rivers may attend the committee meeting and try to convince the committee that either the condition should be attached, or the application refused. The case officer report confirms that they have no legitimate basis to request this, given the valid Article 17 and Schedule 6 for the site.
10. We support the case officer's consideration and recommendation to approve without such a condition. We have requested speaking rights at the committee meeting to respond to anything that DFI Rivers might submit, if they attend.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2020/0176/F

Date Received: 28/01/2020

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

Location: Lands approximately 45m north of 5 Molly Road Lower Foughillotra Jonesborough.

Site Characteristics & Area Characteristics:

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

The site is an area of land on the edge of the public road, the site is set between No 5 to the south and a new dwelling under construction to the north.

The site is located in a rural area.

Site History:

LA07/2017/1895/F - Erection of dwelling and detached garage, new landscaping and associated site works in compliance with PPS21-CTY6 - personal and domestic circumstances. - Approximately 55 metres South East of No. 6 Molly Road Lower Jonesborough Newry Permission Granted 26/02/2019.

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, conditions suggested.

NI Water - Generic response.

Objections & Representations:

The application was advertised on 19/02/2020, three (3) neighbours were notified on 05/02/2020, one objection has been received. The areas of objection have been fully considered as part of the assessment of this application and are set out below and will be considered within this report;

- narrow lane
- overlooking
- out of character.

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 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.

To the south of the application site there is No. 5, a detached dwelling and it is considered that this dwelling represents one building that has a frontage with the road. There are three small sheds/cages associated with the house at No.5 which are largely used to house cats and these are set to the rear of the property and sited behind a line of mature trees and none of the shed/cages represent buildings with a frontage to the road. To the north of the site, a dwelling and garage was approved under LA07/2017/1895/F. The dwelling appears to be complete from the outside and is unoccupied with associated site works ongoing. Works have not commenced on the approved garage. Given the stage of development it is considered that this newly constructed dwelling represents a building with a frontage to the road. However, the

approved garage has not been constructed to date and even if it was constructed it would be set to the rear of the new dwelling and would not represent a building with a frontage to the road.

The agent for the proposal has stated in supporting information that policy does not make reference to whether buildings are subsidiary and as such the ancillary buildings at No 5 and the garage approved to the north not yet constructed should be seen as buildings having a frontage with road and so complying with policy.

Planning appeal 2017/A0040 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.5 and the newly constructed house to the north of the site. 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.

Design, Appearance and Layout

The proposal is for a one and a half storey dwelling with surrounding garden area and a garage set to the rear of the property. The proposed design of the dwelling is considered acceptable in this rural area with a traditional design, the design of the dwelling will also ensure there is no overlooking as there will be no windows in the gables facing adjacent properties. The surrounding area includes a variety of different house types, it is considered that the design, appearance and layout of the proposed dwelling would be acceptable in this area.

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. In terms of CTY13 the proposal will be critically viewed from the Molly Lower Road in both directions. The site is unable to provide a suitable degree of enclosure and relies primarily on the use of new landscaping to enable the dwelling to integrate into the landscape and as a result, the proposal is contrary to CTY13 (parts b and c).

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 Molly Road Lower, this will therefore result in a suburban style build when viewed with

existing and approved buildings. The proposal will be critically viewed in terms of build up from the Molly Road Lower and Finegans 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 are acceptable, the road is considered adequate to allow the development of the dwelling and it is not considered too narrow as the objector had stated.

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 Molly Road Lower and does not represent an exception of policy.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the 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.

5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Case Officer:

Wayne Donaldson

Date: 31/07/2020

Authorised Officer:

Andrew Davidson

Date: 31/07/2020



Representation Against Recommendation to Refuse

Application Reference: LA07/2020/0176/F

Applicant Name: Mr. Brian Gallagher

Development Proposal: Proposed Erection of a Rural Infill Detached Dwelling House and Detached Garage

