



June 22nd, 2022

**Notice Of Meeting**

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 29th June 2022** at **10:00 am** in **Boardroom Monaghan Row Newry** and via **Microsoft Teams**.

**Committee Membership 2022-2023**

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

# Agenda

- 1.0 Apologies and Chairperson's remarks.
- 2.0 Declarations of “Conflict of Interest”.
- 3.0 Declarations of Interest in relation to Para. 25 of Planning Committee Operating Protocol - Members to be present for the entire item.
- 4.0 Minutes of Planning Committee Meeting held on Wednesday 1 June 2022. (Attached).  
[📄 Planning Committee Minutes - 01.06.2022..pdf](#) Page 1
- 5.0 Addendum list - planning applications with no representations received or requests for speaking rights. (Attached).  
[📄 Addendum list - 29-06-2022.pdf](#) Page 12

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## *Local Development Plan Items - Exempt Information*

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### 6.0 LDP: Revised Timetable. (Attached)

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

- [📄 PC Report re LDP Revised Timetable 2022.pdf](#) *Not included*
- [📄 LDP Revised Timetable 2022 - DRAFT.PDF](#) *Not included*

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## *Development Management - Planning Applications for determination*

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### 7.0 LA07/2019/0868/F - Proposed commercial development comprising ground floor retail unit and first floor creche with associated site works - 107 Camlough Road, Newry, BT35 7EE. (Case Officer report attached).

#### APPROVAL

- A request for speaking rights has been received from Colin O'Callaghan, Planning Consultant, in objection to the application. **(Submission attached)**.
- A request for speaking rights has been received from Colin Dalton; Thomas Bell and Hayley Wilson, agents in support of the application and the recommendation

to approve. **(Submission attached)**.

<a href="#">Commercial Development Camlough Road La07.2019.0868.Ff.pdf</a>	Page 13
<a href="#">Item 7 - LA07 2019 0868 F (objection).pdf</a>	Page 30
<a href="#">Item 7 - LA07-2019-0868-F (support).pdf</a>	Page 32

## 8.0 LA07/2019/1009/O - Redevelopment of existing residential site - Residential development at 113 South Promenade Newcastle. (Case Officer report attached).

### APPROVAL

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

<a href="#">LA07-2019-1009-O-COR.pdf</a>	Page 33
<a href="#">LA07-2019-1009-O- Addendum to COR 13.06.2022 .pdf</a>	Page 53
<a href="#">Item 8 - LA07-2019-1009-0 (objection).pdf</a>	Page 55
<a href="#">Item 8 - LA07-2019-1009-0 (support).pdf</a>	Page 61

## 9.0 LA07/2021/2010/O Farm dwelling and garage Approx 100m West of 42 Crawfordstown Road Downpatrick. (Case Officer report attached).

### REFUSAL

- A request for speaking rights has been received from Gerry Tumelty, agent and Mrs A Jenkinson, applicant, in support of the application. **(Submission attached)**.

<a href="#">LA07-2021-2010-O_CO_CrawfordstownRd.pdf</a>	Page 62
<a href="#">Item 9 - LA07-2021-2010-0.pdf</a>	Page 69

## 10.0 LA07/2021/1050/F - Proposed, part single, part 2 storey dwelling located in the side garden of an existing dwelling, associated site works, including a proposed vehicular entrance the site boundary at the rear laneway and a proposed

**pedestrian gate at the Rostrevor Road site boundary - The Pines, 10 Rostrevor Road, Warrenpoint Co. Down. (Case Officer report attached).**

REFUSAL

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

📄 *LA07-2021-1050-F Rostrevor Rd.pdf*

*Page 72*

📄 *Item 10 - LA07 2021 1050.pdf*

*Page 90*

**11.0 LA07/2021/1664/O - Proposed site for infill dwelling and domestic garage Between 8 and 12 Ballykeel Road Ballymartin Kilkeel BT34 4PL. (Case Officer report attached).**

REFUSAL

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

📄 *LA07\_2021\_1664\_O Ballykeel Rd Ballymartin.pdf*

*Page 92*

📄 *Item 11 - LA07.2021.1664.O.pdf*

*Page 97*

**12.0 LA07/2021/1187/F - Proposed erection of Battery Energy storage facility, lighting and closed-circuit television columns, new site boundary fencing, construction of private service laneway, ancillary development works and additional landscaping - Lands located approximately 85 metres north of No. 68 Cloughanramer Road, Newry City, Co. Down. (Case Officer report attached).**

APPROVAL

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

📄 *LA07.2021.1187.F Battery Storage 170522.pdf*

*Page 99*

📄 *Item 12 - LA07-2021-1187-F.pdf*

*Page 115*

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*For Noting*

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

**14.0 Planning Committee Performance Report for May 2022.  
(Attached).**

 *May 2022 Planning Committee Performance Report.pdf*

*Page 119*

**15.0 Current appeals and decisions. (Attached)**

 *Current Appeals and Appeal Decisions in May 2022.pdf*

*Page 123*

## NEWRY, MOURNE & DOWN DISTRICT COUNCIL

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**Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 1 June 2022 at 10.00am in Boardroom, Monaghan Row, Newry and via Microsoft Teams.**

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**Chairperson:** Councillor D McAteer

**In attendance: (Committee Members)**

Councillor P Byrne  
 Councillor L Devlin  
 Councillor G Hanna  
 Councillor C Enright  
 Councillor V Harte  
 Councillor M Larkin  
 Councillor D Murphy  
 Councillor H McKee  
 Councillor G O'Hare

**(Officials)**

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

**P/054/2022: APOLOGIES AND CHAIRPERSON'S REMARKS**

Apologies were received from Councillor Burgess and Councillor McEvoy.

Councillor McAteer welcomed Ms Largey back following the sad passing of her mother.

**P/055/2022: DECLARATIONS OF INTEREST**

Councillor McKee declared an interest in Item 8 – LA07/2021/0394/F.

**P/056/2022: DECLARATIONS OF INTEREST IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL- PARAGRAPH 25**

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

- Item 7 – LA07/2021/1318/0 – site visit held on 18-05-2022 attended by Councillors Byrne, Harte, Larkin, Murphy, McAteer and O'Hare
- Item 12 – LA07/2021/1252/0 - presented at Planning Committee in January 2022 – Councillor Byrne was not a Committee Member at that time – all other Committee Members were present.

### **MINUTES FOR CONFIRMATION**

**P/057/2022: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 11 MAY 2022**

Read: Minutes of Planning Committee Meeting held on Wednesday 11 May 2022. (Copy circulated)

**AGREED: On the proposal of Councillor Byrne, seconded by Councillor Murphy, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 11 May 2022 as a true and accurate record.**

### **FOR DISCUSSION/DECISION**

**P/058/2022: ADDENDUM LIST**

There were no applications on the addendum list for the Planning Committee Meeting on 1 June 2022

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

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

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

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

**P/059/2022: LDP: Planning Policy Review – Coastal Development**

Read: Report dated 1 June 2022 by Mr A McKay, Chief Planning Officer regarding the Local Development Plan: Planning Policy Review – Coastal Development

**AGREED: On the proposal of Councillor Harte, seconded by Councillor Devlin the following was agreed:**

- **The proposed draft planning policies for inclusion within the draft Plan Strategy, and**
- **Authorise the development Plan Team to amend the proposed draft planning policies as necessary (i.e. subject of further consultation engagement, sustainability appraisal, and any change to overarching regional policy) and report back to Members any substantive changes to proposed policy wording or direction.**

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

### **P/060/2022: PLANNING APPLICATIONS FOR DETERMINATION**

The Chairperson advised the following amendments had been made to the agenda:

**Item 9 – LA07/2019/1009/O** – removed from the agenda at the request of Councillor Devlin and to be re-presented at the next Committee Meeting.

**Item 10 – LA07/2019/1748/F** – removed from the agenda at the request of Planners

**Item 13 – LA07/2021/1664/O** – removed from the agenda at the request of Councillor Hanna and to be re-presented at the next Committee Meeting

#### **(1) LA07/2019/1318/O**

(Councillors Enright, Devlin, Hanna and McKee withdrew from discussion/decision on this application).

#### **Location:**

Site between 11 and 13 Tullydonnell Road, Silverbridge, Newry

#### **Proposal:**

Infill Dwelling

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

Refusal

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

Mr A McKay, Chief Planning Officer provided Members with a short recap on the power point presentation previously presented to Committee.

#### **Speaking rights:**

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

Ms Margaret Smith, agent was in attendance to answer any questions from Members.

#### **Issues Raised:**

- Ms Smith clarified the three buildings they were relying on to comply with policy for a gap site were the shed, the white building (no. 11) and the red brick two-storey building.



- Ms Smith said although there had always been gate access between No. 11 and the sheds, in order to accommodate larger farming equipment, a new access had been instated.
- Councillor Byrne said having visited the site he considered there to be road frontage and said there was ambiguity in the policy regarding what constituted a laneway and a driveway.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2019/1318/O contrary to Officer recommendation on the basis that having been on site he was satisfied there were three or more buildings with road frontage, it integrated well into the surrounding area, it complied with policies CTY 13, CTY 14, NH6 and was an exception to Policy CTY 8. Councillor Murphy seconded the proposal.

Mr McKay said Members had identified several frontages, however he considered these to be access laneways to Tullydonnell Road, none of which represented a continuously built-up frontage as required by policy and said this had been evident at the site visit. Mr McKay asked for clarity from the proposers in relation to their conclusion that a substantial and continuously built up frontage as required by CTY8 was present.

Councillor Larkin said, having been on site, he was satisfied there was a continuously built up frontage.

Mr McKay said he, too had been on site and it remained Planning Department's position there were a series of access lanes only on to the Tullydonnell Road which, he said did not constitute a continuously built up frontage.

Councillor McAteer said in the past, laneways with wide entrances had been accepted by the Committee as having frontages and, having been on site he considered the sheds had frontage in relation to the dwelling house. He said he was content there was frontage and it was visually linked.

Councillor Byrne said he considered No. 13 and the sheds between No. 13 and No. 11 had road frontage and he said the argument was around No. 11 with differing opinions by Planning and Members. Councillor Byrne referred to page 3 of the Officers report relating to previous examples considered to have road frontage and said the report indicated that limited weight had been attached to those examples and he said even if limited weight was attached to the current proposal in relation to road frontage, he considered it was visually linked and therefore he was content with the proposal that had been put forward.

Mr McKay said, for the record, he believed Members may have been misdirecting themselves in relation to the facts around the interpretation of the policy.

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

FOR:	6
AGAINST:	0
ABSTENTIONS:	0

**AGREED:** **On the proposal of Councillor Larkin seconded by Councillor Murphy it was agreed to issue an approval in respect of Planning Application LA07/2021/1318/O contrary to Officer recommendation on the basis that three or more buildings had road frontage, it integrated well into the surrounding area, complied with policies CTY 13, CTY 14, NH6 and was an exception to Policy CTY 8.**

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

(All councillors re-joined the meeting)

**(2) LA07/2021/0394/F**

(Councillor McKee withdrew from the meeting for this application)

**Location:**

Lands to the rear of Saintfield Community Centre and to the south of 8-11 Windmill Grange with access onto Belfast Road

**Proposal:**

Change of use of lands to Public Park (used in conjunction with Saintfield Community Centre)

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point Presentation:**

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

**Speaking rights:**

In objection

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

In Support

Saintfield Development Association, Barbara Graham, Ian Mack and Martyn Todd presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues Raised:**

- Ms McAlarney advised the windmill stump located to the east of the site was a scheduled monument and a licence would be required to work on it.
- Ms McAlarney advised, as outlined in the Case Officer's report, the concerns raised by the objectors had been addressed.
- Ms McAlarney said she considered there would not be a detrimental impact on neighbouring private amenity space and any concerns regarding antisocial behaviour would be dealt with by the operators.
- Ms McAlarney said the plans relating to the application were all available on the planning portal and included detailed specifications for benching, signage and fencing.
- In terms of additional planting, Ms McAlarney said the mature trees on site were to be retained along with additional various planting. An 8ft fence was to be erected along the boundary with Windmill Grange which would be in addition to the existing fencing already in place to the rear of the properties.
- Mr Russell said he had been unable to access to planning portal and had been excluded from the planning process.
- Mr Russell said Saintfield Development Association had refused to meet with the objectors and they were unaware of how the planning system worked.
- Mr McKay said Officers had just tested the public facing portal and had accessed it without any issue and he was not aware of any objectors contacting Planning for the duration of the application saying they could not see the documentation.

- Ms McAlarney said the access to the park would be via the community centre, she could not confirm the opening hours of the park as this would be a management issue with the operators.
- Ms McAlarney confirmed CCTV was not part of the proposal.
- Mr McKay said outside events would usually require a licence from Council.
- Mr Todd confirmed, following a consultation from residents it had been decided there would be no events, no playparks and no concerts and he said all residents had been notified of this on 30 October 2020.
- Mr Todd said there would free open access to the park for all people of the area while the community centre was open, and the park would only be open during daylight hours.
- Mr Todd said as a gesture of good will, it had been decided to erect a fence 2m from the existing fences to allow the four residents of Windmill Grange access to the rear of their properties for maintenance.
- Mr Todd said the residents did not have a legal right of access to the park from the rear of their properties.
- Mr Todd confirmed during negotiations he personally knocked on the doors of the six boundary neighbours and by March 2020, they were all aware of the proposed plans. Three of the six neighbours engaged in the negotiating process and the remaining three requested a public meeting, however as it was during Covid, it was decided one to one meetings were more preferable.
- Ms McAlarney said overlooking was not an issue.
- Mr Todd said he had not seen the objection petition but said there were very many messages of support received.
- Mr Todd said an A1 size copy of the plans had been posted in a disused shop in Saintfield for two weeks.

Councillor Hanna proposed and Councillor Byrne seconded to accept the officer recommendation and issue an approval in respect of this planning application and that conditions be delegated to officers.

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

FOR:	9
AGAINST:	0
ABSTENTIONS:	0

The proposal was carried.

**AGREED:** **On the proposal of Councillor Hanna seconded by Councillor Byrne it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/0394/F as per the information contained within the Case Officer report and presented to Committee.**

### **(3) LA07/2021/1219/O**

**Location:**

Lands 215 SE of 40 Quarter Road Annalong

**Proposal:**

Site for 5 units of self-catering accommodation

**Conclusion and Recommendation from Planning Official:**

Refusal

**Power-point Presentation:**

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

**Speaking rights:**

Mr Brendan Quinn, agent and Ms Myrtle Haugh, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues Raised:**

- Mr Keane said the correct policy test for such proposals was Policy TSM5 of PPS16, which did not specify the distance a site should be from an existing tourist amenity, only that it should be 'close' and he said although Carrick Little Lane could be considered close, it was not a tourist amenity. Councillor Hanna referred to Silent Valley as an amenity site, whereby Mr Keane said his was some 4 miles from the site. Councillor Hanna did not agree Silent Valley was 4 miles from the site.
- Mr McKay said Members had discretion to interpret the policy as they saw fit, however, he urged them to consider the policy in its entirety and to be mindful of the wording in question – 'at or close to'.
- Ms Largey said all policies must be viewed within the context for which they were provided and although she acknowledged the policy did not define 'close', she recommended Members took on board the advice from Planning.
- Mr Quinn referred to a previous application for glamping pods that had been approved and said more consistency was needed by Planning in their recommendations.
- Mr Keane confirmed a letter of support had been received from the Council's Head of Product Development and Visitor Experience that outlined if the application was approved, it would showcase the destination and encourage visitors to stay within the local area.
- Mr Keane said Planning did not consult with Tourism NI as the outcome would not change and although he acknowledged the site was located within a tourism hotspot, he said the policy test of TSM 5 had to be applied.
- Mr Keane advised objections had been received from 89, 91, 93 and 109 Mill Road, which raised a number of issues.
- Ms Haugh said her business was growing year on year and she considered it was beneficial to the local community and added value to the area.
- Councillor Hanna, in referring to Kribben Cottages asked would a precedent not already have been set, and if the proposed application was sympathetic to the character of the area would this not be deemed acceptable to Planning. Mr Keane said historically Kribben Cottages had been approved as a youth hostel, and significant weight had been given to the previous site history at Kribben Cottages, however the proposed application was assessed against PPS16 and although Planning considered it to be located within a tourist hotspot, he said it was not located at or close to an existing tourism amenity.
- Mr Quinn said the applicant was unable to purchase a site any closer to Kribben Cottages to expand her business and he was not aware of any other planning applications in the area for self-catering accommodation.
- Mr Quinn said an application for glamping pods had been approved under TSM 6 in 2020 and Carrick Little Laneway, the carparks and the café had been accepted as tourism amenities.
- Ms Largey said the test was to determine if the proposed development was close to tourist amenities.



**Power-point Presentation:**

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

**Speaking rights:**

Mr Brendan Quinn, agent and Sean and Denise Sloan, applicants presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

**Issues Raised:**

- Mr McKay said there was no requirement for DfI Roads to be in attendance at the meeting, as they had acknowledged their previous responses were incorrect and Planning Department was unable to attach enforceable conditions that would compel the applicant to use the new access proposed without the existing access being closed up.
- Mr McKay said Planning Officers were not content to accept that common sense would prevail and only the new access would be used.
- Mr Keane talked through the timeline from January 2022 detailing consultations with DfI
- Mr Quinn confirmed it was not within his gift to close up the existing lane.
- Ms Largey said although the Council could not be directly claimed against, in the event of an accident, there would be a reputational risk to Council. She said it was a bit unclear and an explanation from DfI would be useful.
- Mr McKay said DfI was objecting to the intensification of the lane; there were two lanes, one of which was considered to be substandard.
- Mr McKay said DfI had no issue with the new access subject to the closure of the substandard lane.
- Mr McKay said the current application could not be compared to an application in Sheeptown referred to by the agent as they were totally different, and he said the current application had been brought back to the Committee for direction.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2021/1252/O contrary to Officer recommendation on the basis that the new proposed access would achieve the necessary visibility splays and would comply with DCAN 15. Councillor Hanna seconded the proposal, saying common sense would prevail and the safest access would be used by those accessing and exiting the property.

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

FOR:	6
AGAINST:	0
ABSTENTIONS:	0

The proposal was carried.

**AGREED:**

**On the proposal of Councillor Larkin seconded by Councillor Hanna it was agreed to issue an approval in respect of Planning Application LA07/2021/1252/O contrary to Officer recommendation on the basis that the new proposed access would achieve the necessary visibility splays, would comply with DCAN 15 and the safest access would be used by those accessing and exiting the property.**

(Lunch 1.30pm – 2.00pm)

**(5) LA07/2021/0983/F**

(All councillors present re-joined the meeting)

**Location:**

Castlewellan Forest Park, Castlewellan

**Proposal:**

Restoration of the Grade B1 Listed Grange Courtyard Building and reconstruction of bomb damaged block. Internal demolitions and new interventions such as staircases, lift, toilets. Replacement of existing windows and new windows. New landscape within the Grange Courtyard. New drainage system to the Grange. Restoration of the entrance gates on the Castle Avenue. New pedestrian path from entrance gates to existing car park.

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point Presentation:**

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

**AGREED:**

**On the proposal of Councillor Hanna seconded by Councillor O'Hare it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/0983/F as per the information contained within the Case Officer report and presented to Committee.**

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

**(6) LA07/2021/0988/LBC**

**Location:**

Castlewellan Forest Park, Castlewellan

**Proposal:**

Restoration of the Grade B1 Listed Grange Courtyard Building and reconstruction of bomb damaged block. Internal demolitions and new interventions such as staircases, lift, toilets. Replacement of existing windows and new windows. New landscape within the Grange Courtyard. New drainage system to the Grange. Restoration of the entrance gates on the Castle Avenue. New pedestrian path from entrance gates to existing car park

**Conclusion and Recommendation from Planning Official:**

Approval

**Power-point Presentation:**

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

**AGREED:** On the proposal of Councillor Hanna, seconded by Councillor O'Hare it was unanimously agreed to issue an approval in respect of Planning Application LA07/2021/0988/LBC as per the information contained within the Case Officer report and presented to the Committee.

Planning officers be delegated authority to impose any relevant conditions.

**FOR NOTING**

**P/061/2022:** JUDGEMENT- APPLICATION BY GORDON DUFF (RE. GLASSDRUMMAN ROAD, BALLYNAHINCH) FOR JUDICIAL REVIEW PLANNING APPLICATION LA07/2020/1292/O – TWO INFILL DWELLINGS ON LANDS BETWEEN NOS. 2 AND 10 GLASSDRUMMAN ROAD BALLYNAHINCH

Ms Largey advised the Committee Planning Application LA07/2020/1292/O had been successfully defended in the High Court by Council and she proposed to arrange for a barrister to attend a future Planning Workshop, which, she said would be very beneficial for Members.

**P/062/2022:** HISTORIC ACTION SHEET

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

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

The meeting concluded at 2.00 pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 29 June 2022.

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

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



## Item 5 – Addendum List

### **Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 29 June 2022**

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

- There are no applications on the addendum list for the Planning Committee Meeting on 29 June 2022

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



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/0868/F

**Date Received:** 22.05.2019

**Proposal:** Proposed commercial development comprising ground floor retail unit and first floor creche with associated site works

**Location:** 107 Camlough Road, Newry, BT35 7EE

**Site Characteristics & Area Characteristics:**

The site occupies a corner site with the Green Road and Camlough Road in the development limit for Bessbrook. M&M Gas and Refrigeration currently occupies the site, with surrounding land uses including, a school, day care centre and filling station.

**Site History:**

P/2015/0127/F

Renewal of planning permission P/2008/1188/F for demolition of existing building and erection of No 3 No food retail units to include associated site works.