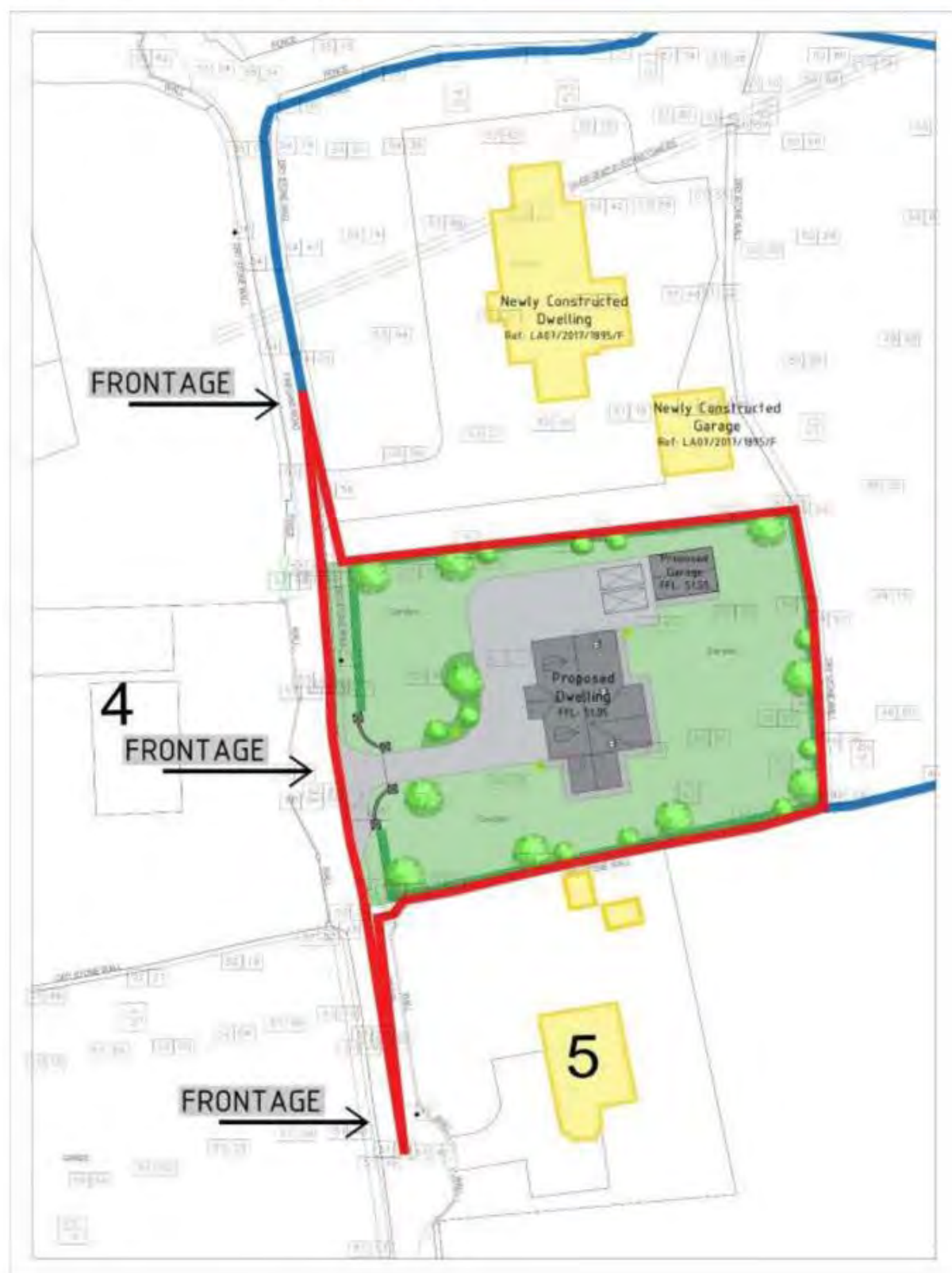
Site Location: Lands Approximately 45m North of No. 05 Molly Road Lower, Jonesborough

- The application site is considered a gap site, suitable for one dwelling house, within an otherwise substantial and continuously built up frontage. In consideration of the existing developments within the surrounding area and with specific reference to No. 05 Molly Road Lower, existing buildings / structures to the South of the proposed site and the recently completed detached dwelling and detached garage to the North. It is considered, there are three buildings all sharing a common frontage with the county road site and as such the site is considered as a gap site in compliance with planning policy CTY 8 – Ribbon Development.
- Whilst development has commenced in relation to both the detached dwelling house and the construction of the detached garage (to the North of the proposed site), it is abundantly clear from both the granted stamped approved drawings and the further photographic evidence demonstrate, that all of the three building(s) share a common frontage along the Molly Road Lower. As the proposal complies with Policy CTY8, it also accords with Policy CTY1 of PPS21 and therefore the first two reasons for refusal should not be sustained.
- Views of the proposed site are limited, when travelling in either direction along the Molly Road Lower and the positioning of the proposed dwelling between the existing completed developments along this stretch of Molly Road Lower will ensure minimal critical views and allow the proposed dwelling house to successfully visually integrate within the landscape.
- The proposed development respects the existing pattern of the existing development along the Molly Road Lower and would integrate into a 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 both Policy CTY13 & CTY14 of PPS21 and the third and fourth reason for refusal are not sustained.
- The proposal design is considered acceptable within the AONB area as it is of a traditional design and its size and scale are sympathetic to the special character of the AONB, local surroundings and neighbouring properties. The design makes use of local materials and respects local architectural styles and is therefore compliant with Policy NH6 of PPS 2 and the fifth reason for refusal is not sustained.
- There are a significant number of inaccuracies included within the Planning Officers report and assessment of the proposed development, which have been very determinable in recommending a refusal in this instance.



- Correspondence was submitted to the Council and planning officer on 24th March 2020 in both hard copy and in electronic format copy. This information was receipted and included existing on-site photographs, which clearly provided evidence, the detached garage was in fact commenced and is located on the subject lands in question. The dated photographs provide evidence, the foundations and walls have been constructed within the timeframe indicated.
- The Planning Officer assigned to this Planning Application refers in their planning report stating; **"Works have not commenced on the approved garage"**. This statement is completely inaccurate and false, as evidence supplied to the Council on 24th March 2020 clearly identifies the detached garage (Building) in question as being in situ on the site.
- With particular reference to the Planning Act (Northern Ireland) 2011, the planning definition of a **"Building"** includes any structure or erection, and **any part** of a building, as so defined, but does not include plant or machinery comprised in a building. This definition is very clear and concise in its interpretation and the salient point are the words **"Any part"** used in the definition. Any structure or erection and any part of a building, therefore in consideration the existing structure is defined as a building. Therefore, the detached garage is deemed as a building and therefore, one with a frontage which enables the proposed development deemed to be an Infill opportunity.
- The Planning Officer assigned to this planning application refers in their planning report to a Planning Appeal decision reference (2017/A0040). For clarity, this planning appeal decision **does not exist** and the reference paragraph also does not exist, therefore the validity of its existence is challenged.
- In contrast planning appeal reference 2016/A0040 provides clarity and states at paragraph 6. **"For the purpose of 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 a road if the plot on which it stands abuts or shares a boundary with that road. Section 250 of the Planning Act (NI) 2011 Act defines a building as including any "structure or erection". Policy CTY 8 makes no reference to whether buildings are subsidiary to other buildings or stand on individual planning units. The words visual linkage, which are found in paragraph 5.33 of the Justification and Amplification text are used to reference what can constitute a ribbon of development and not what constitutes an exception for infill"**.
- In consideration of the above paragraph, the existing buildings located within the curtilage of the existing dwelling house located at No.5 Molly road lower, are considered also to be building with a common frontage along the adopted roadway, regardless of their positioning.
- We consider this site wholly complies with planning policy CTY8. The reasons for refusal are based on totally inaccurate information provided by the planning officer to the group. The applicant is more than willing to work with the department in order to agree any additional boundary planting required in order to progress these matters.

APPENDIX 1 – CONCEPT PLOT ANALYSIS



TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS

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

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

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

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		PLANNING COMMITTEE MEETING – 24 JULY 2019			
LA07/2018/1787/F	Proposed extension to existing Materials Recovery Facility Building – 23 Downpatrick Road, Killough	Defer this application, which the Committee agreed was an exception under FLD 1, and refer the completed Flood Risk Assessment to Rivers Agency to be reviewed.	A McAlarney	Application to come back to Committee Under consideration.	N
		PLANNING COMMITTEE MEETING – 17 SEPTEMBER 2019			
LA07/2018/0860/F	Proposed replacement dwelling (amended drawings) – 45 metres NE of No. 14 Rath Road, Clonallon Glebe tb Warrenpoint	Defer for further discussion between Planning Officers and agent/applicant – additional information to be provided	M Keane	Amended plans now received for reconsultation, NN and reconsideration. Further supporting info now received for consideration.	N
		PLANNING COMMITTEE MEETING – 16 OCTOBER 2019			
LA07/2019/0773/0	Dwelling – to rear of 71 Church Street, Downpatrick	Withdraw from the addendum list for a meeting with Planners, applicant and agent	A McAlarney	Meeting to be convened with CPO and Agent/applicant	N
PLANNING COMMITTEE MEETING 8 JANUARY 2020					

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2019/1302/F	Dwelling with associated parking and amendment of application R/2011/0794/F to remove parking area for apartments and replace with shared amenity space – rear of nos 65-69 South Promenade Newcastle	Withdrawn from addendum list and re-present at February Meeting	A McAlarney	Site visit to be arranged – 7 August 2020. Presented at August Committee Meeting – defer to allow consideration of new information in relation to sight lines	N
LA07/2019/1362/0	Infill dwelling and garage – adj and immediately south of 64 The Heights, Loughbrickland	Withdrawn from addendum list and re-present at February Meeting	A McAlarney	Site visit to be arranged – 7 August 2020 – withdrawn from agenda at August meeting – to be re-presented at September meeting	N
LA07/2019/1221/F	Proposed guest house tourist accommodation and associated site works – land 10m NW of 180 Tullybrannigan Road, Newcastle	Defer for site visit and further discussion to take place with 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	A McAlarney	Withdrawn from February agenda for more work to be done on the proposal Agent has submitted additional info. Application is under consideration.	N
PLANNING COMMITTEE MEETING					

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
11 MARCH 2020					
LA07/2019/1087/0	Replacement dwelling and garage – approx. 50m NE of 21 Drakes Bridge Road, Crossgar	Defer for a site visit – date to be agreed	A McAlarney	Site visit to be arranged – 7 August 2020 - withdrawn from agenda at August meeting – to be re-presented at September meeting	N
LA07/2019/1134/0	Replacement dwelling – 90 Manse Road, Darraghclose, Crossgar	Defer for a site visit – date to be agreed	A McAlarney	Site visit to be arranged – 7 August 2020 - withdrawn from agenda at August meeting – to be re-presented at September meeting	N
LA07/2019/1644/0	Replacement dwelling – lands at and located to the west of 24 Crabtree Road, Ballynahinch	Defer for agent to consult with applicant if they would be prepared to extend the curtilage to the rear of the existing building to accommodate a replacement dwelling. Officers to then issue the decision under delegated authority	A McAlarney	Awaiting Agent to provide timeframe for submission of Info. Agent has advised that info will not be submitted and to proceed with the application as is	N
LA07/2019/1455/F	New access to dwelling in substitution to that approved under planning ref:	Defer for further discussions and agent/applicant to provide evidence to show that the former	A Davidson	Remains under consideration. New agent on application.	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	LA07/2018/0118/F – 30m SE of 8 Outlacken Road, Belleeks, Newry	approved existing access is no longer available to the applicant and that under Policy an alternative access can be granted			
LA07/2019/1551/0	Proposed 1 ½ storey dwelling and garage – immediately east of 15 Mill Road, Hilltown	Defer for further investigation regarding status of the buildings on site and farm ownership and take back to Committee for decision	M Keane	Await legal advice	N
PLANNING COMMITTEE MEETING 1 JULY 2020					
LA07/2019/1279/F	New access and laneway to serve dwellings 27, 29 and 31 Islandmoyle Road – lands adjacent to 27 Islandmoyole Road, Cabra, Newry	Defer for a site visit	M Keane	Site visit held 04-09-2020 Awaiting submission of river modelling from agent also	N
PLANNING COMMITTEE MEETING 29 JULY 2020					
P/2010/0904/F	Erection of farm dwelling to include retention of existing foundations - 45 metres north of 18 Ballinasack Road, Mullaghbawn	Defer for a site visit	A Davidson	Site visit held 04-09-2020. Return to Sept PI Comm	N
LA07/2019/0953/F	Proposed 2 no. broiler poultry sheds to replace 2 no. existing poultry sheds (to contain 74,000 broilers, taking the total farm capacity to 148,000	Defer for a site visit	A McAlarney	Site visit held 04-09-2020. Return to Sept PI Comm	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
	broilers) with 4 no feed bins, 2 no. gas tanks, 1 no. underground wash tank and retention of weighbridge, biomass boiler shed and associated pellet bins, water tank, site office, access and associated site works - Lands at 123 Magherahamlet Road, Ballynahinch.				
PLANNING COMMITTEE MEETING 26 AUGUST 2020					
LA07/2019/1302/F	Provision of a dwelling with associated parking and amendment to application R/2011/0794/f to remove parking area for apartments and replace with shared amenity space - to rear of Nos 65-69 South Promenade, Newcastle.	Defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can be secured for this proposal.	A McAlarney	Agent has not submitted any new information to date	
LA07/2019/1362/0	Gap/infill site for dwelling and domestic garage - adjacent and immediately South of No. 64 The Heights Loughinisland	Removed from the agenda as agent unable to attend	A McAlarney	Return to Sept PI Comm	
LA07/2019/1087/0	Replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney		