Permission Granted: 11.04.2016

P/2008/1188/F

Demolition of existing building and erection of 3 no. food retail units to include associated site works.

Permission Granted: 21.04.2010

P/1985/0990

Building for manufacture and storage of ice cream and garaging of ice cream.

Permission Granted: 14.11.1985

P/1981/0757

Extension and improvements to dwelling.

Permission Granted: 15.09.1981

P/1977/0914

Extension to dwelling

Permission Granted: 15.11.1977

P/1975/0930

Site for six replacement bungalows.  
Permission Refused: 24.03.1976

P/1992/0761  
Extension to dwelling  
Permission Granted: 15.10.1992

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

SPPS – Strategic Planning Policy Statement for Northern Ireland  
Banbridge Newry and Mourne Area Plan 2015  
PPS3 – Access, Movement and Parking / DCAN 15  
PSRNl – DES 2 / SP18  
PPS15 – Planning and Flood Risk  
PPS 2 – Natural Heritage

### **Consultations**

**DAERA** – no objections raised, standing advice offered.

**Rivers Agency** – No objections with regard to PPS15.

**Environmental Health** – Following additional information, no objections subject to conditions.

**DFI Roads** – following amended plans, no objections subject to conditions.

**NI Water** – NI Water infrastructure within 20m of the proposed development site.

### **Objections & Representations**

Nearest neighbours were notified in line with statutory requirements on 09.7.19, 30.12.20, 16.01.20, 25.06.20, 14.10.20, 26.02.21 and most recently on 01.04.2021 and the application was advertised in press on 19.06.2019. 76 objections have been received with one letter of support.

### **Objections Received.**

1. Neighbour notification process compromised due to the failure of stating exactly what the amendment was.
2. Require formal explanation as to why service vehicles are not being required to be able to enter and exit the site in forward gear.
3. Require confirmation of the accuracy of the depiction.
4. Unsafe including pedestrian safety to allow delivery vehicles to pause on public road and then reverse into the site.
5. This arrangement will negatively impact upon the free flow of passing traffic.
6. Site may be used as a 'rat run' to bypass the traffic lights.
7. Early morning deliveries could negatively impact neighbouring properties due to noise potential.
8. Inadequate parking provision.
9. Applicant has not demonstrated the exact details of the plant and its location. Residents should be given opportunity to comment.
10. The lack of any evidence on the issue of retailing renders the application incomplete and should be refused.
11. Inaccurate application form – applicant stating he was aware of a similar previous type of application when previous approval prevented this.
12. Inaccurate claim that the proposal is using an existing access. New accesses onto protected routes are only permitted in exceptional circumstances.

13. The access should be taken from minor road, but even here standards could not be met.
14. Junction spacing arrangements remain inadequate
15. Applicant has not provided TAF or explained why RTL is not required.
16. Applicant has not provided a Drainage Assessment.
17. Applicant has played down traffic numbers. If figures are correct the proposal neither addresses nor makes any significant contribution to the local economy.
18. Ownership forms are inaccurate and it is not clear whether the requisite notice has been served. P2A forms are absent and the wrong address has been provided for the relevant statutory bodies.
19. Proposal will set a precedent and no realistic prospect that the applicant can secure the lands needed to carry out the development in full. There is an assumption that the Council will transfer the lands however the Council has a duty to offer the key land on the public market.
20. Complex auto tracking confirms poorly thought out and inappropriate for the site.
21. Stagger junction not in accordance with DCAN 15
22. Council to justify where there is no statement of retail need for this proposal.
23. Advise what the Council's position is on retailing at this location.
24. Autotracking assumes vehicles travel between site and Camlough only when likelihood is that service vehicles will travel to/from Newry.
25. Removable bars could make site used as a rat run.
26. Confirm if DFI / Council are accepting of the auto tracking in terms of the ability to enter and exit site in forward gear.
27. Potential conflict with adjacent junction and school opposite.
28. Explain how town centre approach advocated in SPPS has been adhered to.
29. Why has council not interrogated the issue of retail need.
30. Radius and sight lines inadequate
31. Drawings are misleading in that they suggest a fence is to be created between the car park and service vehicle area turning area but auto track shows that service vehicles do not actually turn in this area.
32. High volumes of objections warrant independent evaluation by the Planning Commission.
33. Was a feasibility study completed to identify the need and was an Impact Analysis completed, addressing if such a complex would benefit the local economy.
34. Planning Office should visit residents should visit the residents of the Green road to explain the plans submitted, as many are elderly and do not have access to the planning portal.
35. Neighbour notification was prejudicial as it was sent during holiday season.
36. Proposal is in direct contravention of the Planning Act points, a, b and c
37. Description of development is misleading as it doesn't specify exact use of development or size of shop.
38. Application forms note the Council has an interest which questions the Council's impartiality on deciding the application.
39. Noise, nuisance or general disturbance to adjacent properties particularly if the site is sold off.
40. Development is in excess of that already approved on the site – same restrictions from 2016 should still apply now.
41. Proposal would decimate local retail businesses and it would result in the displacement of trade from Bessbrook and also Camlough.

42. Against retail policy and has a detrimental impact on vitality and viability of the existing convenience store.
43. Application goes far beyond day-to-day needs and should be refused – contrary to retail policy.
44. There is no need for this facility.
45. Precedent will threaten all city, town and village centres and therefore must be refused.
46. SPPS town centre first policy applies regardless of size and status of settlement.
47. Scale and nature of the development is not appropriate to the character of the settlement ie. Proposals in villages and small centres are expected to meet local need only ie meet the day-to-day needs of the local population. This proposal would exceed the daily needs of the local population.
48. Would negatively impact the character of Bessbrook since its populace ultimately travel away from main street for retail activities. Approval would lead to the decimation of the retail offerings on Main Street.
49. Application fails to address how the nearby convenience store will be affected and has not addressed the list of commercial properties in Main Street Bessbrook. Bessbrook should be recognised as a centre for the purposes of town centre retailing.
50. Proposal will pull trade away from Main Street Bessbrook and therefore incompatible with SPPS policy of ensuring there will be no unacceptable adverse effect on the vitality and viability of an existing centre.
51. Impact on Camlough supermarket should also be appraised.
52. Need has not been considered in light of the proposed refurbished retail store adjacent the site and the improved service it will offer.
53. Prematurity – prejudice the outcome of the forthcoming plan process by predetermining decisions about the scale, location and phasing of new development, which ought to be taken in the LDP context.
54. Use as a food supermarket is not justified and previous permission confirmed food supermarket as inappropriate.
55. P2a form not provided to confirm verification.
56. Application not valid as there is no proper Certificate of ownership.
57. Not clear of the specific area identified in Certificate C of the Certificate of ownership.
58. Confirmation that auto tracking has been technically assessed by the Roads Authority.
59. Traffic numbers in P1 form not realistic or reflective of the proposal.
60. Protected routes policy – why has access not been directed to adjacent minor road – Green Road.
61. Deficiency in parking
62. Confirm DFI Roads has seen objections.
63. No communication between residents at the beginning or during the consultation process.
64. Cars park illegally at swimming pool entrance to M&M during daytime hours as there isn't enough demand for spaces at present.
65. Lack of visibility turning left at busy main junction.
66. Entrance for proposed building near a busy junction.
67. Lorry drivers can only reverse in at present which causes a lot more traffic, new proposal will be even more busy.

68. No attempt to show how complex arrangements for delivery vehicles will impact upon other traffic attracted to the premises.
69. Deliveries in the morning could impact upon neighbouring properties due to noise potential.
70. 11 Fearons Terrace not notified.
71. Traffic congestion and pollution will dramatically rise and the road will suffer structurally.
72. Negatively impact all objectors businesses and add to increasing hardship in S Armagh area.
73. Increase noise and pollution and generate huge traffic problems. Green Road not built to accommodate heavy traffic.
74. Unsafe for small children on Green Road with increased traffic and damage close knit community.
75. Another store close to the ones already competing against each other for survival is uncalled for and unnecessary.
76. Part of site not legally owned by applicant but instead DRD / NMDDC.
77. Application will destroy livelihood of objectors family due to adverse impact on their business.
78. Approval would lead to job losses and financial hardship to neighbouring commercial premises.
79. Increase in carbon footprint.
80. Objector aggrieved they were not neighbour notified
81. Not enough parking at present for creche and swimming pool – cars parking outside objector's house.
82. Cars parking illegally opposite the swimming pool at the bus stop and park up on the footpaths preventing families with young children enjoying a walk with the pram
83. Lack of visibility when turning left (to Newry) and right (towards Camlough) when coming out of Green Rd junction.
84. Lorries are abandoned when delivering to M&M
85. Lorries cannot drive into M&M without reverse parking and causing lots of disruption to other vehicles.
86. Safety hazard due to work vehicles double parking at present. Where do these cars park when the development begins?
87. Traffic issues on Green Road due to the school cannot cope as it is.
88. Residents and care workers cannot park outside Green Road properties at present.
89. Negative effects on amenity due to noise and constant disturbance.
90. Direct contravention to the Planning Act
91. Proposal does not respect local context and street pattern, in particular the scale and proportions of surrounding buildings and would also be out of character for the area to the detriment of the local environment.
92. Development does not directly benefit the social and economic growth of the area.
93. Adverse effect on residential amenity in terms of noise, disturbance overlooking, loss of privacy, overshadowing etc.
94. Unacceptable high density and over development of the site involving loss of land and the open aspect of the neighbourhood entrance. Potential case of garden and land grabbing at the corner of Green Road.
95. Development will obstruct the view the main Camlough Road with may be potentially dangerous for traffic, increasing the risk of road traffic accidents.

96. Effect of the development on the character of the neighbourhood.
97. Design including bulk and massing of the development.
98. Over-bearing, out of scale and out of character in of its appearance compared with St Pauls, Dan Gregory's etc.
99. Loss of existing views from neighbouring properties.
100. Development would adversely affect road safety for the convenience of road users.
101. Increased parking issues. The current property M&M are causing a lot of traffic issues and inadequate parking.
102. Disturbance from HGVs entering and exiting the site.
103. Possible devaluation of neighbouring properties.
104. Loss of local sales and the potential closure of shops and businesses.
  
105. No need for the facility and should be in the town centre.
106. No proven retail deficiency and would adversely impact the vitality and viability of other retail facilities in the area.
107. No justification for allowing a change from small convenience stores to a large food retail store.
108. No evidence of sequential analysis before locating at this site. Proposal should be located elsewhere.
109. Nature and scale are unacceptable and does not respect the surrounding area.
110. Adverse impact on existing traffic conditions.
111. Traffic queuing and site being used as a short cut.
112. Protected routes policy presumes against the intensification of existing access onto protected routes and curtails new entrances onto protected routes.
  
113. Unnecessary for the community, adverse impact on traffic around the site causing double parking and lack of access to footpaths.
  
114. There is no case of need for this development at this location and should be directed towards a town or village centre.
115. There is no deficiency at this location and no evidence provided to confirm it will not impact on the viability or vitality of any other local centre including local retail offering.
116. No evidence of a town centre first approach or a sequential approach to the site selection. Presumption against this proposal.
117. No reference of the impact of the proposal on trade and turnover for both convenience and comparison goods traders, and impact on town centre turnover for all centres in the catchment.
118. No reference to impact of proposal on existing and committed and planned public and private sector investment and investor confidence in the town centres.
119. No reference of the impact of allocation of sites in the LDP Strategy
120. No evidence of impact on the vitality and viability of existing centres including consideration of local context.
121. No evidence cumulative impact, taking into account committed and planned development including local development plan commitments within the town centre and wider area.
122. No evidence of a review of local economic impacts.
123. Require verification the auto tracking manoeuvre us technically possible.

Letter of support from Giggles Early Years Ltd.

Letter sent regarding neighbour notification process by Dan Gregory on 31<sup>st</sup> July 2019 was responded to individually on 23<sup>rd</sup> August 2019. Copy of letter on file.

### **Consideration and Assessment:**

#### Banbridge Newry and Mourne Area Plan 2015

The site is located within the Settlement Development Limit for Bessbrook in the Banbridge Newry and Mourne Area Plan 2015. Bessbrook is defined within the Plan as a village and page 34 of the Strategic Plan Framework notes 'villages and local shops are important for meeting the daily needs of shoppers.

The site has not been zoned and therefore the Plan remains silent on the use. Decision making is therefore deferred to the retained policies as explored in further detail below.

#### Strategic Planning Policy Statement for Northern Ireland

Dealing firstly with the retail element of the proposal and in the absence of a retail policy statement, the SPPS is pertinent policy consideration for all retail applications. The site is located within the Settlement Limit for Bessbrook within unzoned land. The aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complimentary functions.

It is noted that Bessbrook which is defined as a village in the Area Plan does not have a designated town centre plan and therefore the sequential approach as prescribed in the SPPS cannot apply.

Section 6.278 is pertinent to the application which deals with proposals for shops in villages and small settlements. This paragraph states that proposals 'must be consistent with the aim, objectives and policy approach for town centres and retailing, meet local need (ie. Day-to-day needs), and be of a scale, nature and design appropriate to the character of the settlement.

Planning permission was granted on the site, on 11 April 2016, for the renewal of planning permission P/2008/1188/F for the demolition of existing building and erection of 3 No 3 food retail units to include associated site works, under P/2015/0127/F.

This was subject to a 5-year time condition. The formal approval notice specified a range of retail sales and ancillary storage in the context of Class A1 of the Planning (Use Classes) Order (NI) 2015. This application was received on 22.05.2019 which meant it was received whilst the previous approval was still extant. Substantial weight is therefore given to the previous history on the site bearing in mind there have been no significant changes in policy or site conditions since that approval.

I therefore conclude the principle of development has been established at this site by the previous approval and established use on the site and find no reason to diverge from that opinion.

The net retail floorspace on the previous application amounted to 363sqm. The proposed net retail floor space for the current application amounts to 280sqm. This obviously represents a reduction in net retail floorspace and is therefore not



considered fatal to the application. The remainder of the floorspace is dedicated to storage, ancillary accommodation and the extension of the childcare facility on the first floor.

The principle of the proposal, in terms of the retail element, has been established on the site by virtue of the previous approval and remains acceptable. The scale of the development in terms of its height is comparable to the previous approval. The previous approval amounted to 8.8m and 6.9m owing to the different roof heights along the building. The proposed building is 7m and therefore I find no reason for objection in terms of the height. In terms of the footprint the previous approval was approximately 525sqm whereas the proposed is 620sqm. The increase in the footprint of approximately 95sq m is considered against the demolition of the storage area to the rear of Giggles and the inclusion of the childcare facilities on the first floor. I consider the extra 95sqm of footprint development to be comparable to the previous approval and is acceptable. The finishes of the proposed development include a grey aluminium cladding system with stone cladding and dark grey aluminium windows and doors. Similar finishes are now found on many urban commercial premises and an improvement from the existing development on site. The stone cladding will help take the industrial look from the building and soften the impact from the critical views. Overshadowing and loss of light has been considered and given the previous approval as well as the spatial arrangement and separation distance to the nearest residential property I do not consider the proposal to represent a significant adverse impact. Residential amenity has been considered by Environmental Health who has confirmed it has no objections subject to compliance with the attached conditions. In an area where there is a mix of design types I consider the proposed finishes acceptable for the character of the area and site and in keeping with policy provisions within a Planning Strategy for Rural Northern Ireland and the SPPS.

#### Creche Facility

The creche extension is an extension of an existing facility, Giggles Early Years Ltd. Representation has been made to confirm they currently operate on a waiting list and do not have the physical capacity to meet the surrounding need for childcare. Development Control Advice Note 13 (DCAN 13) is helpful in determining such applications. Given the childcare facility which currently exists at this site, I consider the principle of the facility on the site to be established. I will focus my consideration on the acceptability of the extension to the existing facility.

The surrounding area can be described as mixed use. Whilst the scale will cater for more than 30 children the nearest childroom to No.88 Green Road is approximately 30m. This room has two windows and can accommodate 23 children. This is below the threshold of 30 where the DCAN notes there could be serious impact on residential amenity. I am also mindful of a funeral directors and limousine hire to the rear of No. 88. The other child minding rooms are to the front of the building with windows facing towards the Camlough Road and are less likely to cause disturbance to No. 88. The play area is approximately 55m from the rear of No. 88 and Environmental Health has raised no concerns.

Visually the facility will be housed within the larger development as explored above in this report. I do not consider the proposed design of the facility to have a detrimental impact on the surrounding area or environment and will in fact be an improvement to the existing site conditions.

### Planning Policy Statement 3

DFI Roads has considered the objections to the proposal, many of which relate to traffic, parking and sight lines and following a number of amended plans has no objections to the proposal subject to compliance with recommended conditions. On this basis, Planning is content with the proposed parking arrangements on site.

In terms of the Protected Route policy AMP 3 and the Clarification of policy AMP 3 - Access to Protected Routes is pertinent to the application. The site falls within 'other protected routes within settlement limits' and notes that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access where (a) access cannot be reasonably taken from an adjacent minor road.

The Camlough Road is a Protected Route. I note the previous application made provision for access onto the Camlough Road. The proposal intends to use that approved access arrangement. I consider the history material to the application and I also consider that the adjacent minor road (Green Road) could not reasonably be expected to take all the potential traffic from this site, particularly when considering the close proximity to the junction with the Camlough Road. On this basis I am content that the proposed access onto the Camlough Road is an acceptable arrangement.

### Parking Standards

The agent has outlined the parking requirements on the site layout Drawing Number 201 Revision C, a total of 33 car parking spaces. The retail floor area for the proposal amounts to 280sqm which, based on published car parking standards, requires a parking provision of 20 spaces. The total parking requirement for the creche facility, based on 85 children (9 spaces) and 1 member of staff per 8 children or 11 staff (4 Spaces) is 13 spaces taking the total parking provision for the site to 33 spaces. The Planning Department has considered these figures and is content the required parking provision has been met within the site.

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

Following consultation with DFI Rivers, the Department has confirmed that policies FLD1, 2 and 4 do not apply to the site.

#### Policy FLD3

The proposal does not meet the thresholds for a drainage assessment as confirmed by DFI Rivers and is therefore the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site. Developers are advised to obtain advice from competent, suitably qualified persons to assist them in determining the appropriate site and finished floor levels.

#### Policy FLD5

Dfi Rivers have received further information with regards to the condition assurance for the Camlough Impoundment, the information provided confirms the following:

The Dfi memo, in relation to 'development in proximity to reservoirs' dated 17th June 2019, paragraphs 40-41 deal with reservoir Condition Assurance requirements. Dfi Rivers are in receipt of information that satisfies the requirements of paragraph 40.

Accordingly, DfI Rivers would advise that the requirements of policy FLD 5 have been met.

Accordingly I consider the proposal in compliance with the SPPS and PPS 15.

#### Planning Policy Statement 2: Natural Heritage

The AONB designation stretches across the Camlough Road however whilst site splays will be within the designation, there is no new development that would prejudice or have a detrimental impact on the AONB and consequently there are no concerns with regard to PPS 2, policy NH 6.

Foul and surface water sewer available to service the proposal. Negative condition can be added to ensure connection is made.

#### Response to Objections

1. There is no legislative requirement or facility to note every change within an application. The notification reminds neighbours that new information / amended plans are available to view on the planning portal. Each material change or amendment to the planning application was neighbour notified. I do not consider the neighbour notification process has been prejudiced.
2. Service vehicles can enter and exit in forward gear.
3. There is no evidence to show the depiction submitted is inaccurate.
4. Delivery vehicles do not need to reverse into the site.
5. DFI Roads has confirmed it has no objection to the proposal.
6. The proposed fence between customer parking and deliveries will prevent the site being used as a rat run.
7. The hours of operation will be conditioned to ensure neighbouring amenity is not compromised. Environmental Health has no objections.
8. Parking is considered to be adequate to serve the proposal.
9. Environmental Health requested details of any noise making equipment to be on the facade of the building facing 88 Green Road. This is the critical elevation which was considered by EH and who subsequently confirmed no objection. Details of the plant are on the planning portal.
10. The SPPS does not require retail evidence for this type of application and the principle of development was previously established on the site with no material changes since.
11. The Planning Authority considered all planning history prior to making a recommendation. This is not a valid reason to withhold permission.
12. An existing access is in place and the access arrangements onto the Camlough Road have been previously approved.
13. Service access is taken from Green Road and DFI Roads has no objection to visibility standards shown.
14. DFI Roads has considered this and has no objection.
15. DFI Roads has considered this and has no objection.
16. DFI Rivers has confirmed a Drainage Assessment is not required.
17. There has been no evidence produced that traffic numbers are incorrect.
18. The agent has since served notice and filled in Certificate C. There is no requirement to submit the P2A form and the onus is on the developer to ensure they own and control all land necessary for the development. The agent has

- emailed to confirm notice was served to the correct address as opposed to the previous address as noted on the P1 form.
19. The proposal is not considered to set a precedent that is incompatible with planning policy. Each application will be assessed against its individual merits. It has not been demonstrated there is no realistic prospect that the applicant can secure the lands needed to carry out the development in full. The Council has no interest in the application.
  20. DFI Roads has considered the auto tracking and has no objection to the proposal. No demonstrable evidence has been produced to the contrary.
  21. DFI Roads has no objection to the proposal.
  22. Principle of development has been previously approved. SPPS does not require a statement of need for this type of application.
  23. The Council has previously approved retailing at this location.
  24. Whilst the autotracking shows vehicles coming from Camlough, this was by request and there is no reason to consider the vehicles could not travel from Newry direction using the same autotracking arrangement.
  25. The latest site layout drawing does not show the fence between the parking area and service area as removable. The fence can be negatively conditioned to see full details prior to commencement of development.
  26. DFI is content with the autotracking and Planning Authority has no evidence to dispute this position.
  27. DFI Roads has considered these matters and is content with the proposal.
  28. Bessbrook does not have a designated town centre and retailing was previously approved on this site. There have been no changes in policy or legislation since the previous approval on the site..
  29. Previous retail approval on site for a larger retail net floor area. Proposal would be conditioned for 'day-to-day needs'.
  30. DFI Roads has considered radius and sight lines and has no objection to the proposal.
  31. Autotracking shows vehicles turning in this area which is fenced off from the rest of the parking. The drawings are not considered misleading.
  32. There is no legislative basis for this.
  33. A feasibility study and impact analysis is not considered necessary or required by policy.
  34. Unfortunately, there is not the resources or availability of planning staff to visit all residents that do not have access to internet, for this application or any other application. Hard copies of plans can be requested from the Planning Office. The Planning Dept has fulfilled its prevailing statutory/legislative requirements for advertising and neighbour notification.
  35. Planning legislation does not prevent neighbour notifications being sent at holiday periods during the year.
  36. It is not clear how the proposal contravenes the Planning Act a, b and c.
  37. The description is not considered misleading and does describe the proposal accurately.
  38. The Council has no registered interest in the application as far as the Planning Department is aware.
  39. Environmental Health has been consulted and has registered no objections subject to compliance with conditions. If the developer fails to comply with these conditions, this will be a matter for our enforcement team to investigate. However, on the basis of the information available, the proposal is not considered to have an unreasonable impact on residential amenity.