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2019/1134/0	Replacement dwelling - 90 Manse Road, Darraghcross, Crossgar	Removed from the agenda as agent unable to attend	A McAlarney		
LA07/2019/1807/0	Site for farm dwelling - 55m north of 4 Leitrim Road, Hilltown	Defer for a site visit place and review the issues raised in relation to Application LA07/2019/1662/F which had been granted an approval.	M Keane	Site visit held 04-09-2020 Return to Sept PI Comm	
LA07/2019/0261/F	2 dwellings with detached garages (amended plans) Sites 22 and 22a Spring Meadows, Burren Road Warrenpoint BT34 3SU	Defer for a site visit	J McParland	Site visit held 04-09-2020 Return to Sept PI Comm	
LA07/2019/0329	Dwelling and garage - approx 60m south of 144 Loughinisland Road, Downpatrick	Removed from the agenda as agent unable to attend	A McAlarney	Return to Sept PI Comm	
LA07/2019/1136/F	6 detached dwellings, garages and ancillary works - land to the south of 35 Old Belfast Road and to the south and west of 3 Orchard Lane Downpatrick.	Defer for a site visit	A McAlarney	Site visit held 04-09-2020 Return to Sept PI Comm	

Newry, Mourne & Down District Council – August 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

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

3. Live applications per Case Officer

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

Newry, Mourne & Down District Council – August 2020

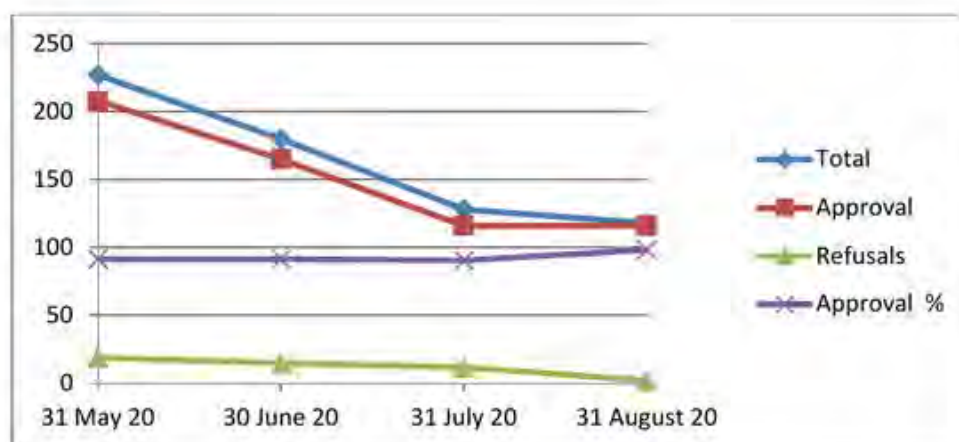
135

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

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%



Newry, Mourne & Down District Council – August 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

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
Totals	42	29	13	11

8. Appeals

Planning Appeal Commission Decisions issued during period 1 August 2020 to 31 August 2020

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	14	1	0	1	0
Down	15	2	0	1	1
TOTAL	29	3	0	2	1

Newry, Mourne & Down District Council – August 2020

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

Newry, Mourne and Down

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

Source: NI Planning Portal

Notes:

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

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

Newry, Mourne & Down District Council – August 2020

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

Current Appeals

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AUTHORITY Newry, Mourne and Down

ITEM NO	1	PAC Ref:	2019/A0065
Planning Ref:	P/2014/0920/F	DEA	Crotlieve
APPELLANT	Mr Brian Mulholland		
LOCATION	To The Rear Of 37A Ballyholland Road Ballyholland Lower		
PROPOSAL	Newry Retention of existing agricultural shed, hardstanding, agricultural laneway and earthen embankments		

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Written Reps with Site Visit** **Date Appeal Lodged** 27/06/2019

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

ITEM NO	2	PAC Ref:	2019/A0069
Planning Ref:	LA07/2018/0496/	DEA	Slieve Croob
APPELLANT	Eugene Stranney		
LOCATION	149 Ballydugan Road Downpatrick BT30 8HH		
PROPOSAL	Change of use of existing garage, study & games room to a dwelling as ancillary to the main existing dwelling		

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 04/07/2019

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

Current Appeals

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

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

Current Appeals

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

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

Current Appeals

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

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

Current Appeals

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ITEM NO	9	PAC Ref:	2019/A0212
Planning Ref:	LA07/2019/1334/	DEA	Slieve Croob
APPELLANT	Chris Magorrian		
LOCATION	37 Drumnaconagher Road Crossgar		
PROPOSAL	Extension to dwelling and detached garage/store		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	04/02/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	10	PAC Ref:	2019/A0218
Planning Ref:	LA07/2019/1329/	DEA	Rowallane
APPELLANT	Mr And Mrs H Coulter		
LOCATION	SE 7 Old Saintfield Road Creevycarnonan Saintfield		
PROPOSAL	Dwelling and garage		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/02/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	11		
Planning Ref:	LA07/2016/1502/	PAC Ref:	2019/A0232
APPELLANT	Robert Cairns	DEA	The Mournes
LOCATION	7-9 Newry Street Kilkeel BT34 4DN		
PROPOSAL	Extension to existing public house to include additional lounge and smoking area		
APPEAL TYPE	DC - Refusal of LB Consent		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	02/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	12		
Planning Ref:	LA07/2015/1364/	PAC Ref:	2019/A0233
APPELLANT	Mr Robert Cairns	DEA	The Mournes
LOCATION	7 And 9 Newry Street Kilkeel BT34 4DN		
PROPOSAL			
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	02/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	13		
Planning Ref:	LA07/2019/0691/	PAC Ref:	2019/A0238
APPELLANT	Paul Fitzsimons Esq	DEA	Rowallane
LOCATION	65m South East 47 Saintfield Road Crossgar		
PROPOSAL	RT30 GHV Proposed infill dwelling and garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	03/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14		
Planning Ref:	LA07/2018/1453/	PAC Ref:	2019/A0246
APPELLANT	Miss M. Byrne	DEA	Crotlieve
LOCATION	25 Lower Knockbarragh Road Rostrevor		
PROPOSAL	RT34 3DP Proposed replacement dwelling (amended plan)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	09/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	15		
Planning Ref:	LA07/2019/1755/	PAC Ref:	2019/A0247
APPELLANT	David Sweeney	DEA	Crotlieve
LOCATION	Between Nos 36 & 38a Greenan Road Newry		
PROPOSAL	BT34 2QA Erection of infill dwelling		
APPEAL TYPE	DC - Conditions of Approval		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	10/03/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16		
Planning Ref:	LA07/2019/1130/	PAC Ref:	2019 /A0248
APPELLANT	Mr James Rogan	DEA	The Mournes
LOCATION	Site Adjacent To 33 Dunwellan Park Newcastle		
PROPOSAL	New end terrace Dwelling with associated site works		

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

Current Appeals

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ITEM NO	17	PAC Ref:	2019/A0248
Planning Ref:	LA07/2019/1130/	DEA	The Mournes
APPELLANT	Mr James Rogan		
LOCATION	Site Adjacent To 33 Dunwellan Park Newcastle		
PROPOSAL	New end terrace Dwelling with associated site works		

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

ITEM NO	18	PAC Ref:	2019/A0254
Planning Ref:	LA07/2019/0984/	DEA	Downpatrick
APPELLANT	Mr S McMullan		
LOCATION	Approx 180m W Of No 32 Myra Road Downpatrick		
PROPOSAL	Proposed off site replacement dwelling		

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

Current Appeals

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ITEM NO	19		
Planning Ref:	LA07/2019/0907/	PAC Ref:	2019/E0050
APPELLANT	EDB Construction Ltd	DEA	Newry
LOCATION	Site 5 Of Approval P/2006/1117/F On Watsons Road 100m West Of No. 26 Lis Ard Court		
PROPOSAL	Newry Erection of approved dwelling on site 5 of approval P/2006/1117/F		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	19/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	20		
Planning Ref:	LA07/2019/1216/	PAC Ref:	2019/E0053
APPELLANT	Mary Rooney	DEA	Crotlieve
LOCATION	80A Kilbroney Road Rostrevor BT34 3RI		
PROPOSAL	Dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	28/11/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	21	PAC Ref:	2019/E0059
Planning Ref:	LA07/2019/0876/	DEA	Downpatrick
APPELLANT	Mr Michael Trainor		
LOCATION	42b And 42c, Clanmaghera Road Tyrella		
PROPOSAL	Downpatrick 2 no dwelling units		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	20/01/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

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

Current Appeals

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ITEM NO	23		
Planning Ref:	LA07/2017/1559/	PAC Ref:	2020/A0002
APPELLANT	EDB Constructions Ltd	DEA	Newry
LOCATION	58 Armagh Road Newry		
PROPOSAL	Demolition of existing dwelling and erection of 7 No. 2 bedroom apartments (7 in total) (change of description)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/07/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	24		
Planning Ref:	LA07/2019/1021/	PAC Ref:	2020/A0003
APPELLANT	Mrs E Fitzsimons	DEA	Rowallane
LOCATION	53A Saintfield Road Crossgar		
PROPOSAL	Retention of building in substitution of previous approval LA07/2015/1224/F		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/07/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	25	PAC Ref:	2020/A0014
Planning Ref:	LA07/2019/1257/	DEA	Downpatrick
APPELLANT	Mr Shane Robinson		
LOCATION	87 Seaview Killough		
PROPOSAL	Downpatrick 2 Storey extension to side of dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	20/07/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	26	PAC Ref:	2020/A0020
Planning Ref:	LA07/2019/0584/	DEA	The Mournes
APPELLANT	Mr David Gordon		
LOCATION	34 Dougans Road Kilkeel		
PROPOSAL	RT34 4HN Erection of farm dwelling and retention of existing building as a garage		

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

Current Appeals

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ITEM NO	27		
Planning Ref:	LA07/2019/1184/	PAC Ref:	2020/A0029
APPELLANT	Mr D Graham	DEA	Rowallane
LOCATION	Lands Between 12 And 18 And Neighbouring House On Private Lane Raleagh Road		
PROPOSAL	Crossbar 2 infill dwellings and garages		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	24/08/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	28		
Planning Ref:	LA07/2018/1616/	PAC Ref:	2020/C002
APPELLANT	David Trevor Shields	DEA	The Mournes
LOCATION	Approximately 35 Metres South East Of 8 Ballinran New Road Kilkeel		
PROPOSAL	RT34 47N Retention of 2no. existing pig sheds with underground slurry tanks, 3no. feed silos and gravel yard, and extension to western gable of shed at rear of site, with loading bay.		
APPEAL TYPE	DC- EIA Determination - app ES is required		
Appeal Procedure		Date Appeal Lodged	11/08/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	29	PAC Ref:	2020/E0001
Planning Ref:	LA07/2019/1600/	DEA	Slieve Croob
APPELLANT	Mr Paul Cunningham		
LOCATION	5c Teconnaught Road Downpatrick		
PROPOSAL	Existing dwelling		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	16/07/2020
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Appeal Decision