40. Whilst the floor area is larger than the previous approval, the net retail floor space is reduced.
41. It is not the role of the Planning Authority to protect one person's interests over another. In terms of the displacement of trade, weight is given to the planning history on the site.
42. Proposal considered to comply with retail policy. It is not the role of the Planning Authority to protect one person's interests over another
43. Application can be conditioned to ensure day to day needs are only facilitated at the site.
44. Previous history given substantial determining weight.
45. The previous history has been given substantial determining weight.
46. Bessbrook does not have a designated town centre in the Area Plan.
47. Scale and nature of the development is similar to previous approval and nature can be conditioned to reflect day to day needs. No evidence produced to confirm this proposal would exceed the daily needs of the local population.
48. Similar proposal previously approved by Council, no material change in policy since this approval.
49. The Planning Department, having assessed all material considerations, is satisfied that the proposal fits with prevailing retail policy.
50. Site has previous retail approval and not considered incompatible with SPSS. There is no designated town centre within Bessbrook and therefore no policy provision to refuse.
51. It is not the role of the Planning Authority to protect one person's interests over another.
52. It is not the role of the Planning Authority to protect one person's interests over another
53. There is a previous approval on this site that was extant when this application was received. The LDP team will be aware of the long running history on this when considering the new LDP proposals. The proposal is not considered premature.
54. Any approval would be conditioned with the same use class as the previous approval - Class A1.
55. Agent not required by legislation to submit a P2a form.
56. Certificate of ownership has been filled in by the agent.
57. Whilst a more specific description could have been used this is not a reason to withhold permission and the purpose of certificate C has been satisfied.
58. DFI Roads has assessed the auto tracking and confirmed no objections.
59. No evidence produced confirming the traffic numbers are inaccurate.
60. There are two accesses proposed. It was not considered reasonable to direct all traffic to the Green Road bearing in mind the close proximity to the junction. The proposal as submitted meets and Protected Routes policy and DFI Roads are content with the proposal.
61. The Planning Dept is content the parking provision is adequate for the proposal.
62. DFI Roads have been made aware of all objections to the proposal.
63. The Planning Depts statutory obligations have been met in terms of neighbour notification and advertising.
64. The parking spaces provided are considered to meet the standards required for the proposal.
65. DFI Roads has considered visibility and has no objection.
66. DFI Roads has considered proximity to junction and has no objection.
67. Lorry drivers will be able to drive straight in with this proposal.

68. Traffic impact has been considered by DFI Roads with no objections noted.
69. Environmental Health has considered residential amenity and subject to conditions has no objection.
70. 11 Fearons Terrace notified most recently on 01.04.2021.
71. DFI Roads has considered traffic congestion. No evidence regarding pollution or structural safety of roads provided.
72. No evidence the proposal will add to increasing hardship in S Armagh area. It is not the role of the Planning Authority to protect one person's interests over another.
73. DFI Roads has considered traffic implications and the acceptability of Green Road. No objections have been raised.
74. It is not clear how the proposal would damage a close-knit community. DFI has considered the impact of the proposal on the road network and all related matters of road safety and is content with the proposal.
75. It is not the role of the Planning Authority to protect one person's interests over another.
76. The applicant has served notice on the landowner.
77. It is not the role of the Planning Authority to protect one person's interests over another.
78. It is not the role of the Planning Authority to protect one person's interests over another.
79. This is not a material consideration for this application.
80. The Planning Department notified all residents and objectors in line with its statutory requirements. All objectors were notified of any subsequent amendments, in line with standard practice. If an objector was not notified initially, this was due to the fact that their property did not meet the neighbour notification test.
81. Car parking provision has been considered above and is considered satisfactory for the proposal.
82. The issue of car parking illegally goes beyond the scope of this application and is a matter for the relevant authority.
83. DFI Roads has considered visibility and has no objection to the proposal.
84. If this is happening under the current site conditions, there is no evidence to suggest this will happen under the new layout.
85. If this is happening under the current site conditions, there is no evidence to suggest this will happen under the new layout.
86. If this is happening under the current site conditions, there is no evidence to suggest this will happen under the new layout.
87. DFI Roads has considered the proposal in light of traffic and has no objection.
88. The nature of the proposal is such that most traffic associated to the premises will be for short periods. With adequate parking provision there's no evidence material reason to refuse on these grounds.
89. Similar approval on the site before and Environmental Health has no objection.
90. It is not clear how the application contravenes the Planning Act.
91. Similar proposal approved previously with no significant material changes to site or policy.
92. Whilst this a subjective comment a similar proposal has been previously approved.
93. This has been considered in the report above.
94. Site is within the development and has had a similar approval on the site before. Not considered to be land or garden grabbing.

95. DFI Roads has considered visibility around the site and has no objection to the proposal.
96. I do not consider the character of the neighbourhood to be compromised by the proposal. Similar land uses exist in the immediate area.
97. The design and scale has been dealt with in the report above.
98. The design and scale has been dealt with in the report above.
99. Not a material planning consideration.
100. DFI Roads has considered Road Safety and has no objection to the proposal.
101. Parking is considered adequate. Current site conditions are completely different than proposed.
102. Any disturbance this might cause is not considered to be at an unreasonable level.
103. Not a material consideration.
104. Whilst no evidence has been shown to confirm this, it is not the role of the Planning Authority to protect one person's interests over another.
105. Site has previous similar approval with no significant material changes to policy or site conditions.
106. Site has previous similar approval with no significant material changes to policy or site conditions.
107. The conditions from the previous approval would be applied to the proposed development.
108. There is no town centre in Bessbrook additionally site history is a material consideration for this application.
109. Nature and similar scale has been previously approved at this site.
110. DFI Roads has no objection to the proposal.
111. The site cannot be used as a short cut due to the fence between commercial and public parking.
112. This has been considered in the report above.
113. These issues have been considered above.
114. This issue has been considered above.
115. There is no designated local centre in Bessbrook however planning history has been given determining weight.
116. This issue has been dealt with above.
117. Whilst there is no designated town centre, as noted above, it is not the role of the Planning Authority to protect one person's interest over another.
118. This is not a sustainable reason for refusal.
119. This is not a sustainable reason for refusal. Planning history is a material consideration for the application.
120. This issue has been dealt with above.
121. Whilst not a credible reason for refusal, the planning history is given significant weight for this application.
122. Whilst not a credible reason for refusal, the planning history is given significant weight to the application.
123. DFI Roads have reviewed tracking manoeuvres and have no objection to the proposals.

All objections have been given careful consideration however for the reasons noted above in this report, I recommend approval with the following conditions.

**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; 200 REV B, 201 REV D, 202 REV A, 203, 20-150-AT3 REV D, 20-150-AT2 REV D, 20-150-AT1 REV D and 20-150-AT4 REV D.

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

3. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 201 Rev D, 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 development 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 net retail floor space shall not exceed 280 sq. m measured internally.

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

6. The gross retail floor space of the development hereby approved shall be used only for the retail sale and ancillary storage of the items listed hereunder and for no other planning purpose, including any other purpose in Class A1 of the Schedule to the Planning (Use Classes) Order (NI) 2015:-

- (a) food, drink, alcoholic drink;
- (b) tobacco, newspapers, magazines, confectionery;
- (c) stationary and paper goods;
- (d) toilet requisites and cosmetics;



- (e) household cleaning materials; and
- (f) other retail goods as may be determined in writing by the the Planning Authority as generally falling within the category of 'convenience goods'.

Retail services for this purpose are hereby defined as;

- (a) a post office;
- (b) for the sale of tickets or as a travel agency;
- (c) for hairdressing;
- (d) for hiring out of domestic or personal goods or articles; or
- (e) for the reception of goods including clothes or fabrics to be washed, cleaned or repaired either on or off the premises;
- (f) where the service is to visiting members of the public as may be determined in writing by the Planning Authority as generally falling within the category of 'retail service'.

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

7. No retailing or other operation in or from any building hereby permitted shall become operational until hard surfaced areas have been constructed in accordance with the approved drawing 201 REV D to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

8. The retail units hereby permitted shall not be open to customers outside of the following hours of 7am to 11pm, Monday to Saturday and 7am to 8pm on Sundays.

Reason: To safe-guard the living conditions of residents in adjoining and nearby properties.

9. Deliveries of goods shall only be received between 7:30am and 7pm daily.

Reason: To safe-guard the living conditions of residents in adjoining and nearby properties.

10. All ventilation, air conditioning and refrigeration units shall be located on the building facade facing North East and not on the rear facade.

Reason: To safe-guard the living conditions of residents in adjoining and nearby properties.

11. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW).

Reason: To ensure protection to the aquatic environment and to ascertain that a feasible method of sewage disposal is available at the site.

12. The development hereby permitted 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.

13. The development hereby permitted shall not be occupied until surface water drainage works on-site and off-site have been submitted, approved and constructed by the developer and the relevant authority.

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

14. Prior to the commencement of development details of the internal fence and treatment for all new boundaries of the site shall be submitted to and agreed in writing by the Planning Authority.

Reason: Orderly control of development

**Case Officer:**

**Authorised Officer**

- This application has been recommended for approval, in the face of significant local opposition. Approval has been recommended due to a catastrophic misunderstanding or misapplication of policy. On the basis of the misapplication of policy (the Strategic Planning Policy Statement / SPPS) the planning committee is not being presented with the proper facts of the case, and the reality is that the application departs from policy so significantly that permission must be refused.
- Officers' (incorrect) assumption is that since Bessbrook does not have a designated town centre, the requirement to follow a town-centre approach does not apply. In actual fact, the SPPS confirms that its approach in villages and small settlements (which do not have designated centres) is exactly the same as that for towns and cities. Accordingly, the town-centre first approach clearly applies. As does the requirement to take a sequential approach. As does the requirement to provide an assessment of "need" to justify new retail development. All of which have been overlooked
- Officers are guided by the principle that the planning system does not serve to protect the rights of one private citizen over another however this has been at the expense of the long-established strategy for retail activities i.e. that there is always a requirement to demonstrate need; there is a town-centre-first approach; and retail applications are supposed to take a sequential approach. Importantly, an assessment of need is required to protect the vitality and viability of existing centres, so the planning department wrongly believes that it is being asked to protect the interests of an adjacent business owner but it is in fact being asked to take steps to protect the vitality and viability of all businesses in the centre of Bessbrook and indeed Camlough.
- The planning department has attached too much weight to the fact there was a previous retail approval on the site, because it has failed to differentiate between the type of retail unit that was approved (3 no. small retail units with little ancillary storage) and one large retail food store with significant ancillary stores.
- The crux of the failings, as regards retail policy, are as follows:
  - The applicant has not followed a town-centre-first approach;
  - There has been no application of a sequential test by the planning authority;
  - There has been no assessment of need (for this retail facility);
- **SPPS 6.271** *The regional strategic objectives for town centres and retailing are to:*
  - *secure a town centres first approach for the location of future retailing and other main town centre uses;*
  - *adopt a sequential approach to the identification of retail and main town centre uses in Local Development Plans (LDPs) and when decision-taking*

**These Policy requirements have been ignored by the planning department. The proposal is out-of-centre.**

- **SPPS 6.272** *The following strategic policy must be taken into account in the preparation of LDPs and in the determination of planning applications.*
- **SPPS 6.273** *Planning authorities must adopt a town centre first approach for retail and main town centre uses.*

**This Policy has been ignored.**

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

**This confirms that the planning department is wrong in setting aside the SPPS' policies just because there is no designated centre.**

- **SPPS 6.279** *Retailing will be directed to town centres – This policy directive has been ignored.*
- *All policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment – This policy requirement has been ignored and the planning department wrongly treated this as if it were being asked to protect one business over another.*

- **SPPS 6.280** A sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date LDP – **This test has not been applied**
- **SPPS 6.281** Planning authorities will require applications for main town centre uses to be considered in the following order of preference (and consider all of the proposal's catchment): primary retail core; town centres; edge of centre; and out of centre locations, only where sites are accessible by a choice of good public transport modes.  
**The application has not been considered in this order.**
- **SPPS 6.282** In the absence of a current and up-to-date LDP, councils should require applicants to prepare an assessment of need which is proportionate to support their application. This may incorporate a quantitative and qualitative assessment of need taking account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites.  
**The Council has, wrongly, failed to require the applicant to provide this information. Given this void, the application cannot meet policy.**
- The Council finds it significant that there is a previous approval on the site. However, not only is that approval materially different, but critical inspection of that approval shows that cognisance was not shown to the individual criteria of the SPPS' retail policy. All that was stated was that there was no significant change since a previous approval was granted. Given the previous approval is now being called into question, because when that application was granted the Council did not demonstrably assess the application against the SPPS' retail policy, the Council can no longer rely upon the previous approval now as a means of absolving itself from any critical assessment for the purposes of the SPPS' retail policies of promoting a town-centre-first approach, applying sequential tests, or requiring an assessment of need for all applications, especially those which cater for more than what the SPPS provides for in villages and small settlements, and especially those that are predicated upon previous approvals granted without any critical appraisal of the SPPS' policies.
- Officers feel they have the power to restrict this permission to "day-to-day" trade. That is a gross simplification. It takes no cognisance of the fact the applicant's plans expressly label the retail unit as a food retail store, which is contrary to planning policy for villages and small settlements. Officers' logic ignores the size of the retail unit's ancillary storage facilities. What is before us is so far removed from a day-to-day retail store that approving the application as if it were a day-to-day store would be so irrational the decision would be unlawful.

#### **Other Omissions:**

- A drainage assessment has not been requested even though more than 1000m<sup>2</sup> of buildings / hard surfacing is proposed. Officers failed to look beyond DfI Rivers's consultation response and did not question why Rivers Agency felt a Drainage Assessment was not required;
- A Transport Assessment Form is normally required where more than 5000m<sup>2</sup> of floorspace is proposed. The Planning department has failed to ask for one and has relied upon DfI Roads' consultation response without looking into this matter;
- The principle of access onto a protected route was accepted because it wrongly relied upon the premise there is an existing access. There is not in fact an existing access – there is a parking bay for 6-7 cars, adjacent to the road and it is not in fact a through access, so the application of Protected Routes policy is incorrect.
- Officers accept the applicant's version of low traffic numbers without a TAF. The position is contradictory as it states that Green Road could not reasonably take all the traffic associated with this development (which is required under protected routes policy). This implies that there will be a large volume of traffic, so much that Green Road could not handle it. But this contradicts the impression of a low traffic volume that is relied upon by planners and DfI Roads.

There are a number of other failings but they are so extensive they cannot all be summarised within this 2-page submission.

Speaking Rights Request - Planning Committee 29 June - Item 7 LA07/2019/0868/F

Dear Sirs,

I refer to the above planning application which is due to be discussed at planning committee scheduled on the 29 June 2022.

May I formally request speaking rights for Mr Colin Dalton (Gray Design - lead agent and architect) and Mr Thomas Bell and Ms. Hayley Wilson (the applicant's planning consultants) ahead of planning committee to speak in support of the recommendation to approve.

 **Clyde  
Shanks** Hayley Wilson  
Senior Planner



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1009/O    **Date Received:** 26.06.2019

**Proposal:**        Redevelopment of existing residential site

**Location:**        Residential development at 113 South Promenade, Newcastle

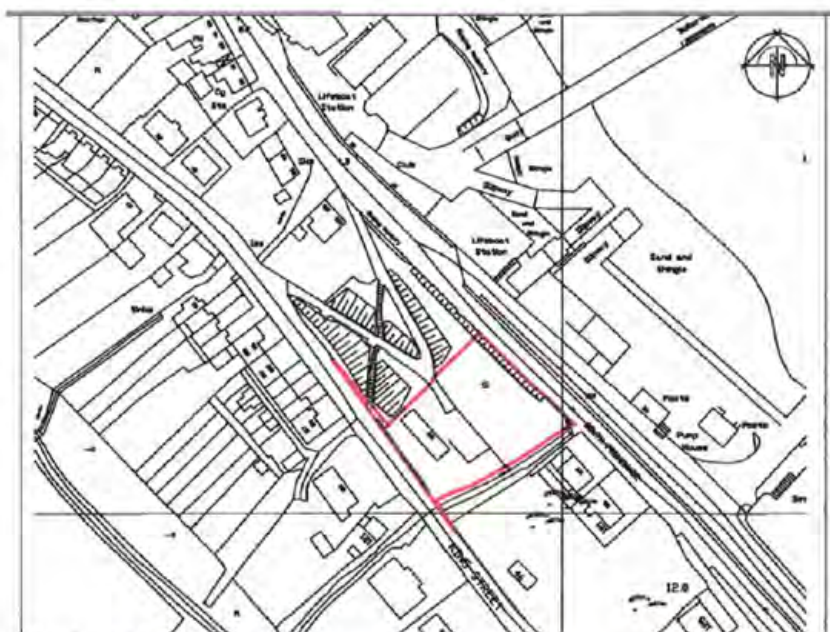
### **1.0    SITE CHARACTERISTICS & AREA CHARACTERISTICS:**

The application site is located approximately 0.5 miles from Newcastle Town Centre along the western side of South Promenade (a Protected Route,) in an elevated location overlooking Newcastle Harbour to the east, with a backdrop of forest / Mourne Mountains further west. This area is Designated as an Area of Townscape Character and Area of Outstanding Natural Beauty.

The site extends between South Promenade to its eastern boundary and King Street to its western boundary, whilst an existing watercourse adjoins the site to the south, connecting into the Harbour area. The site is steeply sloping along an embankment and is largely overgrown and inaccessible by foot, with an existing vehicular access off King Street boarded up.

There is an existing dwelling located in towards the rear / western portion of the site close to King Street. The existing dwelling appears as a dwelling of traditional form, sitting below the road level of King Street, with corrugated roof only visible. Views of the existing building are also limited from South Promenade, owing to change in levels across the site and the site being largely overgrown

The surrounding area is primarily residential and recreational in character; with the site located adjacent to an area of existing amenity open space and recreation located directly north of the site, including a walking path which connects South Promenade to King Street linking to 'The Granite Trail' walking trail, located opposite and west of the site. Surrounding residential properties vary in scale, massing and form, with lower density development to the south and east of the site and higher density (including terraces and apartments) to the north and west of the site.



Site Location Plan



Aerial Photograph (extracted from Design and Access Statement)

## 2.0 RELEVANT PLANNING HISTORY:

### Site History

R/1977/0420 - Bogey hill, Newcastle - passive recreation – PERMISSION GRANTED 02.03.1978

R/1984/0067 - Adjacent to 105 south promenade Newcastle. – dwelling – PERMISSION REFUSED 11.09.1984 (refused on access / road safety)

R/1983/0368 - Adjacent to 105 south promenade, Newcastle - erection of dwelling – PERMISSION REFUSED 11.11.1983 (refused on access / road safety)

### 3.0 PLANNING POLICIES & MATERIAL CONSIDERATIONS:

- The NI Regional Development Strategy 2035 (RDS)
- The Planning Act (Northern Ireland) 2011
- The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017
  
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Ards and Down Area Plan 2015 (ADAP)
- A Planning Strategy for Rural Northern Ireland (PSRNI)
  
- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- PPS6 Addendum – Areas of Townscape Character
- PPS6 – Planning Archaeology and the Built Heritage
- PPS7 – Quality Residential Environments
- PPS7 Addendum – Safeguarding the Character of Established Residential Areas
- PPS8 – Open Space, Sport and Outdoor Recreation
- PPS12 – Housing in Settlements
- PPS15 (Revised) – Planning and Flood Risk
  
- DCAN8 – Housing in Existing Urban Areas
- DCAN15 – Vehicular Access Standards
- DOE Parking Standards
- 'Creating Places' & 'Living Places' Design Guides
  
- Third party representations and objections

### 4.0 CONSULTATIONS:

DAERA Coastal Development (25/07/2019) – Marine and Fisheries Division has considered the impacts of the proposal and on the basis of the information provided, refers to standing advice and informatives.

DAERA Water Management Unit (25/07/2019) - Refer the Planning Authority to DAERA Standing Advice, which includes relevant conditions and informatives.

DAERA Natural Environment Division (NED) (final response 23/02/2022) - Following provision of additional ecological information and amended information, NED has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, is content with the proposal subject to recommendations and informatives.

DfC Historic Environment Division (HED) Historic Monuments (20/08/2019) - Has considered the impacts of the proposal and is content that the proposal satisfies PPS 6 policy requirements, subject to the completion of a Level 3 Historic Building Survey.