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Appeal Reference: 2019/A0188
Appeal by: Mrs Eileen Gribben
Appeal against: Refusal of Outline Planning Permission
Proposed Development: Proposed site for a farm dwelling and garage
Location: 74m south of 50 Castlewellan Road Hilltown.
Planning Authority: Newry Mourne and Down District Council
Application Reference: LA07/2018/0901/O
Procedure: Written Representations with Commissioner's Site Visit on 13th August 2020
Decision by: Commissioner Helen Fitzsimons on 17th August 2020

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are
 - whether the proposed development is acceptable in principle in the countryside;
 - if it would have an adverse impact on the visual amenities of the countryside;
 - whether it would result the erosion of rural character;
 - if it would detract from its location in the Mournes Area of Outstanding Natural Beauty (AONB); and
 - whether it would have an adverse impact on the safety and convenience of road users
3. The appeal site is located outside any settlement limit and lies in the countryside as designated by the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) the local development plan which operates for the area where the appeal site is located. The appeal site is located in the Mournes AONB. The BNMAP offers no specific policy or guidance pertinent to the proposed development. Planning Policy Statement 21 'Sustainable Development in the Countryside' is a material consideration in this appeal.
4. Policy CTY 1 of PPS 21 states that 'there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.' One of these is a dwelling on a farm in accordance with Policy CTY 10 of PPS 21. Policy CTY 10 states that

planning permission will be granted for a dwelling house on a farm where all of three stated criteria can be met. The Council raise objections under criteria (c) that the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.

5. Building on Tradition – A Sustainable Guide for the Northern Ireland Countryside (BoT) provides supplementary planning guidance in support of PPS 21. Paragraph 2.7 of BoT sets out examples of farm groupings one of which is 'Extended and Parallel Farmyards' that is farmyards or singular narrow plan farm dwellings initially extended at the gable end of the structure and then with additional units to form parallel, scattered or courtyard farmyards. Parallel farms sometimes cross the public road and where they are disconnected, a loose form of courtyard is created.
6. The appeal site is located on the southern side of Castlewella Road, a protected route. It comprises a small roadside field on the opposite side of the road to the established group of buildings on the farm. Land within the appeal site rises to the south. The established group of farm buildings is located on lower land. The existing farm buildings spread out towards the east whilst the appeal site extends further west of them. Because of the changes in topography; physical detachment by virtue of the juxtaposition of the appeal site with the farm complex and the intervening road, a dwelling and garage on the appeal site would not be visually linked with the established group of buildings on the farm.
7. I do not agree with the appellant that the proposed development would read as an extended or parallel farm when seen with the established group of farm buildings. It would appear as a single dwelling and garage in the countryside with no visual linkage to the buildings at No 50 Castlewella Road.
8. Policy CTY 10 also states that exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either: demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building group. The Council identified an alternative site to the immediate west of the established group of buildings on the farm, on land within the appellant's ownership. In response the appellant argued that there would be health and safety implications in regard to this as well as an impact on future plans to expand the farm business.
9. I am not persuaded that generalised arguments regarding risks associated with dwellings close to farms are persuasive, as far as I am aware such living arrangements are common practice throughout the Northern Ireland countryside. I note the letter from the appellant's veterinary clinic dated 8th October 2016 in which the vet expresses concern regarding the proximity of a dwelling, on this alternative site, to the farm. Those concerns appear to be based on a shared access arrangement. I also note that he considers that a separate access to this alternative site could overcome his concerns regarding disease outbreak and the welfare and safety of animals on the farm. Although the appellant argued that the safety of the appellant and her family is a concern due to the nature of the farming activities carried out I was given no evidence to explain to me what those farming activities area are and what the risk would be. No verifiable plans were presented

to demonstrate expansion of the farm business at the existing building group. None of the appellant's arguments either cumulatively or individually are sufficient to persuade me that the proposed development is capable being treated as an exception under Policy CTY 10 of PPS 21. As I have concluded that the proposed development would not be visually linked to the established group of buildings on the farm and that it is not an exception under Policy CTY 10 it would fail to meet criterion (c) of Policy CTY 10 of PPS 21. As fails to meet criterion (c) of Policy CTY 10 of PPS 21 it also fails Policy CTY 1 of PPS 21 and is not acceptable in principle in the countryside. The Council has sustained its first reason for refusal.

10. Policy CTY 13 'Integration and Design of Buildings in the Countryside' says that planning permission will be granted for a building in the countryside where it can be visually integrated onto the surrounding landscape and is of an appropriate design. It sets out that new buildings will be unacceptable in a number of circumstances. The Council raised objections under criteria (a) it is a prominent feature in the landscape and (g) in the case of a proposed dwelling on a farm it is not visually linked or sited to cluster with an established group of buildings on a farm.
11. With regards to criterion (a) when travelling along Castlewellan Road in both directions a dwelling and garage on the appeal site would be visible across its frontage and the frontage of the field on the eastern side of the adjacent access lane. The proposed dwelling and garage would be viewed against the back drop of rising land within the appeal side, would also benefit from the mature vegetation on its eastern and western boundaries. As a consequence it would not be a prominent feature in the landscape. Criterion (a) would be met. However, taking account of criterion (g) as I have already concluded that as the proposed development fails criterion (c) of Policy CTY 10 of PPS 21 it also fails criterion (g) of Policy CTY 13 of PPS 21. The Council has sustained its second reason for refusal.
12. Policy CTY 14 of PPS 21 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. It continues that a new building will be unacceptable in five stated cases. The Council raised objections under criteria (a) it is unduly prominent in the landscape and (b) it results in a suburban style build-up of development when viewed with existing and approved buildings. Given the topography within the appeal site and the surrounding landscape and existing vegetation on the eastern and western boundaries of the appeal site I do not consider that the proposed development would be a prominent feature in the landscape. Criterion (a) of Policy CTY 14 would be met. With the exception of the farm complex at No 50 Castlewellan Road there are few other buildings in the immediate vicinity of the appeal site. Consequently, a dwelling on the appeal site would not lead to an unacceptable suburban style of build-up and it would not significantly erode rural character. Criterion (b) of Policy CTY 14 would also be met. The Council has not sustained its third reason for refusal based on Policy CTY 14 of PPS 21.
13. Policy NH 6 'Areas of Outstanding Natural Beauty' of Planning Policy Statement 2 'Natural Heritage' (PPS 2) says planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality and where all of three stated criteria are met. The Council raised objections under is criterion (a) the siting and scale of the proposal is sympathetic to the special character of the AONB in general and of the particular locality. This