DfC Historic Environment Division: Historic Buildings (HED:HB) (20/08/2019) - Has considered the impacts of the proposal on the buildings and on the basis of the information provided, advise it is unable to provide a substantive response due to lack of information provided. HED:HB request consultation on any further application on this site and advise it will expect any proposal to be appropriately scaled so as not to impact long views/wider context of listed buildings.

DfI Rivers Agency (23/08/2019) – Policies FLD2 and FLD3 are applicable:

- A working strip of minimum 5m width is required between development and King Street Stream which flows along the south-eastern site boundary;
- A Drainage Assessment is required if additional hardstanding exceeding 1000m is proposed

Shared Environmental Services (SES) (29/11/2019) - Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the necessary mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site. Mitigating conditions attached.

NI Water (22/08/2019) – Public water supply and foul sewers available, with capacity to serve the development at Newcastle WwTW. No surface water sewer available, therefore drainage details will be conditioned.

## 5.0 OBJECTIONS & REPRESENTATIONS:

This application was advertised initially in local papers on 10<sup>th</sup> July 2019 and the statutory advertising period subsequently expired on 24<sup>th</sup> July 2019.

14 neighbouring properties in total have been notified of the application by letter, with the statutory notification period also expiring on 24<sup>th</sup> July 2019. It is noted that several letters have been returned by Royal Mail; including letters from No's; 46 117, 121 and 125 King Street.

25 objections have been received at the time of writing this report (April 2022) from the following addresses:

- King St – No's 54A, 55, 75 (x2,) 77, 85, 89, 93, 101-103 (x 2,) 105-107, 109 (x 2,) 111, 119, 123, 125A 131, 139,
- South Promenade No's – 103 (x 2,) 105 (x2,)
- Coastguard Villas – No.1 (x2)

The above includes 2 no. petitions of objection, with 15 no. identical objections and 8 no. identical objections submitted, signed by residents of the above properties. In addition to these petitions, 2 no. separate letters have been submitted from No's 101-103 King Street and 109 King Street.

The following list is intended as a summary of the material planning issues raised within the submitted objections and does not preclude the detailed submissions which are placed on file for full consideration:

### Access / Road Safety and Pedestrian Movement /Safety

- *Impact on King Street from increased traffic flows (exacerbating existing parking and traffic flow issues and safety concerns arising from informal 'turning circle' at the access road leading to No's 103-105, increasing congestion problems including buses unable to pass,*
- *Impact on pedestrians unable to access safe pavements as a result of vehicles parking on hill verges – including at Bogey Hill amenity area*
- *Application fails to demonstrate the traffic impact on King St and it has not been demonstrated that the road onto South Promenade cannot be used for access in lieu of King Street*
- *Impact from construction vehicles in an area with no space available*
- *Residents along King Street already struggling to get parking spaces;*
- *Impact on the steps and footways of Bogey Hill – including concerns around using this area during and after construction including for vehicles;*
- *No footways in the area, unsafe facilities for pedestrians*
- *Bogey hill is the only safe place for children to play along King St, if this is taken from them where do they go?*

**The proposal seeks to alter the existing access off King Street to serve the residential development. The above comments are considered and in consultation with DfI Roads, the Planning Authority are advised that the proposal is compliant with road safety requirements as set out in the relevant policies (including PPS3, DCAN15.)**

**The issue of parking is noted. Siting and design are matters left reserved; therefore car parking provision will be required to be assessed in detail through a Reserved Matters application to ensure that there is sufficient parking within the application site to serve the proposed development in accordance with PPS3 and DOE Parking Standards.**

### Natural Heritage

- *Impact on the flora and fauna, with foxes, badgers, deer, birds, bats all in the area and who may reside on the site;*
- *The site contains natural mature woodland of important habitat in addition to a stream to the east supporting local wildlife. The proposed scale and density of development and impact on natural environment is concerning.*

**Throughout the course of this application, ecological surveys and additional information were required to fully assess natural heritage matters, as considered by PPS2. In consultation with DAERA's Natural Environment Division, the principle of residential development is acceptable, however this is conditional a number of natural heritage**

requirements being met including: the provision of a protected species licence from NIEA prior to any works being carried out, in addition to compensatory habitat measures being incorporated into the detailed scheme to protect a known protected species, the provision of a detailed Lighting Plan at Reserved Matters stage to assess the proposed light spillage and impact on biodiversity, the provision of a Construction Method Statement at Reserved Matters stage to detail all mitigation and avoidance measures to protect the aquatic environment, the provision of a 10m buffer from the watercourse to protect designated sites from any contamination from construction, the provision of a long term buffer to the watercourse (minimum 5m) from all development to ensure long term access and maintenance to the river. On the basis of the advice from DAERA NED, who are the statutory consultee in this regard, the proposal is considered acceptable in principle to Natural Heritage requirements, conditional to all detailed requirements being addressed through a Reserved Matters application.

#### Character of the Area

- *Adverse impact on AONB – e.g. through use of infill, retaining walls for dwellings to sit level with King Street (inadequate detailing)*
- *The Granite Trail is a pedestrianised walking trail of historic importance to the town and central to the character of the harbour area. To build a modern multi-storey high density development immediately adjacent to the Bogie Hill would be an act of extreme folly;*

The Planning Authority has noted the concerns regarding the indicative site layout in terms of the impact of the proposal on the character of the area including AONB and ATC designations and agree that the indicative layout proposed is unacceptable in its current form and is not acceptable in the wider context of the designation. Whilst redevelopment for the purpose of a residential use is acceptable in principle, the indicative layout plan will not form part of any planning approval this will be reinforced by way of a planning informative to advise the developer that the indicative layout is not acceptable. Design is a matter left reserved at this stage however and it will fall to be considered further through a Reserved Matters application, in consultation with Historic Environment Division.

#### Archaeology

- *It is likely that archaeological remains will be encountered during the course of development (reference to Policy NE19 AAP)*

HED Historic Monuments (the competent authority in this regard) has assessed the proposal and is content that the proposal satisfies PPS 6 policy (including archaeological) requirements, subject to the completion of a Level 3 Historic Building Survey being carried out. This will be dealt with by way of necessary planning condition/s.

### Non-material planning issues

The following issues below are non-material planning issues and cannot be given any determining weight in this assessment:

- *Impact on views of residents*
- *Impact on residential values*
- *Concerns regarding structural damage to neighbouring properties and permanent de-stabilisation.*
- *Concerns regarding impact on combined sewer and storm drainage systems on Bogie Hill*
- *Impact on peaceful use / enjoyment of home, including during construction*

**In summary and in giving determining weight to the above, the applicant has been required to provide additional information in relation to ecology to ensure the necessary requirements are met. In consultation with the relevant authorities, road safety, natural heritage, archaeological requirements have been fully considered and addressed, subject to the necessary planning conditions being met. Concerns in relation to character of the area and residential amenity and parking will fall to be given detailed consideration at Reserved Matters stage following receipt of a detailed proposal.**

## **6.0 CONSIDERATION AND ASSESSMENT:**

### **6.1 The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017**

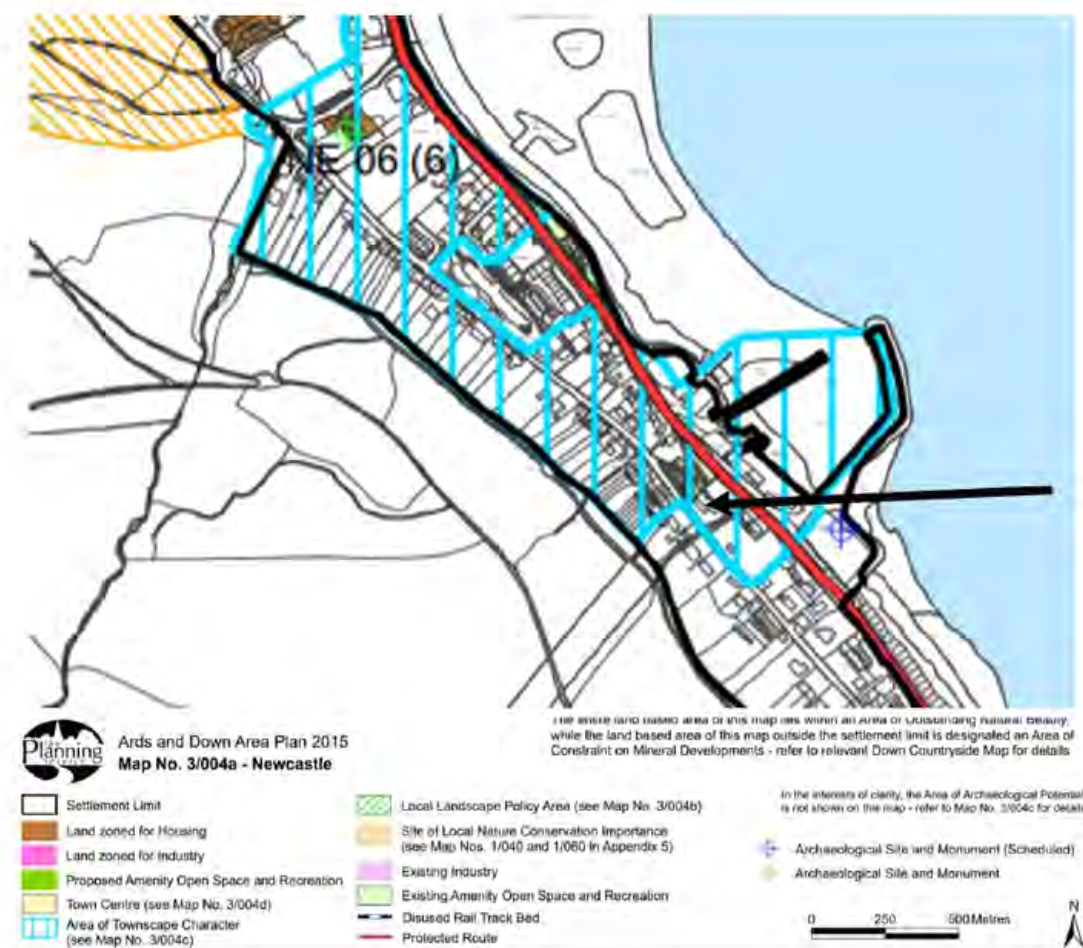
The proposal meets the description listed in Schedule 2 of the above regulations and is located within a sensitive area (Area of Outstanding Natural Beauty) although does not fall within the relevant threshold (column 2) of Schedule 2 as the site area is less than 0.5ha. As proposals also represent a redevelopment of a formerly developed site whereby there is no likely significant environmental effects and therefore an Environmental Statement is not required.

### **6.2 RDS and SPPS**

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

### 6.3 Ards and Down Area Plan 2015 (ADAP 2015)

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 inside the settlement development limit of Newcastle (NE01) on un-zoned land that has previously been developed for residential use. The proposed land use is in keeping with existing built form found at this location and does not conflict with the area plan in terms of the development principle.

Policy NE18 of The Plan (The Harbour, The Rock and King Street Area of Townscape Character) is relevant to this assessment and directs that all new development in the harbour area should reflect its scale, its maritime and local vernacular and style in form, detail and materials, and be compatible in terms of use. The largely Georgian buildings forming the cluster on either side of the coast road are integral to the harbour scene but of more sophisticated architectural style. They are a significant group and emphasis should be placed on conservation of the existing fabric and character with particular attention given to massing, scale, detailing and materials. The proposed residential

development is acceptable to NE18 in terms of a compatible use. In the event of an approval, the assessment of scale, form, design, and detailing will be considered in more detail through a Reserved Matters application.

Policy NE14 (Apartments) sets out detailed requirements for apartment development in Newcastle. The proposal incorporates terraced townhouse style properties, therefore NE14 is not applicable; however if the design should be amended to incorporate apartments, the plan requirements of Policy NE14 will be engaged.

The proposal is acceptable to Plan requirements in principle, subject to Policy NE18 being met through an appropriate detailed scheme.

In addition to the Plan requirements considered above, the impact of the proposal on additional designations and constraints including: Residential amenity, Area of Townscape Character, Area of Outstanding Natural Beauty (AONB,) Listed Buildings / Structures, Archaeology, Flood Risk, Road Safety and Natural Heritage, is further considered in detail below, in accordance with the SPPS and Prevailing Planning Policy requirements.

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

- 6.4.1. The SPPS sets out core planning principles and the need to achieve sustainable development. Of relevance to this application are the aims of supporting good design and positive place making while preserving and improving the built and natural environment, (Para 3.3) It is considered that the proposal is in accordance with the principles set out in the SPPS and other policy considerations for the reasons set out below.

#### **6.5 SPPS and PPS2: Natural Heritage**

##### Policy NH1: European and Ramsar Sites and NH3: Sites of Nature Conservation Importance (National)

The potential impact of this proposal on European Designated Sites has been assessed through a HRA screening. And following necessary consultation with Shared Environmental Services (SES) the application has been considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by SES on behalf of Newry, Mourne and Down District Council, which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.

Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided necessary mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site (including uphill Eastern Mournes SAC and downhill and hydrologically connected Murlough SAC.)

The necessary mitigation measures are detailed by way of planning conditions at the end of this report.

DAERA's Natural Environment Division (NED) has considered the relevant information provided in addition to the nature of the development, the pollution prevention measures outlined in the Construction Method Statement (26/06/2019) and the distance to the designated site of c.200m, advise that there will be no likely significant impact on Murlough ASSI / SAC. Provided appropriate pollution prevention measures are implemented during the construction and operational phases of the development, the proposal is unlikely to have a significant impact on this designated site.

#### Policy NH2: Species Protected by Law and NH5: Habitats, Species or Features of Natural Heritage Importance

NED raised concerns initially and in the absence of further information, advised the proposal would be contrary to PPS2 in that the development would be likely to harm a protected species and insufficient information has been submitted to establish otherwise. In addition, NED has provided advice in relation to the existing watercourse (priority habitat and wildlife corridor,) wild birds and potential invasive species on site (The PEA noted that *Rubus* spp. was identified on the site, and NED sought clarification from the ecologist if this was Salmonberry.)

Since NED's initial comments, further ecological information has been submitted, including; a PEA, Ecological surveys, clarification that the mature Sycamore tree noted on the site to have a bat roost is to be removed to facilitate the development, with proposed bat boxes detailed to compensate for this loss (drawing provided with proposed bat box locations and specifications provided,) clarification from Blackstaff Ecology that the site contained Bramble (*Rubus fruticosus* agg.) and no Salmonberry was found during a further ecological inspection of the site.

NED having assessed all of the information submitted, consider that the proposal is unlikely to have a significant impact on the protected species provided the proposed measures are followed and conditions are attached to any decision notice to ensure that a Wildlife Licence is granted prior to any works on the building and trees with known bat roost. NED also advise that on the basis of the submitted information, it is unlikely that there will be any impacts on other protected species, however, depending on the timeframe to Reserved Matters, further surveys may be required. Upon consideration of the proposal,

Finally, NED also considers that the proposal is unlikely to have a significant impact on other natural heritage interests, subject to necessary recommendations, as detailed in the conditions and informatives further below and on the respective decision notice.

#### Policy NH6: Areas of Outstanding Natural Beauty (AONB)

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 all the criteria as set out in policy NH6 are met. As this is an outline application, details

with regard to design, size, scale and layout are matters reserved for further assessment through a Reserved Matters application.

#### **6.6 SPPS, PPS3: Access, Movement and Parking, DCAN15: Vehicular Access Standards and DOE Parking Standards**

The proposal includes altering of the existing access off King Street to serve the proposed development. DfI Roads initially sought additional information in the form of:

1. Existing levels of the site for the proposed entrance. Existing and proposed.
2. A 1/500 concept plan for the proposed development.

Having been provided with the above, DfI Roads has advised that there are no objections to the proposal, subject to the necessary access conditions being met. As an outline application details regarding layout and parking will be matters reserved for detailed stage. These details will form part of a planning condition for a scale plan and accurate site survey to be submitted at detailed stage.

DfI Roads has considered the third party objections uploaded at this time (13 January 2020) and offer no objection to the proposal on the basis of road or pedestrian safety. Whilst the third party concerns are noted, the Planning Department must give the determining weight to the advice of DfI Roads who are the competent authority in relation to such matters.

#### **6.7 SPPS and PPS6 Addendum: Areas of Townscape Character (ATC1: Demolition Control in an ATC, ATC2: New Development in an ATC)**

The site is located within The Harbour, The Rock and King Street ATC, as identified by NE18 of The ADAP 2015. The Harbour, by virtue of its location and function, has a singular sense of place quite distinct from its immediate environs. King Street also has a distinct sense of place, with buildings and groups of buildings which display a distinctive character. The older buildings and groups are dispersed with more recent developments inserted into the spaces between.

Under Policy ATC1, there is a presumption in favour of retaining any building which makes a positive contribution to the character of an ATC and demolition of an unlisted building in an Area of Townscape Character will normally only be permitted where the building makes no material contribution to the distinctive character of the area. Where permission for demolition is granted, this will normally be conditional on prior agreement for the redevelopment of the site. The key considerations for this policy test are:

- the contribution of the building to the ATC and the effect of its demolition on the distinctive character of the area; and
- whether the quality of proposals for the redevelopment of the site will maintain or enhance the distinctive character of the area.





Views of site and building to be replaced from King Street showing No.113 South Promenade



Views of site from South Promenade

The existing building on site to be replaced is considered a non-listed vernacular structure (when considered against the characteristics set out in PPS21 Annex 2 - Vernacular Buildings,) which is present on the 1<sup>st</sup> and 2<sup>nd</sup> edition Ordnance Survey maps (c. 1830's and 1850's respectively). The site is largely overgrown, with the building screened from view from South Promenade and its roofline visible from King Street, set below road level. Arguably the building does not make a material contribution to the character of the ATC given both its current condition and positioning away from view. On this basis, its demolition would be considered to have little effect on the distinctive character of the ATC, conditional to the prior agreement of redevelopment of the site (including a survey of the existing building to be carried out – see PPS6 assessment.) On this basis, the proposal in principle, is considered acceptable to ATC1, subject to the necessary conditions being met.

Under Policy ATC2, development proposals in an ATC will normally only be permitted where the development maintains or enhances its overall character and respects the built form of the area. This policy also requires that any trees, archaeological or other landscape features which contribute to the distinctive character of the area are protected and integrated in a suitable manner into the design and layout of the development. This element of the policy can be further addressed on submission of detailed drawings at reserved matters stage.

To comply with NE18 of ADAP 2015, to sustain and enhance the distinctive character and sense of place generated by the harbour and its surroundings, new development should reflect its scale, its maritime, local vernacular and style in form, detail and materials, and be compatible in terms of use. Emphasis should be placed on conservation of the existing fabric and character with particular attention given to massing, scale, detailing and materials.

Within the King Street area, development will also be expected to conform to the prevailing residential use and applicants will be expected to demonstrate how development proposals respect the overall character and topography and preserve the local environmental quality.

As this is only an outline application, the assessment of these matters are limited, however it is accepted that the proposal in principle, presents the opportunity to maintain or enhance the ATC and the opportunity for betterment in accordance with ATC2. This will be conditional to the requirements of both ATC2 and NE18 being fully met through a detailed proposal and Reserved Matters Application.

#### **6.8 SPPS and PPS6: Planning Archaeology and the Built Heritage (Including BH11: Development Affecting the Setting of a Listed Building)**

The application is in proximity to Widows Row (Grade B2) which is of special architectural and historic importance, protected by Section 80 of the Planning Act (NI) 2011.

Historic Environment Division, Historic Buildings (HED:HB) has considered the impacts of the proposal on the buildings and on the basis of the information provided, advise it is unable to provide a substantive response due to lack of information provided. HED:HB request consultation on any further application on this site and advise it will expect any proposal to be appropriately scaled so as not to impact long views/wider context of listed buildings. This will need to be assessed in detail in consultation with HED, following receipt of a detailed proposal.

Historic Environment Division: Historic Monuments (HED: HM) has considered the impacts of the proposal and is content that the proposal satisfies PPS6 policy requirements, subject to the completion of a Level 3 Historic Building Survey. This matter will be dealt with by way of planning condition as detailed at the end of this report.

#### **6.9 SPPS and PPS12: Housing in Settlements (PCP2, PCP3) PPS7: Quality Residential Environments (QD1,) PPS7 Addendum: Safeguarding the Character of Established Residential Areas (LC1, LC2,) PPS8: Open Space, Sport and Outdoor Recreation (OS2,) PSRNI (SP18 and DES2), DCAN8: Housing in Existing Urban Areas and Creating Places**

PPS12 - Housing in Settlements

Planning Control Principle 2 - Good Design

As an outline application details with regard to design and layout will be matters reserved for detailed drawing stage.

### Planning Control Principle 3 Sustainable form of development

The site is contained within the settlement limit of Newcastle on lands which have been previously developed for residential use. The redevelopment residential proposal within this urban setting is encouraged and is in accordance with sustainable forms of development outlined within PCP3.

### DES2, SPPS, PSRNI, PPS 7- Quality Residential Environments, Policy QD1 PPS7 (Addendum)

Policy QD1 of the PPS7 states amongst other things that planning permission will only be granted for new residential development where it is demonstrated that the proposals will create a quality and sustainable residential environment drawing upon the positive aspect of character and appearance of the surrounding area.



The above Indicative Site Layout Plan (Drawing No. A3-04) has been submitted for information purposes only at this stage, but is fully considered: In its current form, the indicative proposal fails to meet the above policy requirements and falls short of providing a high quality residential layout which meets the requirements of policy QD1.

This includes (but not limited to) concerns in relation to: layout generally, large areas of hardstanding, proposed density (overdevelopment,) positioning and amount of private amenity space provision for dwellings (limited garden depths for each dwelling and restricted plot sizes will not allow for future proofing,) car parking provision, relationship of dwellings 1-5 to the Road and harbour (and their contribution to ATC character,) relationship of units 4 – 12 to the SE

boundary and King Street Stream (10m construction buffer required to meet HRA requirements and a 5m maintenance strip required to meet PPS15 (revised) FLD2.) limited details regarding retention of landscaping and proposed landscaping.

Whilst the principle of residential re-development is acceptable given the site's former use as well as its location within the settlement limit of Newcastle, which is in accordance with principle with the area plan, the current conceptual plan is unacceptable for the reasons set out above. These concerns would also fail to address the detailed requirements of the plan in relation to the ATC, as outlined under NE18; this will be further reinforced by an informative outlining that the indicative layout is unacceptable and should not be presented as part of future consideration for redevelopment of this site.

Matters relating to house types, design and layout can be reserved for detailed drawing stage with these issues outlined above resolvable through a careful design and layout. This does not preclude the development from adhering to the provisions of policy through a refined design and layout submission at reserved matters / detailed drawing stage.

#### **6.10 SPPS and Revised PPS15: Planning and Flood Risk (FLD2: Protection of Flood Defence and Drainage Infrastructure, FLD3: Development and Surface Water)**

King Street Stream, which is designated under the terms of the Drainage (Northern Ireland) Order 1973, flows along the south eastern boundary of the site. DfI Rivers Agency advise that in accordance with 6.32 of this policy, it is essential that a working strip of minimum width 5m is retained. This working strip is required to be shown on a site layout drawing and protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Access to and from the maintenance strip should be available at all times. As this is an outline application, a negative condition will be included to ensure that these requirements are met through the detailed proposal to be submitted.

The proposal seeks to discharge surface water via existing storm drains; however NI Water advise that there is no public water surface sewer available to serve the proposal. The developer will be required to confirm that they have consent from either NIW for the requisition of a new sewer or alternatively consent from DfI Rivers to discharge water into the nearby watercourse.

In accordance with revised PPS 15, Planning and Flood Risk, FLD 3, Development and Surface Water (Pluvial) Flood Risk outside Flood Plains, a Drainage Assessment is required if additional hard-standing exceeding 1000m<sup>2</sup> is to occur. Detailed plans are not currently available to assess whether a DA is required, however when queried, the agent has confirmed that the proposed hard standing will be below this threshold. A planning condition will be necessary however to ensure that in the event that these thresholds are triggered, a Drainage Assessment is provided and further consultation with DfI Rivers undertaken to ensure FLD3 requirements are met.

### 6.11 SPPS and Residential Amenity

Paras 4.11 and 4.12 of the SPPS highlight the role the Planning Department has in safeguarding residential amenity when assessing development proposals. The indicative layout presents concerns in terms of the amenity of occupants of the proposed dwellings. It is noted that this plan has been submitted as an indicative layout, the full detail and assessment of residential amenity (both existing and proposed residents) will be fully considered on receipt of detailed drawings through a Reserved Matters application.

### 7.0 Recommendation:

Approval (subject to the conditions below being met.)

### 8.0 Planning Conditions:

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

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

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

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

3. The under-mentioned reserved matters shall be as may be approved, in writing, by the Council :-
  - Siting; the two dimensional location of buildings within the site.
  - Design; the two dimensional internal arrangement of buildings and uses and the floor space devoted to such uses, the three dimensional form of the buildings and the relationship with their surroundings including height, massing, number of storeys, general external appearance and suitability for the display of advertisements.
  - External appearance of the Buildings; the colour, texture and type of facing materials to be used for external walls and roofs.

- Means of Access; the location and two dimensional design of vehicular and pedestrian access to the site from the surroundings and also the circulation, car parking, facilities for the loading and unloading of vehicles and access to individual buildings within the site.
- Landscaping; the use of the site not covered by building(s) and the treatment thereof including the planting of trees, hedges, shrubs, grass, the laying of hard surface areas, the formation of banks, terraces or other earthworks and associated retaining walls, screening by fencing, walls or other means, the laying out of gardens and the provisions of other amenity features.

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

4. Full particulars, detailed plans and sections of the reserved matters required in Conditions 02 and 03 shall be submitted in writing to the Council and shall be carried out as approved.

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

5. 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. The access shall be constructed in accordance with the approved plan prior to the commencement of any other development.

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

6. The development hereby permitted shall take place in strict accordance with the following approved plan:
  - Drawing No. A4 - 01 (Site Location Map, date stamp received 26 June 2019)

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

7. The redevelopment works hereby approved shall be solely for residential development.

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

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

Reason: To ensure the dwellings integrate into the landform and in the interest of residential amenity.

9. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

10. No site works of any nature or development shall take place until a Level 3 Historic Building Survey has been prepared by a qualified archaeologist / conservation architect and submitted to and approved in writing by Newry, Mourne and Down District Council in consultation with Historic Environment Division, Department for Communities.

Reason: to ensure that archaeological remains within the application site are properly recorded prior to demolition.

11. Prior to commencement of the development hereby approved, the method of sewage disposal shall be submitted to and agreed in writing by the Local Planning Authority. Development shall take place in accordance with the approved details.

Reason: To ensure a practical solution to sewage disposal is possible at this site.

12. Should the proposed layout include an additional area of hardstanding of 1000m<sup>2</sup> or more, a Detailed Drainage Assessment shall be submitted as part of the Reserved Matters application in accordance with Policy FLD3 of Planning Policy Statement 15 (Revised.)

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

13. Prior to commencement of development hereby approved, the method of storm water disposal shall be submitted to and approved in writing for the agreement of the Council's Planning Authority in the form of either a formal agreement from NI Water or a Schedule 6 Consent from DfI Rivers Agency to discharge storm water into the existing watercourse.

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

14. A scale plan shall be submitted as part of the reserved matters application showing a working strip of minimum width 5m between the existing watercourse and all development. The working strip shall be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development and access to and from the maintenance strip shall be available at all times.

Reason: To facilitate future maintenance of the watercourse by the Rivers Agency in accordance with Policy FLD2 of Planning Policy Statement 15 (Revised.)

15. No works are permitted to be carried out on the existing building and tree identified as having a bat roost until a Protected Species Licence has been obtained from NIEA, the details of which shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: to ensure protection of protected species

16. Scaled plans shall be submitted as part of the reserved matters application showing bat boxes to be incorporated into the development. The details of which shall be submitted to and agreed in writing with the Local Planning Authority. The bat boxes shall be implemented in accordance with approved details and maintained in perpetuity.

Reason: to ensure protection of protected species

17. A detailed Lighting Plan shall be submitted as part of the Reserved Matters application, and shall provide details of proposed artificial lighting, to include a map showing predicted light spillage across the site and with a light spill of 1 Lux or less on boundary vegetation and compensatory roosts. Lighting shall be implemented in accordance with approved details.

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

18. A detailed and updated site-specific Construction Method Statement (CMS) shall be submitted for approval by the Council's Planning Authority as part of a Reserved Matters application. This CMS shall reflect all the mitigation and avoidance measures to be employed for the protection of the aquatic environment, as outlined in the CMS, date stamped 26th June 2019.

Reason: To protect priority habitats and designated sites downstream and to prevent polluting discharges to the adjacent watercourse impacting on Murlough SAC.

19. Scaled plans shall be submitted as part of the reserved matters application which clearly define a minimum 5m buffer to the existing watercourse along the south eastern boundary, which is protected from all development, including gardens. The details of which shall be submitted to and agreed in writing with the Local Planning Authority. This shall be implemented in accordance with approved details and maintained in perpetuity.

Reason: To protect priority habitat and designated sites downstream.

20. A clearly defined buffer of at least 10m must be maintained between the location of all refuelling, storage of oil/fuels, concrete mixing and washing areas,



storage of machinery/materials/spoil etc. and the watercourse bordering the south eastern edge of the red line boundary and any open surface water drains.

Reason: To prevent polluting discharges entering the adjacent watercourse and impacting on the site integrity of Murlough SAC.

21. Storm drainage of the site, during construction phase, shall be designed to the principles of Sustainable Drainage Systems (SuDS) in order to prevent the polluting effects of storm water on the adjacent watercourse. Construction of SuDS should comply with the design and construction standards as set out in The SuDS Manual - Construction Industry Research and Information Association (CIRIA) Report C753.

Reason: To prevent polluting discharges entering the adjacent watercourse and impacting on the site integrity of Murlough SAC.

22. No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been submitted to and agreed in writing by the Local Planning Authority, and all tree and shrub planting shall be carried out in accordance with those details and at those times.

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

23. A landscape management and maintenance plan shall be submitted to and agreed in writing by the Local Planning Authority prior to commencement of development. The plan shall set out the period of the plan, long term objectives, management responsibilities, performance measures and maintenance schedules for all areas of landscaping and open space. The landscape management plan shall be carried out as approved.

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

24. 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 Local Planning Authority gives its written consent to any variation.

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

**Case Officer Signature:**                      **O. Rooney**                      **Date: 12.05.22**

**Appointed Officer Signature:**              **P. Manley**                      **Date:12.05.22**



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2019/1009/O    **Date Received:** 26.06.2019

**Proposal:**        Redevelopment of existing residential site

**Location:**        Residential development at 113 South Promenade, Newcastle

#### **ADDENDUM TO CASE OFFICER'S REPORT**

The above application was scheduled to be considered at the Council's Planning Committee on 1<sup>st</sup> June 2022. However following a request by Councillor Devlin, the application was postponed on the basis that an objector was unaware they were able to request public speaking rights.

Since the application was postponed, the Planning Department has also received the following further representations:

1. Online objection from the Mr Nicholas Quinn of 6 The Corragh, Newcastle (submitted 6<sup>th</sup> June 2022.) This objection notes that the development will significantly inhibit residents from travelling safely along King Street, which is already under pressure from transport.
2. Email from Mr Nicholas Quinn on 7<sup>th</sup> June 2022 inviting the Council to consider the need for a site visit by planning members in advance of the Committee meeting. The email also notes that Ulsterbus are considering removing the King Street route from their service, as a result of the current issues with buses traveling along King Street, leaving elderly residents at 'The Fold' unable to get the bus to and from their home at King Street.

The material planning issue raised in the above representations primarily relates to traffic concerns along King Street. It is considered that this issue has been adequately considered and dealt within the assessment report and the additional objection does not raise any further issues to consider. Whilst the request for an on site meeting in advance is noted, it is common practice for Committee members to consider a site inspection as part of their consideration at committee, however this is a matter for committee and would not be pre-determined prior to this. In the event that Committee

members feel a site visit is necessary, the application would be deferred for a site inspection to be completed and would re-convene at Committee following completion.

The comments in relation to Ulsterbus and their potential plans to remove their services along King Street are not considered relevant to this assessment.

The previous Officer recommendation of approval remains unchanged.

**Case Officer Signature:** O. Rooney **Date:** 13.06.22

**Appointed Officer Signature:** P. Manley **Date:** 13.06.22

Ladies & Gentlemen

Please consider the environmental impact such a development would have on King St.

The infrastructure, water and sewage, have difficulty at the moment - more so with this development.

King Street wasn't built to cope with the volume of traffic already using it. Residents have no choice but to park on the street.

The ethics of the area is being eroded by holiday homes with the result that senior citizens and families have difficulty walking on the street.

Over 20 years ago we the ratepayers had concerns about the building of the 'FORD' and the choice housing on King Street re: parking and we were assured that parking was being provided within the complex, that has proved to be incorrect as U.S. bus will attest to as the local bus has difficulty navigating the street with cars on footpath outside it and also at the air B+B further up the street. Such is the problem that U.S. have intimated to me that they are considering withdrawing the service. Sometimes I have had to get people to move their cars or order for me to progress up the street that can ~~be~~ be a distressing situation.

Perhaps it's about time to take the residents on K.S. news into consideration.

23rd July 2019

**Newry Mourne and Down District Council**

Dear Sir/Madam

**RE: Planning Application No – LA07/2019/1009/0**

I refer to the above matter. I am a resident in the area affected by the proposed construction in question.

I hereby formally confirm my objection to the aforesaid application on the grounds, *inter alia*, that it is contrary to both applicable planning policy and legislation. Without prejudice to the generality I confirm my objections as follows:

1. The proposed development will excessively interfere with traffic flow on King Street, Newcastle. Traffic on this street is already strained and congested to such an extent that it is currently struggling to cope with existing traffic through flow. It is apparent that the proposal will allow for an additional 12 vehicles to enter and exit onto King Street, with the potential to attract more than 12 vehicles through visitors (rather than residents) to the prospective properties. This is a major and concerning issue for me and other residents. It would respectfully be suggested that it is incumbent upon the Council planning officials to make enquiries with Translink in Newcastle to establish if their drivers currently encounter difficulties in traversing King Street with their buses.
2. The proposed development will likely interfere with the existing views of residents.
3. The proposed development does not stipulate whether or not the site of the houses in question will be built in an elevated way meaning that they would sit flush with properties on King Street.
4. This application will adversely impact upon the character of the area. It is within an area formally designated and recognised as an Area of Outstanding Natural Beauty. It is not clear from the proposals if the houses will be built closer to South Promenade or, alternatively, through the use of infill and retaining walls, closer and elevated to sit flush to houses on King Street. This is an important issue and needs to be clarified at this time with the applicant or his agent, as it could impair existing views of the sea and town for residents.
5. The proposed application, if approved, is likely to adversely affect my European Convention on Human Rights Article 1 Protocol 1 right to property. In essence, the erection of houses in front of my property will undoubtedly adversely impact upon the value of my home, especially if the houses in question are elevated flush with those on King Street. As a public authority, the Council must objectively demonstrate how the grant of such an application satisfies the requirements of Article 1 Protocol 1.
6. The proposed application, if approved, is likely to adversely affect my Article 8 rights under the European Convention on Human Rights. I anticipate that the peaceful use and enjoyment of my home will be adversely interfered with should this

development proceed. it will result in the introduction of considerable building plant and equipment onto King Street as part of the development works.

7. Given the nature and scale of this proposal I request that this decision is first referred to the Members Briefing Panel and, thereafter, a decision taken by the Planning Committee, thus allowing me and other objectors an opportunity to make oral representations etc at such hearing. I have serious and valid concerns about the short; medium and long term implications of this proposal upon myself and other residents on and around King Street.

## RELEVANT POLICIES

The Ards and Down Area Plan 2015, insofar as it relates to Newcastle states:

*Newcastle is located 19 kilometres from Downpatrick and 51 kilometres from Belfast. The settlement originated at a bridging point at the mouth of the Shimna River, once the site of the Magennis Castle, which was demolished in 1831 to make way for a hotel and is now the Annesley Buildings.*

*Its early growth was related to the granite and fishing industries centred on the Harbour and foreshore at the southern end of the town in an area known as The Ballagh. Its development as a major holiday resort followed with the extension of the railway to the town in 1869. This period saw the construction of the late 19th Century Victorian stuccoed domestic terraces now concentrated on the inland side of Main Street.*

*Today Newcastle is a service centre for the surrounding rural hinterland, a commuter settlement and a holiday and retirement resort. It remains one of the main centres for tourism in Northern Ireland due primarily to the beauty of it's natural setting and provides a range of tourist accommodation, in particular caravan parks.*

*The town and its setting contain a number of listed buildings, archaeological monuments and sites of nature conservation interest. It retains many examples of late 19th Century architecture, associated with its development as a resort, particularly in Main Street and on South Promenade and King Street. The Northern Ireland Landscape Character Assessment describes the town's dramatic mountain setting and the strong contrasts between the mountains, the flat dune landscape at the shore and the series of river valleys which radiate inland from the town. It refers to areas of locally distinctive landscape within the town, including the Shimna valley, Tipperary Wood and Donard Park and the river corridors associated with the Glen, the Tullybrannigan and the Burren rivers.*

### **Regional Policy Context:**

*The Regional Development Strategy, (RDS), identifies Newcastle as a local hub below the level of Downpatrick, the main town in Down District. The RDS aims to build up and reinforce a network of main and local hubs strategically located on the Regional*

*Strategic Transport Network which have the capacity to accommodate and provide a wide range of complementary services.*

*In the context of the RDS, Newcastle's capacity for additional development is determined by its location, both within the District and in relation to the strategic road network, the quality of its environmental setting and the scale of its local service role.*

### **King Street**

*The distinctive character, appearance, key features and intrinsic qualities and basis for its designation within an Area of Townscape Character derive from;*

- *historically King Street was the approach to Donard Lodge (now demolished);*
- *the substantial detached villas standing in their own landscaped grounds;*
- *the number of older, grander houses of distinct character such as "Woodside Cottage", "Bay View", "Bright View" and "Chez Noel";*
- *steeply rising ground behind Forge Row forms a backdrop to the harbour and links with the Demesne. Insensitive development of this land could have a very serious negative impact on the environmental character of the Harbour;*
- *the Granite Trail ( Bogie Line) is accessed from, King Street adjacent to Forge Row where several methods were employed to convey the undressed granite to the stonemasons yard on South promenade, the harbour and the railway station on what is now Railway Street*

*In 1824 John Lynn opened a quarry on Millstone Mountain and laid a mineral railway line to King Street. By 1859 the railway was diverted to the more productive quarry on Thomas's Mountain and the Granite Trail follows the route of this funicular (cable) railway, known locally as the Bogie Line.*

*The street has a sense of place with buildings and groups of buildings which display a distinctive character. The older buildings and groups are dispersed with more recent developments inserted into the spaces between.*

*Within the area, development will be expected to conform to the prevailing residential use and applicants will be expected to demonstrate how development proposals respect the overall character and topography and preserve the local environmental quality.*

*The area identified reflects the area of late medieval settlement and the former castle where, on the basis of current knowledge, it is likely that archaeological remains will be encountered in the course of development.*

**Proposal NE 19  
Area of Archaeological  
Potential**

*An Area of Archaeological Potential is designated in accordance with Policy CON 5 in Volume 1 of the Plan and as indicated on Map No. 3/004a, Newcastle Settlement Map and Map No. 3/004c. The area identified reflects the area of the late medieval settlement and the former castle where, on the basis of current knowledge, it is likely that archaeological remains will be encountered in the course of development.*

### Policy PPS3

#### Policy AMP 2

*Access to Public Roads Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.*

*The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Departments published guidance. Consideration will also be given to the following factors: • the nature and scale of the development; • the character of existing development; • the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement; • the location and number of existing accesses; and • the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.*

The application as presented fails to demonstrate the traffic impact, or otherwise, such proposal would have on King Street. As a resident I can testify to the already strained transport capabilities of King Street. Recent new builds on King Street have only served to demonstrate the unsuitability of this road for further vehicles. It has not been demonstrated by the applicant why the road onto South Promenade cannot be used as a means of access to the site, rather than through King Street.

### PPS3 - New Access 5.13

*New development will generally require vehicular access to a public road, either in the form of a new access or by the use of an existing one. A properly located and well-designed access is essential for the safety and convenience of all road users – those proceeding on the public road, including cyclists and pedestrians, as well as those using the access.*

*The proximity of the proposed access to junctions, other existing accesses and the total number of accesses onto a given stretch of road are relevant matters in the assessment of traffic hazards. The combining of individual access points along a road will be encouraged as this can help to improve road safety.*

*Whatever the type of access, good visibility is also essential for the safety and convenience of all road users. The Department will expect applicants to have control over the land required to provide the requisite visibility splays and ensure that they are retained free of any*



*obstruction. A condition will normally be imposed requiring that no development shall take place until the works required to provide access, including visibility splays, have been carried out. For the purposes of the policies in this PPS, a field gate is not an access. Development Control Advice Note 15 'Vehicular Access Standards' sets out the current standards for sightlines, radii, gradient etc. that will be applied to both new access and intensified use of an existing vehicular access onto existing public roads. DCAN 15 also includes guidance on special requirements for access onto a Trunk Road. The current standards for access within new residential developments are set out in the 'Creating Places' design guide. It is recognised that it may not always be practicable to comply fully with the appropriate visibility standards. Such standards, like all material considerations, need to be assessed in light of the particular circumstances of the individual case. Exceptionally a relaxation in standards may be acceptable in order to secure other important planning objectives. Visibility standards, however, will not be reduced to such a level that danger is likely to be caused.*

I reserve the right to make further oral/written representations at the time when statutory consultees replies are received.

Yours faithfully

Name: .....

Address: [Redacted]

Dear Sir/Madam,

With regard to planning application LA07/2019/1009/O which has been scheduled for the next Committee meeting on 1<sup>st</sup> June 2022, I would like to avail of the speaking rights in support of the application which have been made available. The application has been scheduled for approval, but I would like speaking rights to answer any questions raised by the committee as there is objection to the application by local residents. There is no supporting statement to attach.

Kind Regards

**Barry Hillen** BSc BArch MSc  
RIBA ARB RSUA RIAI  
Architect / Director



Comhairle Ceantair  
an Iúir, Mhúrn  
agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/2010/O

**Date Received:** 09/11/2021

**Proposal:** Farm dwelling and garage

**Location:** Approx. 100m West of 42 Crawfordstown Road, Downpatrick



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

Characteristics of site: The lands outlined in red form an irregular shaped site, with a rectangular shaped plot located to the north of the field. The site is comprised of a 0.1-hectare of land comprising agricultural land cut out of a larger field. The site is defined by mature vegetation along the western and northern boundaries with the north eastern and south eastern boundaries undefined. The site is accessed via a private laneway off Crawfordstown Road which serves a number of detached

dwellings. The site is positioned slightly above road level and slopes very gently upwards in a northerly direction.

Characteristics of area: The application site is located outside any settlement development limits as designated within the Ards and Down Area Plan 2015. The area is of typical rural character and predominately agricultural use. A number of detached dwellings are located in close proximity to the subject, each with a varying house type design.