part of the Mourne AONB is typified by an expansive landscape interspersed with farm groups and single dwellings. I have already concluded that the proposed development would not be a prominent feature in the landscape. I note that appellant's design approach is to reflect 'local architectural styles, patterns and boundary details by retaining features as far as possible through the use of local materials and stones and retaining existing mature hedges and trees'. In addition conditions controlling the siting and scale of the proposed development could be imposed to ensure that the scale and siting of a new dwelling and garage on the appeal site would be sympathetic to the special character of the AONB in general and the particular locality where they are proposed. All of this is sufficient to satisfy me that criterion (a) of Policy NH 6 of PPS 2 would not be offended. The Council has not sustained its fourth reason for refusal based on Policy NH 6 of PPS 2.

14. The proposed access would be taken from an existing adjacent laneway. Policy AMP 3 of Planning Policy Statement 3 'Access Movement and Parking' (PPS 3) 'Other Protected Routes – Outside Settlement Limits' states that planning permission will only be granted for a development proposal involving access onto this category of Protected Route in four stated cases, one of which is a Farm Dwelling where it would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. As I have concluded that the proposed development is not a farm dwelling for the purposes of Policy CTY 10 of PPS 21 it is not an exception under Policy AMP 3 of PPS 21. The council has sustained its fifth reason for refusal based on Policy AMP 3 of PPS 3.
15. Notwithstanding that I have upheld the Council's third and fourth reasons for refusal, as I have concluded that the proposed development would fail Policies CTY 1, CTY 10 and CTY 13 of PPS 21 and Policy AMP 3 of PPS 3 the appeal must fail and planning permission is withheld.

This decision is based on the 1:2500 scale Site Location Plan and Drawing numbered PL-01 scaled as indicated

COMMISSIONER HELEN FITZSIMONS

2019/A0188

List of Documents

Planning Authority: –
Appellant :-

C1 Written Statement and appendices
A1 Written Statement and appendices

Appellant :-

A2 Comments



Appeal Decisions

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Appeal Reference:	2019/A0181
Appeal by:	Trustees of Newry I.N.F
Appeal against:	The refusal of consent to display an advertisement
Proposed Development:	Erection of illuminated signage (pixel pitch on road fronting elevation of commercial premises)
Location:	To rear of No.2 John Mitchell Place, Newry
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2019/0990/A
Procedure:	Informal Hearing on 10 July 2020
Decision by:	Commissioner Pamela O'Donnell, dated 12 August 2020

Decision

1. The appeal is dismissed and consent to display is refused.

Reasoning

2. The main issues in the appeal are whether the proposed LED digital display would adversely affect the setting of several listed buildings and the Conservation Area and whether it would create visual clutter.
3. Regulation 3(1) of the Planning (Control of Advertisements) Regulations (NI) 2015 requires that the Council exercise its powers only in the interests of amenity and public safety, taking into account the provisions of the local development plan (LDP), so far as they are material and any other relevant factors. The Banbridge, Newry and Mourne Area Plan 2015 operates as the LDP for the area wherein the appeal site is located and it contains no provisions material to the proposal. As there is no conflict or change in policy direction between the Strategic Planning Policy Statement for Northern Ireland (SPPS) and retained policy, the relevant policy context is provided by PPS6 'Planning, Archaeology and the Built Heritage' and PPS17 'Control of Outdoor Advertisements'. Guidance is also provided in the Newry Conservation Area Guide and in the Department for Communities' publication 'Guidance on Setting and the Historic Environment' (DfC).
4. The appeal site is in the primary retail frontage and core of Newry City Centre and it is also within its Conservation Area. The host building was formerly used as a Bingo Hall, but it is now vacant and its front elevation is located along John Mitchell Place. However, the appeal sign would be affixed to the rear gable wall of the host building. Accordingly, it would be appreciated from the area around William Street and Abbey Way rather than from John Mitchell Place. The area around William Street and Abbey Way is mainly comprised of major roads infrastructure and there

is a traffic controlled junction diagonally opposite the site. This broad area, as depicted in the Council's evidence, provides the critical view (CV) of the proposal.

5. There are a number of listed buildings in the surrounding locality. W. J. Barre's First Non-Subscribing Presbyterian Church lies immediately adjacent and south of the host building. This was built circa 1853 and is a 'T planned' granite church and tower designed in the Gothic Revival style. This listed building is described as a "*good, relatively unaltered early example of the work of the important Newry architect W J Barre and its plan form, roof detailing and steeply pitched porches give it added architectural interest*". Roughly opposite the site, there is a late 18th or early 19th century terrace of three houses (Grade B2); two classical Georgian houses (Grade B1) and another house, described as having a "*long two storey link block joining the two principal elements of an important group*" (Grade B1). The Cathedral of St Patrick's and St Colm's lies north of the appeal site. This is a commanding listed building (Grade A) built from 1825-1829 in the perpendicular style by the architect Thomas Duff. It is described thus; "*the impressive silhouette and attractive tower make this building a most striking feature in Newry.*" Saint Mary's Church of Ireland (Grade B plus) lies to the north west of the appeal site. This is another early 19th century Thomas Duff composition in Gothic style.
6. As clarified at the hearing, the proposed illuminated LED cabinet would measure 2.5m by 1.3m. It would display rolling images and would mainly advertise local businesses. As noted above, it would be affixed to the rear or gable wall of the host building. It would sit above two existing billboard signs. From the evidence provided it would appear that these signs do not benefit from consent and could be immune from enforcement action. However, at the hearing, the Appellant indicated that the two existing signs could be removed if that would overcome the objections to the appeal proposal. This proposition is discussed later in the consideration.
7. Policy BH11 of PPS6 indicates that development which would adversely affect the setting of a listed building will not normally be permitted. The Justification and Amplification to the policy details that the setting of a listed building is often an essential part of the building's character and that sometimes its setting may include a number of other properties or even the whole street. The DfC guidance document further elucidates on the concept of setting. As outlined above, there are a number of listed buildings in the vicinity of the appeal site. Due to their urban context they combine together and along with the non-listed buildings in the area to create a wide setting which is mainly characterised by an ecclesiastical visual harmony. At present, the various spires and forms of the aforementioned religious architecture are inter-visible from the CV and they punctuate the skyline to create an interesting and aesthetically pleasing silhouette. The very nature of the appeal proposal, however, with its rolling displays and luminance would draw the eye. This would distract from the views and thus the appreciation of the listed buildings from the CV. Contrary to the position of the Appellant that the CV would be fleeting and very restricted, the LED sign would be highly visible from the well trafficked CV especially at night time. In resulting in a competing townscape focus, the proposed electronic signage would adversely affect the setting of the listed buildings contrary to Policy BH11. The first reason for refusal is sustained.
8. The appeal site lies in the Newry Conservation Area as extended in 1992 to incorporate the historic commercial spine of Hill Street/John Mitchell Place. Section 104 (11) of the Planning Act (Northern Ireland) 2011 requires special regard to be

had to the desirability of preserving the character or appearance of a Conservation Area where an opportunity for enhancement does not arise; and for enhancing its character or appearance where such an opportunity does arise. The Council did not seek to argue that the proposal represents a missed opportunity to enhance the Conservation Area. Its argument was that the proposal would detract from the setting of the Conservation Area contrary to Policy BH13 of PPS6. This policy relates to the control of advertisements in such areas and stipulates that consent will not normally be forthcoming for advertisements which would adversely affect the character, appearance or setting of the area. Paragraph 7.15 of PPS6 says that additional guidance for the display of advertisements is set out in the relevant designation documents and design guides produced.

9. Whilst accepting that signage is to be expected in commercial areas, it is reasonable that more exacting standards of control should apply in Conservation Areas. For reasons given above, the appeal proposal would adversely affect important views into the Conservation Area and its setting. Whilst the host building is not listed, its location within and near the southern edge of the Conservation Area means that the LED sign would be seen on approach to the historic area from the CV and it would therefore unacceptably compete with a gateway building (W. J. Barre's First Non-Subscribing Presbyterian Church) and the setting of the wider Conservation Area.
10. In addition, the Newry Conservation Area Guide indicates that backlighted signs and illuminated plastic box signs are not considered appropriate in the Conservation Area. It also says that illuminated fascia's will normally only be allowed where it is demonstrated that the premises rely significantly on trading after dark all year around such as restaurants, pubs and places of entertainment. Whilst the proposal does not exactly match the prescribed signage identified in the guidance as being inappropriate, it is similar in nature. It is therefore difficult to conclude that an illuminated LED display cabinet could be considered acceptable. Furthermore, the host building is vacant so it does not trade after dark. In displaying adverts mainly promoting local businesses, the proposal would not be used in connection with the operation of the host building itself because it is unoccupied. For reasons stated, the proposal is inappropriate and unnecessary and thus falls foul of the guidance. Even if it were to advertise local functions including those within the neighbouring INF building, the proposal would not satisfy the policy requirement. The appeal proposal would adversely affect the setting of the Conservation Area contrary to Policy BH13 of PPS6. The second reason for refusal is therefore sustained. Whilst the removal of the existing two billboards would alleviate visual clutter on the host building, this would not overcome the above policy objections to the appeal proposal for the reasons given.
11. Policy AD1 of PPS17 states that consent will be given for the display of an advertisement where it respects amenity, when assessed in the context of the general characteristics of the locality. The Council's concern in this regard related solely to the creation of visual clutter. However, if the two existing signs were permanently removed by condition, as suggested, this particular argument cannot stand. The third objection is not therefore sustained. However, as the first two reasons for refusal based on PPS6 are sustained and are determining, the appeal must fail.

This decision is based on Drawing No 12299/1 – Site Location Map @ 1:2500, Drawing No 12299/2 Site Layout Plan @ 1:500 and Drawing No 12299/4 Front Elevation @ 1:500

(apart from the dimensions of the proposed sign which should read 2.5m x 1.3m). All drawings are stamped refused by the Council on 23 September 2019.

COMMISSIONER PAMELA O'DONNELL

List of Appearances

Planning Authority:-	Mr G Murtagh (Newry, Mourne and Down Council) Ms N Golden (Historic Environments Division DFC)
Appellant(s):-	Mr J Young (Collins & Collins Agent)

List of Documents

Planning Authority:-	"A" Statement of Case with Appendices
Appellant(s):-	"B" Statement of Case with Appendix