### **Site History:**

LA07/2019/0720/O - Dwelling and garage (Renewal of Planning Approval LA07/2016/0348/O), Approx. 100m West of 42 Crawfordstown Road, Downpatrick. Granted. 09.08.2021

LA07/2016/0348/O – Dwelling @ lands approx. 100m west of No 42 Crawfordstown Road Downpatrick – Granted 02.09.16

R/2013/0264/O – Farm Dwelling - 100m west of No 42 Crawfordstown Road Downpatrick – Granted 11.09.13

R/2010/0490/O – New Dwelling on a farm - 100m west of No 42 Crawfordstown Road Downpatrick – Granted 30.06.2011

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

Ards and Down Area Plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

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

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 (14/03/2005), however no subsidies have not been claimed any 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 – No objections and recommended planning informatives as a precautionary measure.

**Objections & Representations:**

11 Neighbours within close proximity of the site were notified on 30/11/2021. This application was advertised in the local press on 01/12/2021. To date no objections or representations have been received.

**Consideration and Assessment:**

The proposed development is seeking outline planning permission for a farm dwelling and detached garage.

**Ards and Down Area Plan 2015**

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

**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.

The farm business on the P1C form is registered to 42 Crawfordstown Road, with Mrs Anne Jinkinson registered as the business owners (Mrs Jinkinson is also the applicant of this application).

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 30/11/2021 that the associated farm has been in existence for 6 years, and the farm business **has not** claimed the Single farm payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment Schemes in any of the last 6 years.

Whilst claiming the single farm payment helps the Council determine if a farm business is currently active, it is possible a farm business may still be active without claiming any single farm payments. The planning department made the agent aware of the comments from DAERA and requested the submission of evidence demonstrating the applicant has been farming continually over the last six years.

In a letter dated 8<sup>th</sup> March 2022 the acting agent (Tumelty Planning Services) made reference to previous approvals on site and the failure of the applicant to submit the requisite RM in the specified timeframe. The Planning Office acknowledge the past history for approval of a farm dwelling on site back to 2011 but this has now lapsed and no material weight can be attached to this past approval. The agent states that it is the applicant's intention in submitting this application to have it called in and presented to Planning Committee.

As this application is being assessed as a new application against CTY10 of PPS 21 DAERA have confirmed that the farm business is no longer active and no evidence of farming has submitted by the agent despite being requested.

In light of the above, the farm business is not currently active, and the applicant cannot qualify for a farm dwelling under the terms of criterion (a) of the policy. Criteria a) of CTY 10 has therefore not been met.

The farmland as per the submitted farm maps (dated 2009) has been checked for any development opportunities. The Council is content there has been no development opportunities have been sold off from the farm holding within 10 years of this application. This was based on the submitted farm maps which accompanies this application and question Q5 of the P1C form. The application 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 farm is registered to 42 Crawfordstown Road, which is located approximately 80m east to the closest point of the site boundary. From a site visit it was evident that the subject site and lands in blue are absent of any buildings.

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 proposed site is an open field that is absent of any established group of buildings on the farm. Therefore, it is concluded that the new building cannot be visually linked or sited to cluster with an established group of buildings on the farm. The proposal fails to meet the requirements of criterion 10(c)

Furthermore, the proposal does not meet the exceptionality clause of criteria CTY 10(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 meet the policy requirements of CTY10(c).

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 a full agricultural field, and no specific site has been pinpointed. As this is an outline application the specific siting and design would be determined at the reserved matters stage. However the proposed site is devoid of any exiting boundaries or enclosure and would require all new boundaries to be defined. Also the proposed dwelling and garage is not sited to visually link or cluster with an established group of buildings on the farm, failing the requirements of CTY 13.

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.

The development will be sited approx. 270m from the main Crawfordstown road. Critical views of the site will be fleeting glimpses due to rising landform and intervening development to the south east of the site. Furthermore, through the use of appropriate planning conditions, the proposal is not expected to not cause a detrimental change to or further erode the rural character of the area. The dwelling to the immediate north (no. 47B) has been noted but given the separation distances and existing boundary treatments. The proposal is not considered to offer any negative impact to surrounding neighbours nor will it cause any overlooking or overshadowing. The proposed development meets the requirements of Policy CTY 14.

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 3 Access, Movement and Parking

The proposal must accord with AMP2 of PPS3. The site location indicates the dwelling will be served by the existing shared access laneway, then through the field gate opening at the field boundary.

DfI Roads were formally consulted and responded on 09/02/2022 with no objections to this proposal, subject to the provision slays measuring 2.4m x 80m in both directions and the laneway widened to 4.8m for the first 10m, as stipulated in the RS1 form. In view of this officers consider access arrangements to be acceptable.

#### **Recommendation:**

##### Refusal

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and 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
  - 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; or there are
  - demonstrable reasons to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
  - the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and
  - the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.



<b>Case Officer: S. Maguire</b>	<b>Date: 27/04/2022</b>
<b>Appointed Officer: A.McAlarney</b>	<b>Date: 27 April 2022</b>

## Planning Committee Schedule of 29<sup>th</sup> June 2022

Planning reference: **LA07/2021/2010/O**

Proposal: **Farm Dwelling & Garage**

Applicant: **Mrs A Jenkinson**

Location **Approx 10m West of 42 Crawfordstown Road**

Recommendation: **Refusal**

### Reasons

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and 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 - 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; or there are - demonstrable reasons to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that: - the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and - the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

### Site Description

The site is comprised of approx 0.1-hectare of land comprising agricultural land cut out of a larger field. The site is defined by mature vegetation along the northern & western boundaries with other undefined. The site is accessed via a private laneway off Crawfordstown Road which serves a number of detached dwellings.

### Planning Policies & Considerations

Ards and Down Area Plan 2015 SPPS - Strategic Planning Policy Statement for Northern Ireland 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 Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

### Planning History

LA07/2019/0720/O - Dwelling and garage (Renewal of Planning Approval LA07/2016/0348/O).

Approx. 100m West of 42 Crawfordstown Road, Downpatrick. Granted. 09.08.2021.

LA07/2016/0348/O - Dwelling @ lands approx. 100m west of No 42 Crawfordstown Road Downpatrick - Granted 02.09.16

R/2013/0264/O – Farm Dwelling - 100m west of No 42 Crawfordstown Road Downpatrick – Granted 11.09.13

R/2010/0490/O – New Dwelling on a farm - 100m west of No 42 Crawfordstown Road Downpatrick – Granted 30.06.2011

## Objections

No objections or representations have been received.

## Assessment of reason for Refusal

1 A dwelling on a farm under Policy CTY10 is an exception to Policy CTY1 of PPS21 and the response from DAERA states the current business has existed for over 6 years however due to the age of the land owner and to her detreating health and the tragic death of her husband in the Loughinisland massacre in 1994 the farm business has been run down and as a result she stopped claiming SFP approx. 6 years ago, however she currently tends to the upkeep of the farm land by maintaining fences and hedging and allows a friend to run horses on the ground in an attempt to maintain the land.

This current proposed site is the exact same site which was granted permission for a dwelling on a farm under LA07/2016/0348 and renewed under LA07/2019/0720/O, this site was acceptable then and had it not been for the onset of Covid 19 it has to be contended that a dwelling would be under construction on this site so it has to be stated that the past planning history is relevant and is of material weight & consideration.

It has to be stated that the previous approvals were for a dwelling on a farm and while the current assessment by officers state that the subject site and lands owned are absent of any buildings a dwelling was previously approved under the same policy.

2 It is argued for reasons previously stated that this site would be developed had it not been for the reduced limit attached to the renewal under application LA07/2019/0720/O for the submission of Reserved Matters and the fact that the applicant was a shielding adult under Covid 19 Rules.

While it was an acceptable site previously it is suggested that the site and the proposed buildings could integrate and that planting would assist in this integration, the situation on the ground has not changed since the first grant of planning approval.

The proposed and previously approved application site does not site to cluster with an established group of farm buildings and as stated the policy under which the previous approval was granted remain the same policy today unchanged.

The same planning authority which rejects this proposal granted the previous approval and no buildings existed at that time.

## Conclusion

We would respectfully ask the Planning Committee to overturn this recommendation and grant planning approval for the proposed development as applied for.





Comhairle Ceantair  
**an Iúir, Mhúrn  
agus an Dúin**

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/1050/F

**Date Received:** 02.06.2021

**Proposal:** Proposed, part single, part 2 storey dwelling located in the side garden of an existing dwelling, associated site works, including a proposed vehicular entrance the site boundary at the rear laneway and a proposed pedestrian gate at the Rostrevor Road site boundary

**Location:** The Pines, 10 Rostrevor Road, Warrenpoint  
Co. Down

#### **1.0. Site Characteristics and Area Characteristics**

- 1.1.** The application site is located within the side garden area to 10 Rostrevor Road. This property is on an elevated site overlooking the Rostrevor Road and Carlingford Lough to the south. It is situated within a row of semi-detached and detached dwellings. The application site is currently used as amenity/garden space for the residents of number 10.
- 1.2.** The existing property, No. 10 Rostrevor Road, is served by 2 vehicular accesses; one onto the Rostrevor Road, on its southern boundary and another via an existing private laneway, on its northern boundary, onto the Well Road.
- 1.3.** The application site is located within the Settlement Limits of Warrenpoint as designated within the Banbridge, Newry and Mourne Area Plan 2015. It is located within a designated Area of Townscape Character (ATC) and an Area of Outstanding Natural Beauty. Further details are provided below.

**Image 1 Aerial Image blue star denotes application site**



**Image 2 Photograph of the application site from the rear boundary**



## **2.0. SITE HISTORY**

**2.1.** Details of previous planning applications on the site are set out below.

- P/2003/1910/F: 10 Rostrevor Road Warrenpoint Extension to dwelling Approved.
- P/1994/0076: Adjacent to The Pines Rostrevor Road Warrenpoint Site for a Bungalow Approved.

## **3.0. PLANNING POLICY MATERIAL CONSIDERATIONS**

**3.1.** 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
- PPS 2 Natural Heritage
- PPS3 – Access, Movement and Parking
- DCAN15 – Vehicular Access Standards
- Parking Standards
- PPS6 – Planning, Archaeology and the Built Heritage
- Addendum to PPS 6 Areas of Townscape Character
- PPS 7 Quality Residential Developments
- A Planning Strategy for Rural Northern Ireland

## **4.0. STATUTORY CONSULTATIONS.**

**4.1.** NI Water: Following discussions between NI Water and the Agent following the initial consultation response of the 27<sup>th</sup> July 2021 whereby NI Water recommended the proposal for refusal a re-consultation was issued to NI Water along with information submitted by the agent. NI Water responded to this consultation on the 29<sup>th</sup> November 2021 setting out no objections to the proposal.

**4.2.** Historic Environment Division: No Objections.

- 4.3.** DFI Rivers: No objections with informatives.
- 4.4.** DFI Roads: Initial consultation response received on the 23<sup>rd</sup> August 2021 requested revised drawings with sight splays. The applicant submitted further information; DFI Roads were re-consulted and responded on the 7<sup>th</sup> January 2022 that they had no objections to the proposal (this was in relation to drawing OS003). Then following an agent change and re-design of certain aspects of the proposed development submitted to the Planning Department on the 10<sup>th</sup> December 2021; it was considered that a re-consultation should be issued to DFI Roads as there was a change to the red line, access arrangements and a change proposed within the applicants' ownership (lands outlined in blue). DFI Roads responded to the consultation stating that they had no objections on the basis that the applicant is going to close up the existing vehicular access on the Well Road.
- 4.5.** Following further assessment the Planning Department considered that the access proposed to be blocked up was not the main access to the dwelling and therefore would have concerns with regards to intensification. As a consequence, a further consultation was issued to DFI Roads requesting comments with regards to this issue based on the latest drawing OS001 Rev B published on the 13<sup>th</sup> December 2021.
- DFI Roads responded to the consultation request setting out that the application was unacceptable as submitted and provided refusal reasons.
- This is now the final position of DFI Roads, on the basis of the revised scheme as provided by the agents. (This includes no improvements to the access along Well Rd).

## **5.0. OBJECTIONS & REPRESENTATIONS.**

- 5.1.** Details of the proposal were advertised on 16 June 2021 and nearest neighbours were notified on 26<sup>th</sup> July 2021, 2<sup>nd</sup> November 2021 and the 14<sup>th</sup> December 2021. Two objections and a comment were received from adjacent residents raising a number of issues as summarised below:
- Proposed access arrangements not suitable.

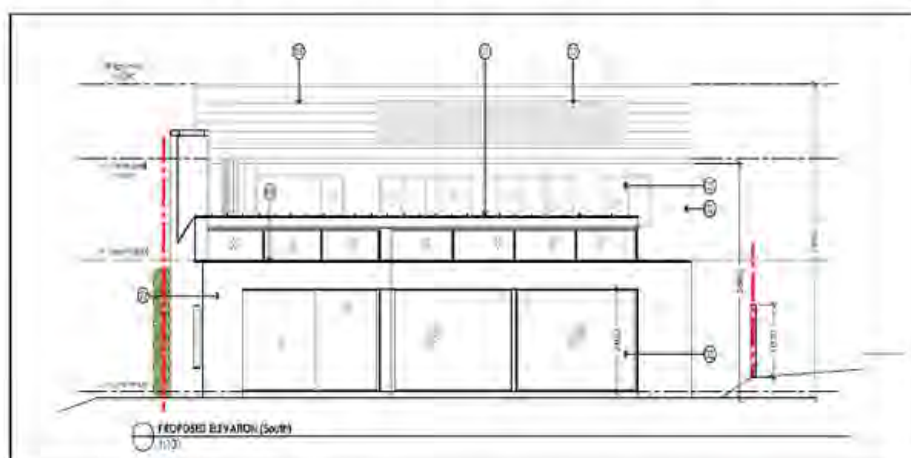


- Objection to new access onto existing laneway not suitable due to narrow lane and poor visibility. Lane used by children. Already a collision.
- Possible alternative arrangements using existing access used by The Pines, with pedestrian gate to the rear.
- Lane is private and maintained by residents. Any damage should be reinstated by developers
- Objection to the demolition of a significant length of a boundary wall as well as the removal of mature trees and shrubs that are within my property

## 6.0. PLANNING ASSESSMENT & CONSIDERATION

- 6.1. In summary, the application is for the erection of a dwelling (part single, part two storey) within the side garden of an existing property. The proposed dwelling is to have a vehicular access via the laneway to the rear and a pedestrian access to the front onto the Warrenpoint Road. The proposed design is shown below.

**Image 3 Extract from drawing P005 Elevations**



- 6.2. The proposed finishes of the dwelling include: sand/cement painted render finish, timber/aluminium windows, slate roof and solar panels.
- 6.3. The Planning Department has carefully assessed the proposal in the context of the planning policy context above and considers that it is contrary to a number of relevant planning policies.

### **Regional Development Strategy (RDS).**

- 6.4.** 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. While the development is within the settlement area and acceptable in principle, it is considered that the application is contrary to RG8 of RDS in that its form and design is not in keeping with the local character and environmental quality or the residential amenity of the area, for the reasons outlined in this report.

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

- 6.5.** The SPPS was adopted in September 2015 consolidating all the separate Planning Policy Statements (PPSs) into one document setting out strategic planning policy. It 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.
- 6.6.** The proposal is considered to be contrary to 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.*"
- 6.7.** As referred to above, the application site is located within a designated Area of Townscape Character (ATC). The SPPS document states, in paragraph 6.21, that '*In managing development with ATCs designated through the LDPs*

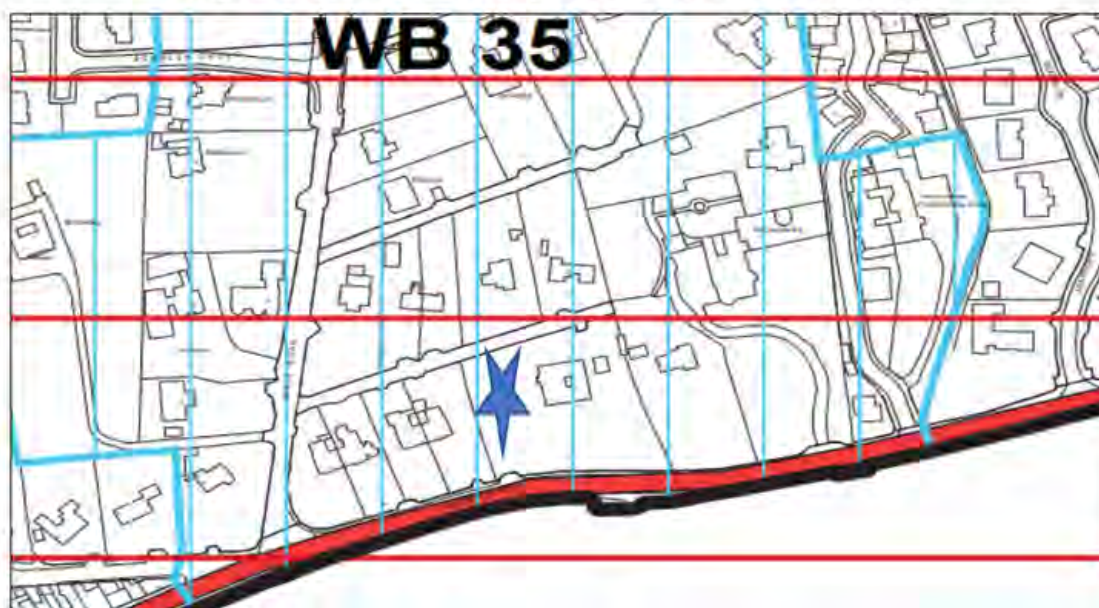
process, the Council **should** only permit new development where this will maintain or enhance the overall character of the area and respect its built form'. It is considered that the proposal would not maintain or enhance the character of the ATC for the reasons outlined below.

- 6.8. This proposal fails to meet these core planning principles for sustainable development outlined in the SPPS for the reasons outlined in this report.

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

- 6.9. Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP.
- 6.10. The application site is located within the Settlement Development Limit of Warrenpoint as designated in the Area Plan and within an Area of Outstanding Natural Beauty. The site is also located within an Area of Townscape Character (ATC), an area designated, in the Area Plan, as an area of special character, within the wider settlement.
- 6.11. Image 1 below is an extract from the relevant map within the Area Plan, (Map 3/06a- Warrenpoint/Burren). The Rostrevor Road is a Protected Route.

**Image 4 Extract from Map 3/06a- Warrenpoint/Burren**



Note: blue hatched area denotes extent of the Area of Townscape Character; AONB indicated by horizontal red line. The blue star denotes application site.

- 6.12.** Volume 1 (Page 58), 'Plan Strategy and Framework' of the Area Plan, sets out that *careful design is particularly important in areas of built heritage importance such as Conservation Areas and Areas of Townscape Character.*
- 6.13.** Further details are outlined at Pages 85 and 86 of Volume 3 Newry and Mourne District Proposals. Designation WB 35 'Area of Townscape Character Well Road' identifies the key features of the area which will be taken into account when assessing development proposals, such as this one, within this statutory designated area:
- *Well Road / Rostrevor Road is a suburban area of large and medium sized semi-detached and detached houses of varied design set in well landscaped gardens and many with very generous plots;*
  - *This suburban residential quality contrasts with the other elements of the town. The mature landscaping of the houses give the narrow road the ambience of a country lane. This rural character is endorsed by the native boundary hedging.*
- 6.14.** The existence of such areas of unique identity, within our settlements, is also acknowledged in strategic planning policy, as contained within Planning Policy Statement 6 (PPS 6) 'Planning Archaeology and the Built Heritage' and its Addendum. PPS 6 puts an onus on statutory development plans to designate such areas, where they exist and the character of which it is important to protect, as 'Areas of Townscape Character (ATC).' It also requires development plans to develop local policies, proposals or guidance for such areas.
- 6.15.** It was on this basis that the wider area, including the application site, was designated an area of special character, an Area of Townscape Character (ATC) within the wider settlement, in the statutory plan for the Council area, 'Banbridge, Newry and Mourne Area Plan, as outlined above.
- 6.16.** The role of a statutory plan is, amongst other things, to provide certainty for those who work, live and visit the area. Its provisions cannot be easily set aside.

- 6.17.** Policy ATC 2 in the Addendum to PPS 6 states that *'The Department will only permit development proposals in an Area of Townscape Character where the development maintains or enhances its overall character and respects the built form of the area.'*
- 6.18.** Paragraph 2.6 of the Addendum to PPS 6 states that it is important to protect the distinctive character and intrinsic qualities of ATCs and sensitive controls are necessary to ensure that the individual and cumulative effects of development do not detract from the character, appearance and quality of these areas. Paragraph 2.7 of PPS 6 states that the onus is on prospective developers to produce a high standard of design, which respects and is sympathetic to the particular qualities of the area in question. Notwithstanding the acceptability of proposals in terms of other planning issues, the Department will operate a presumption against development that would detract from or fail to maintain the character of the distinct townscape displayed within an ATC.
- 6.19.** As referred to above, the proposed development site is to be created by the subdivision of a portion of a side garden which forms part of the curtilage of a large, detached dwelling fronting onto the Rostrevor Road, Warrenpoint. It is exactly this type of residential property, as referred to at Para 6.13 above, that contributes to the distinctive character of the wider area and which the statutory plan for Warrenpoint and the Council area seeks to protect. The ATC was designated to protect against inappropriate development, such as the type proposed.
- 6.20.** To allow this proposal would result in unacceptable plot subdivision and the erosion of the essential character of this property and its curtilage. The unsatisfactory nature of this proposal, if permitted, would also be compounded by the high-profile nature of the application site along the coast road, one of the major gateway routes to Warrenpoint, within an AONB.
- 6.21.** It is considered that the proposed development would erode the key features, as identified in the Area Plan, of this designated ATC. It would not maintain or enhance the character of the ATC, as is required by prevailing regional planning policy.

- 6.22.** To allow this proposal would also create the potential for similar proposals in the future, the cumulative impact of which would erode the wider character of this designated ATC, as designated in the statutory plan, based as it is on 'a suburban area of large and medium sized semi-detached and detached houses of varied design set in well landscaped gardens and many with very generous plots'.
- 6.23.** It is also considered, for the reasons set out below, that the proposed design is out of character when compared to various houses within the immediate area and fronting onto the Rostrevor Road. It is considered as presented the proposal fails to maintain the character of the ATC and is therefore considered contrary to the statutory plan for the area, Banbridge, Newry & Mourne Area Plan (ATC WB35 zoning) and Policy ATC2 of PPS 6.

**PPS 7: Quality Residential Environments, PPS 7 (Addendum):**

**Safeguarding the Character of Established Residential Areas. PPS 12:  
Housing in Settlements,**

- 6.24.** 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.
- 6.25.** 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 proposal fails this policy test for the reasons outlined in this report.

- 6.26.** The policy sets out a number of criteria which proposals for new residential developments must comply with. In the case of this application, the most relevant are (a), (c), (f), (g) and (h).
- 6.27. 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.
- 6.28.** The dwellings along the Well Road and indeed the Rostrevor Road are a mix of semi-detached and detached dwellings all of which have been placed in well landscaped large plots. The proposal seeks to erect a split level two storey dwelling within the curtilage of an existing dwelling house which appears as a single storey dwelling with an upper floor incorporated.

**Image 5 View of the site from the Rostrevor Road (location of proposed development denoted by red arrow)**



**Image 6 Photomontage of the dwelling from the Rostrevor Road**



- 6.29.** It is considered that the dwellings on the application site and indeed the surrounding area are to a degree traditional in form with some modern additions added over the years. Each of these plots front and open onto the Rostrevor Rd. When viewed from the Rostrevor Road it is evident that the application site has an elevated topography as well as the application site being directly linked to the garden and frontage of number 10. The dwelling is to be placed behind the driveway and entrance of number 10. The boundary with Number 10 is proposed to be 1.2 high metal ranch fence, 1.8m high planted, a 1.8m high fence and concrete posts and a 1.8m high rendered blockwork wall. It is considered that a dwelling at this site would create over development of the site as well as the vast reduction of amenity space to the side of number 10. The proposed dwelling would appear dominant in the landscape and would be out of character within the site and its surrounds in terms of layout, scale, massing and design. It is also considered the site does not respect the existing development pattern as it has no frontage to the Rostrevor Rd, being cut out of a portion of the existing plot of no.10. It is considered that the dwelling fails criterion a.
- 6.30.** *Criterion (g) requires that the design of the development draws upon the best local traditions of form, materials and detailing.* The existing dwellings in the



area are of varying design but generally finished with similar materials and similar design features considered traditional within the area. The design of the proposed dwelling consists of a split-level design with a partially flat roof. The design of the dwelling and indeed materials are considered to be out of keeping in the context of the surrounding area. It is considered that the dwelling does not draw on the best local traditions of form, materials nor detailing. The agent submitted a photomontage of the dwelling when viewed from the Rostrevor Road (Image 6); the Planning Department consider that the proposed dwelling when viewed from the Rostrevor Road does not draw upon the best local traditions. While a modernist approach may be acceptable in many locations, it is considered that it does not reflect the immediate and wider context and would appear incongruous. It would also detract from the character of the immediate area and the designated Area of Townscape Character.

**PPS 7 Addendum Safeguarding the Character of Established Residential Areas – Policy LC 1 Protecting Local Character, Environmental Quality and Residential Amenity.**

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

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

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

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

**6.32.** It is considered that the proposal would result in the significant reduction of an existing plot size within the Well Road ATC coupled with the addition of a form, scale and design of a development which is not found within the immediate area. Furthermore, it is considered that the proposal would result in two smaller

plot sizes with a much smaller amenity space and lead to an overdevelopment of the site contrary to the ATC designation. It is considered that the proposed development would represent a dangerous precedent for introducing a higher density of residential development within the surrounding area and open up a risk for other large garden sites to do the same thus detrimentally eroding the established character of the area further. It is considered that the subdivision of the plot would lead to overdevelopment of the site which is at odds with the character of the surrounding area and if permitted it could lead to a cumulative impact of subdivision within the ATC. It is considered that the proposal is contrary to Policy LC 1.

- 6.33.** In view of the above, it is also considered that the proposal is not in accordance with Policy DES 2 of the Planning Strategy for Rural Northern Ireland which requires that new development proposals should make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials.

#### **PPS 2 Natural Heritage**

- 6.34.** Policy NH6 relates to new development within an Area of Outstanding Natural Beauty and is applicable to the application site. It states that planning permission will only be granted, in such sites, where the proposal is of an appropriate design, size and scale for the locality. It is considered that the principle of the proposal or the detailed design are not considered sympathetic to the Area of Outstanding Natural Beauty and is in conflict with the criteria set out in the policy and is therefore contrary to policy NH6.

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

- 6.35.** Policy AMP 2 of PPS 3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. Paragraph 5.16 of Policy AMP 2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road.
- 6.36.** The only means of vehicular access, to serve the application site, is via a private laneway onto the Well Road. DfI initially objected to this arrangement on the

grounds that it was not possible to provide the necessary visibility splays at the junction of the laneway with the Well Road. The proposal, which would result in an additional vehicular access, would mean an intensification of use of the existing sub-standard access onto the Well Road.

- 6.37.** The applicant, in an attempt to resolve this issue, then revised this application. This involved a change in the red line boundary of the application site, the omission of sight splays onto the Well Road and the changing of the proposed access arrangements to No 10 Rostrevor Road, the parent property, also within the applicant's ownership.
- 6.38.** As referred to above No 10 Rostrevor Road is currently served by a main access onto the Rostrevor Road and a rear access onto the Well Road, via a private laneway. The agent proposes to permanently 'stop up' the existing rear access onto the laneway to Well Road, which currently serves No 10 Rostrevor Road, and only provide one access to serve the property, onto the Rostrevor Road.
- 6.39.** The applicant suggests that new vehicular access onto the Well Road, to serve the proposed dwelling, will be in substitution for the existing vehicular access onto the Well Road, which is to be stopped up. As a consequence, it is suggested that there will therefore be no intensification of the existing use of the laneway onto the Well Road and therefore no requirement for additional sight visibility splays at this access point. A pedestrian access is to be retained to serve No 10 from the Well Road.
- 6.40.** The Planning Department does not accept this. The existing property at No 10 Rostrevor, is currently served by 2 accesses, one onto the Rostrevor Road and one onto the Well Road. On a general level it is not a sound planning solution to permanently remove a rear access to a property, purely on the basis put forward by the applicant. The existing rear access, serving No 10, provides a valid function in serving the existing dwelling; however it only currently handles a portion of the traffic attracted to the site. The existing access onto the Rostrevor Road, the main front access also deals with a portion of the traffic, at least 50%. The new dwelling is intended to be served by only one access point via the laneway onto the Well Road and this will carry 100% of all the traffic

movements. This will result in an intensification of use of the existing laneway access onto the Well Road. It would therefore require an upgrading of the existing sub-standard access to serve the proposed dwelling and the provision of additional visibility splays.

- 6.41** As a result of this a re-consultation was issued to DFI Roads who responded on the 17<sup>th</sup> May 2022 setting out that the application as presented is unacceptable.

### **Summary**

The Planning Department recommend refusal. The proposal falls within a Plan zoning of a residential ATC, PPS 7 states that *In Conservation Areas and Areas of Townscape Character housing proposals will be required to maintain or enhance their distinctive character and appearance. In the primarily residential parts of these designated areas proposals involving intensification of site usage or site coverage will only be permitted in exceptional circumstances.* The agent submitted a supporting statement during the course of the application which did set out that the development did meet the exceptional circumstance in that the development would pose as the development of a gap site. The Planning Department have considered this reasoning but reiterate that the proposal would in fact be development in the side garden of a residential dwelling which benefits from a large plot size within the ATC and development of this site would indeed hinder the characteristics of the ATC and surrounding area.

### **7.0 Recommendation**

**Drawings upon which the application relates: OS 001 (December 2021) OS 002 (June 2021), P 001 (June 2021), P002 (June 2021), P 003 (December 2021), P004 (June 2021) P 005 (December 2021), P006 (June 2021), P007 (June 2021), P008 (June 2021), P009 (June 2021), P010 (June 2021) P 011 (June 2021).**

**Conditions:**

**The proposal is contrary to Policy QD 1 of the Department's Planning Policy Statement 7 (PPS 7): Quality Residential Environments, in that the applicant has failed to demonstrate that the proposal: (a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, massing and design.**

**The Proposal is Contrary to Policy LC 1 of the Departments Planning Policy Statement 7 Addendum: Safeguarding the Character of Established Residential Areas in that it has not been demonstrated that a) the proposed density is not significantly higher than that found in the established residential area; (b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area.**

**The Proposal is contrary to Planning Policy Statement 6 Addendum Policy ATC 2 and Policy ATC WB 35 of the Newry and Mourne Area Plan 2015, in that it has not been demonstrated that the proposal maintains or enhances the overall character of the ATC zoning and respects the built form of the area.**

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

<p><b>Case Officer Signature: Roisin McGrane</b></p> <p><b>Date: 18.05.2022</b></p>
<p><b>Appointed Officer Signature: M Keane</b></p> <p><b>Date: 18-05-22</b></p>

- The site lies inside the settlement limit, where there is a presumption in favour of new residential development. It lies to the side of an existing property, and the Regional Development Strategy encourages the use of previously developed sites for sustainable new development, subject to respecting local character, environmental quality and residential amenity.
- The site lies inside an Area of Townscape Character, that has Well Road as its spine, and the ATC includes a small part of the shore front. The shore front in general has a markedly different character to that of the Well Road, which is characterised as a quiet rural lane. Being sited on the shore front, this site is not read in juxtaposition with the majority of the ATC. Accordingly, the development of this site has little potential to impact upon the character of the ATC.
- The character of this part of the ATC is defined by tightly-spaced dwellings, which include detached and semi-detached dwellings. The Well Road part of the ATC is characterised by less dense development, and mature screening, which contrasts with the character of the shore front (Rostrevor Road).
- Along the shore front there is a strong continuity of built form. It extends from terraced buildings on the shore front, out to the Springfield Road junction. Three detached properties set to the northern side of Springfield Road contrast with two pairs of semi-detached dwellings adjacent to this site. A copse of very significant trees at the south eastern corner of the applicant's home plot marks the changeover from closely-spaced to wider-spaced dwellings. Because of the position of the trees (at a bend) and given their maturity and screening, developments to the east and west of this site are not intervisible.
- Because the applicant's house is set to one side of her plot, the frontage reads as if there is a missing tooth (where the dwelling is proposed). The gap in the frontage was previously recognised and there was a previous approval granted for a dwelling on the plot. Albeit an ATC has been designated in the intervening time, the site is considered a prime example of an urban infill opportunity. There are minimal views of the site when travelling up and down Well Road, hence the development of this site will have no impact upon the ATC.
- The site respects the surrounding context, especially the spacing between dwellings, a key test within PPS 7 that has not been mentioned by the planning department. Respecting the typical spacing between dwellings is an essential part of respecting the character of an area.
- The surrounding context is made up of semi-detached properties to one side of the site, with other semi-detached dwellings to the rear. The development clearly respects the context to the immediate area albeit it does not fit the typology the Council feels applies in the wider ATC i.e. development on generous plots. The proposal would be comparable to the size of the four preceding plots and two of the plots to the rear. However, while the remaining plots in this immediate locality are slightly bigger, none are noticeably so. There will therefore be no perception of lack of respect for the surrounding context.
- The proposal respects the site's topography, and in particular respects the ridge line when viewed from front or rear. The scale of the development is no greater than the scale of any of the modern dwellings nearby while the contemporary design of the house is intended to complement but contrast with the applicant's period dwelling.
- Officers feel the applicant has not shown respect for the built form of the area. However, to respect is not to replicate. You can respect something without replicating it. In this case the applicant has respected the heights of other buildings, the building line, the spacing between buildings on the frontage, and the size and shape of the preceding plots. In this respect the proposal is fully respectful.
- Planners misapplied the test on density. The test rules out proposals with a density SIGNIFICANTLY higher than that of the established residential area. The established residential area includes the terraced properties on the approach to the Springfield Road junction. It includes the semi-detached houses adjacent to and behind the site. This plot is larger than many of the surrounding plots and although not as large as the older plots on Well Road, those are not so representative of the density of the surrounding area that the proposal has to be refused. On the contrary, the development will not be intervisible with the Well Road properties so the context in which its density will be apparent will be limited to the shore front only. Given that passers by have just passed terraced and semi-detached dwellings in the immediate run up to this site, there can be no perception that a new detached dwelling would be of a density SIGNIFICANTLY higher than that of the surrounding area. Equally, the pattern of development, with a detached house on a mature site, is not at odds with the pattern on the preceding section of Rostrevor Road.

- The planning department argues the site is over developed, however all Creating Places' standards have been far exceeded. The planning department has failed to elaborate on how the site is overdeveloped, and we consider there has been confusion between over development and respect for character. The planning department has carried out no calculations on density to back up its assertion the site is over developed or is of a significantly higher density than is typical.
- Officers have failed to recognise the actual tests for ATC's. Permission is to be refused because it is said the proposal does not maintain or enhance the character of the ATC. However, the *South Lakeland* case established that the true meaning of this test is "no harm". So, given this development is not intervisible with the Well Road frontage that forms the core to this ATC it will have no impact there. Coming from Rostrevor, the mature trees in the corner of the applicant's site restrict views into or through the site. Accordingly, the development will not impact on the ATC in any way. Although from the frontage the new dwelling will be visible, it will be partially obscured by the site's terrain and it will be integrated with existing buildings and other natural features. It will in no way jar with or appear out of context with the Well Road proper. It is stated that the proposal fails to respect the built form of the area. However, there is an eclectic mix of building sizes and styles along this frontage. These range from art-deco houses to traditional cottages and include a neighbouring dwelling with a large modern side extension. The proposal will fit comfortably within this range.
- Planners feel that this is exactly the type of property that characterise the ATC. But the ATC itself recognises the diversity of designs; detached and semi-detached forms (actually apartments also); large and medium; and SOME with very generous plots (clearly there are others with not-so-generous plots). This character is so diverse it is incorrect to describe this plot as individually noteworthy.
- Planning have cited a roads-based refusal reason. What has occurred is, not for the first time, planning would not accept a "no objections" response from DfI Roads. It replied to DfI Roads seeking a different one, and duly received it. The applicant proposes to substitute one access for another. DfI Roads originally accepted that but were strongarmed by the planning department and retracted. Planning opines that the access to be closed is not the principal access to the dwelling in question. Principle access or not, nothing in practice prevents the applicant from using that access only so the disregarding of the offer is tenuous. The planning department then "assumed" that as it is not a primary access it would not account for 50% of the existing house's traffic. Albeit that is pure conjecture, even if it did only account for 50% of the existing property's traffic, what it would mean is that "intensification" of the back lane (which is substandard) would only measure 5.8%. PPS 3's supplementary guidance document DCAN 15 advises that access improvements should normally be made when intensification exceeds 5%. What cannot be ignored here is that as a guidance document, it cannot be applied as if it were policy, and even if it were a policy, the law confirms that policies are only guides. DCAN 15 has a normal degree of tolerance, and the fact that the threshold is met only if it is assumed that the access to be closed in substitution only carries half the house's traffic (when it could carry all the traffic) means that some margin of error has to be allowed for. Accordingly, the benefit of doubt, as with all planning matters, must rest with the applicant.
- In relation to the intensification issue, officers have not tried to establish how intensification occurred. They mistakenly took the view that the new access will take more traffic than the access to be closed, and left it at that. However, it failed to consider the fact that if it only accounted for 50% of the movements of the existing house, then when added to the existing traffic on the lane then intensification would only slightly exceed 5%.
- It was said the house will be dominant but it respects the ridge lines to adjacent properties.
- Officers worry about a precedent being set for subdivision however the PAC has already approved plot subdivision in the mature part of the ATC (Well Road).
- Officers suggest the development is out of character because it has no frontage onto Rostrevor Road. This is incorrect. A mature landscaped embankment clearly presents onto Rostrevor Road. The retention of this vegetation was deemed preferable to clearance for the sole purpose of making it more obvious the dwelling has a useable garden. The proposal will contribute to diversity in the streetscene, adding to the character of the AONB. The mere fact the design is different does not make it unacceptable or inappropriate, but if Members feel compromise is required then the applicant is open to the possibility of amendment.





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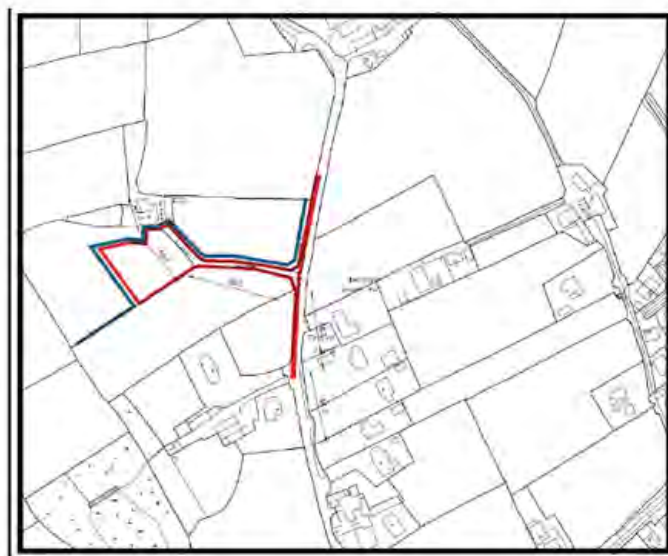
**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/1664/O

**Date received:** 16.09.2021

**Proposal:** Proposed site for infill dwelling and domestic garage

**Location:** Between 8 and 12 Ballykeel Road, Ballymartin, Kilkeel, BT34 4PL



**Area Characteristics & Site Characteristics:**

The application site is located outside any settlement development limits as designated within Banbridge Newry and Mourne Area Plan 2015. The site is located within an Area of Outstanding Natural Beauty (AONB).

The site is accessed via a shared laneway which adjoins the Ballykeel Road. No.12 is located directly North of the site, a storey and half dwelling. The site is within the open countryside and is currently used for agricultural purposes.

**Site History:**

No relevant/recent planning history

**Planning Policies and Material Considerations:**

Strategic Planning Policy Statement (SPPS) for Northern Ireland 2015

Banbridge Newry and Mourne Area Plan 2015

PPS 2 Natural Heritage (July 2013)

- 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 8 - Ribbon Development
- 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:**

NI Water- Generic response

DfI Roads- No objections, subject to conditions

**Objections and Representations:**

4 neighbours were notified of the proposal which expired 28.10.2021. The proposal was also advertised in local press which expired 27.10.2021. No objections or representations have been received date (10.02.2022).

**Consideration and Assessment:**

The application submitted is seeking outline planning permission for an infill dwelling and domestic garage in the open countryside.

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Ards and Down Area Plan 2015 as the Council has not yet adopted a LDP. The site is located outside settlement limits on the above plan in open countryside. There are no specific policies in the Plan that are relevant to the determination of the application and it directs the decision-maker to the operational policies of the SPPS and PPS21.

Policy CTY 1 of PPS 21 identifies a range of types of development which in principle are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY 8.

Supplementary guidance on the assessment of infill sites is contained in Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside.  
PPS 21 - Sustainable Development in the Countryside

#### CTY 8

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

The application site is located along a private laneway which serves an existing dwelling and outbuildings, No.12 Ballykeel Road, to the north-west side of the site. The site adjoins an open field to the south-east. This is the extent of development along this laneway. A further dwelling, No.8 Ballykeel Rd, is located further south. This property is accessed onto the Ballykeel Road and does not have a frontage to the laneway. It is set back from the Ballykeel Road by an intervening field.

Policy CTY 3 is clear when it states that, for the purposes of this policy, the definition of a substantial and built-up frontage includes a line of 3 or more buildings along a road frontage ..... The sub text to Policy CTY 8 states that, for the purposes of this policy, a road frontage can include a private laneway. In this case, as outlined above, there is clearly not a substantially and built-up frontage of 3 or more buildings, (either along a road or lane frontage). The application fails this policy test in CTY 8.

Furthermore, the extended laneway terminates in front of the application site, where No.12 is then served by a private driveway which extends off the shared lane. This therefore cannot be considered as a common frontage considering it is within the curtilage of No.12. The fact that this lane does not continue past the application site means that it does not offer an otherwise substantial and continuously built-up frontage.

Therefore, the application site is not considered to be a gap within an otherwise substantial and continuously built up frontage. As a result, the general principle of infill development has not been met. The proposal is not considered an exception to policy

and is contrary to CTY8, as there are no reasons why the development is essential in this rural location and therefore is contrary to CTY1.

Policy CTY8 also requires that infill dwellings meet other planning and environmental requirements. Paragraph 6.70 of the SPPS confirms that "All development in the countryside must integrate into its setting, respect rural character and be appropriately designed." These considerations must be assessed under policies CTY13 and CTY14 of PPS21.

#### CTY 13

It is considered that a suitably designed dwelling would not appear as an unduly prominent feature in the landscape given the setback distance from the Ballykeel Road and intervening vegetation which means the application site is largely screened from direct views. The site benefits from natural established boundaries to its northern and western boundaries, providing a level of enclosure which will aid integration.

As this is an application for outline permission, the design of the building is not yet considered.

#### CTY 14

As previously discussed, the proposal is not considered to appear prominent within the landscape. However, it is considered the proposal will result in ribbon development, thereby causing a detrimental change to and eroding the rural character of the area.

The proposal therefore fails CTY 14 (d).

#### CTY 16

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 therefore not contrary to CTY16.

#### PPS 2 Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) policy NH 6- requires that new development within a designated AONB must be of an appropriate design, size and scale for the locality. As this is an outline application the design, size and scale of the proposal will be given full consideration at the Reserved Matters stage.

#### PPS 3 Access, Movement and Parking

The proposal must accord with AMP2 of PPS3. DfI Roads was consulted and responded on 17.01.2022 with no objections in principle to the proposal, subject to conditions. Splays of 2m by 33m are required to be provided at the junction of the laneway with the Ballykeel Rd.

## Summary

The application is considered to fail the policy requirements for an infill dwelling, and as such is recommended for refusal.

## Recommendation:

### Refusal

#### Refusal Reason:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 and of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it is not an exception to the policy as it does not constitute 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.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 and of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal will result in ribbon development, thereby eroding the rural character of the area.

**Case Officer:** G. McShane

**Authorised by:** M. Keane

**Date:** 10.02.2022

LA07/2021/1664/O  
 Proposed site for infill dwelling and domestic garage  
 Between 8 & 12 Ballykeel Road, Ballymartin, Kilkeel, BT34 4PL



ARCHITECTURAL  
 DESIGN

This proposal qualifies for approval under the infill policy (CTY8) because it constitutes the development of a small gap with in a substantial and built up frontage. CTY8 defines a substantial and built up frontage as **“a line of 3 or more buildings along a road frontage”**



The Planners in their report have stated that the lane terminates in front of the proposed site, this is incorrect and the photo to the left clearly shows the lane (highlighted red) extending beyond the proposed site and past No 12.

The road frontage is continuous as indicated on the photo below (blue hatch line). We do not dispute that there is a lane leading onto a road, but the lane and the road are continuous by definition due to the fact they are joined together and you continue from the lane onto the road (and vice versa). **Policy CTY8 is clear that a road frontage can include a ‘private lane’.**

In terms of assessing the size, scale, setting and plot sizes, the site areas are and frontage are as follows: No 6 (green) - frontage 54m / area 0.24ha; No 8 (gold) - frontage 12m / Area 0.24ha; second infill (purple) - frontage 57m / Area 0.27ha; proposed site (red) - frontage 40m / area 0.19ha, and; No 12 (yellow) - frontage 27m / area = 0.14ha. The average frontage is 36m and the proposed site is 40m, which is generally consistent. The average site areas are 0.21ha and the proposed site is 0.19h, which, again, is consistent with the site areas present within the frontage.



In relation to the dwelling at No 8, this plot does have road frontage. As stated in PPS21 CTY8:

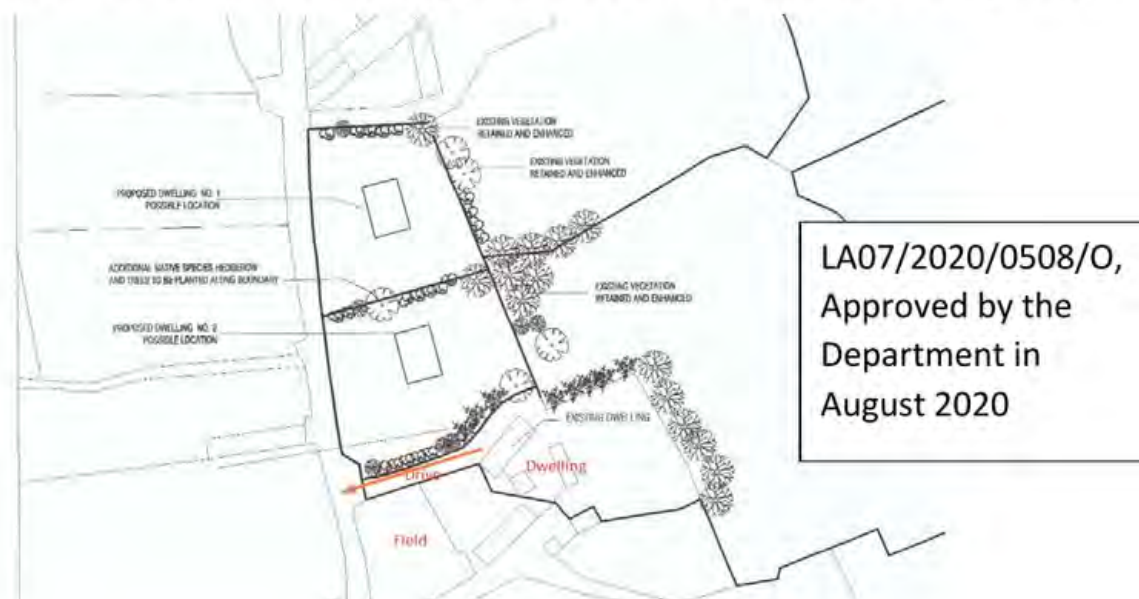
5.33 For the purposes of this policy a road frontage includes a footpath or private lane. A 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. **Buildings sited back, staggered or at angles and with gaps between them can still represent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

The Planning Department have stated that *No.8 Ballykeel Rd, is located further south. This property is accessed onto the Ballykeel Road and does not have a frontage to the laneway. It is set back from the Ballykeel Road by an intervening field.*

The department have wrongly described the access to No 8 as a laneway. This is wrong it is actually a driveway with an adjoining garden, which is the property's sole entrance onto the main road. A laneway would suggest that it may not be part of the curtilage of the dwelling, however a driveway confirms ownership and thus part of the curtilage. This is clearly a driveway (see below) due to the fact that it has a garden to one side, shrubs to the other and it only serves the dwelling at No. 8.



There is an example of an application very similar to this, which this planning department's Newry office approved within the last 2 years, ref: [LA07/2020/0508/O](#). Similarly, it had a drive/lane to buildings and a field between them and the road. This was not deemed fatal and was approved in that instance. Please see the example below.



This application meets the requirements of CTY8 and as such refusal reasons 1 and 3 should be overturned because; a) the proposal would not result in ribbon development and would not therefore erode the rural character of the area, and b) it is therefore acceptable in principle in the countryside and is essential in this rural location. At the subsequent reserved matters stage, the dwelling will be designed in accordance with Building on Tradition guidance and will utilise local materials and its form, scale and appearance will respect local architecture thereby ensuring compliance with policy NH6 of PPS2.



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agus an Dúin

**Newry, Mourne  
and Down**  
District Council

**Application Reference:** LA07/2021/1187/F

**Date Received:** 22.06.2021

**Proposal:** Proposed erection of battery energy storage facility, lighting and closed-circuit television columns, new site boundary fencing, construction of private service laneway, ancillary development works and additional landscaping.

**Location:** Lands located approximately 85 metres north of No. 68 Cloughanramer Road, Newry City

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

The site is located to the N of the existing Carnbane Industrial estate, surrounded by a mix of industrial buildings to the S/ SE and SW of the site. Several dwellings are located to the E of the site on elevated ground accessing the Cloughanramer Rd (dwellings are situated approximately 312 – 582m away).



Land at the site has a gentle gradient with land falling slightly from NW to SE whilst the southern boundary of the proposed site adjacent to a level stoned area. The site



is a cut out of a much larger field with no defined boundaries on the ground but benefits from the grouping with the existing property immediately S of the site.

The site is located within the development limits of Newry on land zoned for economic use (NY63) as identified by the Banbridge/ Newry and Mourne Area Plan 2015 which includes key requirements (access from Carnbane Industrial Estate, hedges to E retained and open storage shall be screened from access road)



Application Site



Aerial View



Development S of site (Entrance via Carnbane Industrial estate)



View from Cloughanramer Rd



View from Cloughanramer Rd (Existing access onto Cloughanramer Rd)

### Relevant Site History:

LA07/2021/0454/PAN - Proposed erection of Battery Energy Storage Facility, lighting and closed-circuit television columns, new site boundary fencing, construction of private service lane-way, ancillary development works and additional landscaping. (PAN Acceptable) (Application Site)

LA07/2016/0898/O - Outline planning permission is being sought for a period of 5 years for a proposed development comprising a business park incorporating office and light industrial uses on the lands at Carnmeen Farm and a new access road from the eastern extent of the application site in the form of a new road and roundabout located on the Belfast Road. The outline proposal for a maximum of 32,258m<sup>2</sup> of office space (B1) and 36,509 m<sup>2</sup> of light industrial space (B2) which will realise a maximum total floorspace provision of 68797m<sup>2</sup>, together with ancillary car parking facilities and associated services. (Current)



P/2008/1523/F - Combined heat and power drying facility for the drying of agricultural crops including alterations and extension to existing storage shed together with ancillary works and road junction. Grnated (No restrictions applied to the access arrangement to Cloughanramer Rd)

P/2009/0600/F - Refurbishment of existing bridges and agricultural laneway with upgrade of existing farm access to support new development. (SW of site) (Granted)

LA07/2021/0204/PAN - Erection of sheds for the manufacture of solid recovered fuel from residual waste, the manufacture of products from dry recyclables, and vehicle maintenance; erection of 4-storey office block; external storage bays; carparking and associated site works including boundary fencing and ancillary plant (amended description) – PAN Acceptable (SE of site)

LA07/2021/1102/F - Erection of sheds for the manufacture of solid recovered fuel from residual waste, the manufacture of products from dry recyclables, and vehicle maintenance; erection of 4-storey office block; external storage bays; carparking and associated site works including boundary fencing and ancillary plant. (SE of Site) (Granted)

### Planning Policies & Material Considerations:

- Regional Development Strategy 2035 (RDS)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge/ Newry and Mourne Area Plan 2015 (BNMAP)
- DES 2 - Planning Strategy for Rural Northern Ireland
- PPS 2 - Natural Heritage
- PPS 3 - Access, Movement and Parking
- PPS 4 - Planning and Economic Development
- PPS 15 (Revised) - Planning and Flood Risk
- DCAN 10 (Revised) - Environmental Impact Assessment
- DCAN 15 - Vehicular Access Standard
- DOE Parking Standards

### Consultations:

- NIEA Water Management (14.04.22) - Content
- NIEA Natural Heritage (14.02.22) - No concerns, subject to conditions
- NIEA Regulation Unit (28.09.21) - There are no significant records of previous potentially contaminating land uses onsite or in the area. The development is considered low risk to the water environment.
- EH (02.05.21) – No objection
- Transport NI (04.05.22) – No objection, subject to conditions
- NIE (02.11.21) - No objection
- HSENI (27.08.21) - HSENI assessed the emergency response plans provided by the applicant. Based on the information provided, this development would not be subject to The Control of Major Accident Hazards Regulations (Northern Ireland) 2015.
- NIFRS (09.08.21) – No objection
- NIW (09.08.21) – Public water supply available, foul sewer and public sewer connection not required
- SES (10.05.22) – No objection
- Rivers Agency (29.10.21):
  - FLD 1- Does not lie within a fluvial or coastal flood plain
  - FLD2 - An undesignated watercourse to the N access of the lane and southern boundary of the site. A working strip of 5m to be provided with clear access and egress at all times. Rivers no reason to sustain a refusal under FLD 2.
  - FLD 3 - While not being responsible for the preparation of this Drainage

Assessment accepts its logic and has no reason to disagree with its conclusions. Condition to be applied.

- FLD 4 and FLD 5 - Not applicable

### **Objections & Representations:**

The application was advertised in local newspapers on the 4<sup>th</sup> August 2021.

4 neighbours were notified on the 3<sup>rd</sup> August 2021 and a further notification on the 12<sup>th</sup> January 2022 regarding amended plans.

Two letters of objection from 1 address was received.

### **Issues Raised by the Objector and Consideration of Correspondence:**

- Proposal involves a new access to Cloughanramer Rd, which is against the area plan and is not suitable for vehicular traffic
- Proposals conflict with key site requirements of NY63 that access should be from Carnbane Industrial Estate.
- Impact of new road onto Cloughanramer and visual impact.

*Proposals involve the construction of a private service laneway which is directly linked onto Carnbane Industrial Estate (See drawing PL-03 Revision D – Proposed Site Layout) with gated entrance, this will be the main vehicular access into Carnbane Industrial Estate from the development. The Local Planning Authority along with Transport NI will insist by way of a planning condition that the main vehicular access is constructed and put in place from Carnbane Industrial estate prior to the operational use of the development should approval be granted, this will also ensure that the key site requirements are also complied with.*

*It is acknowledged that there is an existing access to Cloughanramer Rd which is already in place and services the development immediately adjacent and south of the development as approved under P/2008/1523/F with no restrictions applied to the current access arrangement. There are no additional accesses proposed onto Cloughanramer Rd associated with this application. Given this arrangement there is no adverse visual impact above and beyond what already exists at this location.*

- Require a copy of P1 form detailing average daily vehicles at the site and clarification of parking

*This has been provided to the objector*

- Possible contamination

*NIEA regulation units in their consultation response dated 28.09.21 have raised no issues of concern.*

- Proximity to flood plain

*Rivers Agency in their consultation response dated 29.10.21 have confirmed that the proposal is not within any fluvial or coastal flood plain and overall raises no issues of concern in relation to the development.*

- Noise pollution
- What landscaping is proposed to screen the development

*An independent noise report was submitted to the Local Planning Authority as part of this application which concludes that proposals will have low impact. Consultees also had sight of the report, with EH having no objections to proposals. The development will be enclosed by acoustic close board fencing surrounded by native species hedging on the outside of this which will further act as a buffer for noise prevention.*

### **Consideration and Assessment:**

#### **Development Management Regulations:**

The development has been considered under The Planning (Development Management) Regulations (Northern Ireland) 2015 as an energy storage facility falling within part 2 of the regulations as Energy Infrastructure for the purposes of electricity generation and therefore requires the submission of a Proposals of Application Notice which was submitted under LA07/2021/0454/PAN.

The regulation also requires a pre-application community event to be undertaken prior to submission of the formal submission of the major application. Due to the Coronavirus pandemic temporary modification to the legislation was in place and the agent carried out public consultation by way of corresponding with nearest neighbours, advertisement, web-based link and advised local elected representatives.

Supporting evidence of this process was submitted as part of this application to demonstrate that this had been carried out in accordance with legislative requirements at the time.

#### **Proposal:**

The proposal consists of a Battery Energy Storage Facility (BESF) which involves the storage of electricity when there is a surplus and will discharge into the network during periods of deficiencies. Such facilities are used to support modern electricity network particularly those that use renewable sources.

The development will be located within a compound covering an area of 0.78 ha enclosed by palisade fence, with security cameras and infra-red detection systems with the outer boundary comprising of blackthorn/hawthorn hedge. The site will hold 8 battery units located within a series of metal shipping containers measuring 12m x 2.5m, height 2.6m coloured green and includes 8 separate 6m x 2.5m container housing power units, a switch gear on concrete platform, a container site control room, auxiliary transformer on concrete skid and a switch room. Proposals also involve the construction of a private service laneway with gated entrance onto Carnbane Industrial Estate.

**EIA Screening:**

The proposal falls within the threshold of Category 3 (a) – Energy Industry and 10 (b) – Infrastructure Projects of Schedule 2 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017. The Local Planning Authority has determined through an EIA screening that there will be no likely significant environmental effects and an Environment Statement is not required.

**Planning Act:**

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 Regional Development Strategy (RDS) 2035 (RG5 and 9):**

The RDS is an overarching strategic planning framework supporting sustainable development whilst encouraging economic growth across the region. To underpin growth, it is acknowledged there is need for modern and sustainable infrastructure to deliver reliable and secure sources of energy.

The RDS goes further in stating that new generation infrastructure must be carefully planned and assessed to avoid adverse environmental impacts with the decision maker having to balance impacts against the benefits from a secure renewable energy stream, and the potential for cleaner air and energy for industry and transportation.

The Battery Energy Storage Facility (BESF) site has been identified as being located at a strategic location on the national electricity infrastructure which is well placed with its location immediately adjacent to an existing combined heat and power facility as well as links to the existing electricity network for the area. The site will be capable of significant electricity storage 'enough to serve the needs of the sub-regional area for up to 1 hour'.

The site will form an essential part of the regional grid infrastructure controlled by SONI (the entire electricity system is managed from a single control centre operated by SONI Ltd) supporting renewable energy sources.

Proposals feed into the ethos of the RDS in promotion of environmentally sustainable systems to meet modern needs, delivery of a sustainable and secure energy supply whilst reducing carbon footprint. Ensuring and maintaining the frequency of the grid during normal operating limits with a wide range of benefits including versatility (batteries can power less than one second and quickly deployed during outages), reduction of carbon dioxide emissions, low cost, security of supply and no adverse impact to the environment.

Development proposals are in conformity with the provisions of the RDS for the reasons set out above.

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



The Banbridge/ Newry and Mourne Area Plan 2015 (BNMAP) is the operational Local Plan for this site, which identifies the site as being within the settlement limits of Newry Centre (NY01).

Under Policy SMT2 (Volume 1 of the Plan) zoned economic development land planning permission will only be forthcoming provided development is in accordance with prevailing regional planning policy, plan proposals as well as key site requirements.

There is no specific Development Plan policy relevant to the use as a Battery Energy Storage Facility (BESF) nor any recognised use class for such development. In planning policy terms, it may be regarded as being an industrial proposal rather than one for economic development albeit not defined.

The proposed site comprises 0.78 ha of land within 124 ha of land within the settlement limits which has been zoned for economic development under allocation ECD1 (Volume 1 of the Plan) with specified key site requirements. Development proposals will adhere to the key site requirements with access onto Carnbane Industrial Estate that'll be made conditional should planning approval be granted. Given the range of industrial uses within the immediate vicinity proposals will not be at conflict with the land zoning applied at this location. Further consideration of these matters will be considered below.

### SPPS and PPS4:

As there is no significant change to the policy requirements for industrial development following the publication of the SPPS and it is somewhat less prescriptive, the retained policy of PPS4 will be given substantial weight in determining the application in accordance with paragraph 1.12 of the SPPS.



### **PED 7 (Retention of Zoned Land and Economic Development Uses)**

PED 7 directs that development that results in loss of land or buildings zoned for economic use will not be permitted unless the zoned land has been substantially developed for alternative uses and further states that exceptions can apply for some sui generis uses in certain circumstances

In this particular case, the proposed development does not fit within any defined land use category and is therefore deemed 'sui generis'. As the site comprises of 0.78 ha of the 124ha of land zoned for economic use it only represents 0.6% loss of land within the wider land zoning. Furthermore, as a 'sui generis' proposal which in planning terms is more aligned with an industrial use although undefined. The development given its small-scale nature in comparison to the wider industrial usage is compatible with surrounding land uses, in terms of its scale, nature and form will not appear misplaced within its surroundings, is well placed in terms of connection to the local grid as well as supporting the existing combined heat and power facility and will not cause a diminution of the industrial land resource. Thus, proposals are fully compliant with PED 7 in this regard.

### **DES 2 - Townscape**

The site is located within the settlement limits of Newry on lands zoned for economic development for the reasons set out in PED 7 the land use is deemed acceptable at this location. Given development within the vicinity consists of a wide mix of industrial and business uses the development proposal will not appear out of place at this location. Overall the design and layout does not create conflict with adjacent land uses and is sufficiently distanced away from residential properties to avoid any issues relating to residential amenity.

On this basis the application fulfils the requirement of DES 2 of the PSRNI.

### **SPPS and PPS2 – Natural Heritage**

Following additional information, DAERA NED in comments dated 29.09.21 are content with the proposal against PPS2 requirements, subject to conditions.

NIEA Water Management Unit and Regulation Units in comments dated 28.07.21 have also no objection.

Proposals meet the requirements of the SPPS and PPS2.

### **Planning Strategy for Rural Northern Ireland (PSRNI), Policy PSU 8 – New Infrastructure**

PSU 8 is material to the assessment of this planning application, in that the need for new infrastructure will be balance against the objective to conserve the environment and protect amenity. Development proposals will also have to adhere to several criteria which will be assessed individually below:

***Need for the Facility:***

These proposals are designed as a component of the national electricity grid to stabilise supply, its purpose is to store electricity when there is surplus generation in the system and discharge electricity into the grid at times of deficient generation. The BESF can provide power in less than 1 second and can be quickly deployed more efficiently in comparison to large centralised power stations. Energy storage is a key driver to unlock renewable capacity and improve the environmental stability of electricity production. Energy storage is recognised as an essential new element in the electricity network. It will form a key part of the ongoing modernisation of the grid and create a more efficient network. The proposed site is both necessary and strategically located at an optimal location.

***Impact on the Environment (Visual and Ecological Impact)******Visual:***

The site is located to the N of an existing combined heat and power drying facility (P/2008/1523/F) as well as situated to the N of existing and proposed economic developments at Carnbane, it is within this context that the visual impact is assessed.

The site is filled with 8 storage containers sitting on a concrete plinth with height not exceeding 3.1m and 8 transformers not exceeding 2.2m at its highest point. The site is enclosed by 2.65m high pallisade fence with proposed hedgerow on the outer boundaries therefore softening the visual impact of the proposal. Together with the backdrop of adjacent development (which is of a higher height than the overall development proposed on the site), proposed planting and although critically viewed from Cloughanramer Road is set well away from the public road and will read as part of the exist industrial complex. On balance giving the surrounding context will have limited visual impact.

***Ecology:***

A biodiversity checklist and preliminary ecological assessment was submitted as part of the application. NIEA Natural Heritage have considered the information before them and in their consultation response dated 14.02.22 have raised no concerns with the proposal.

***Impact on Communities:***

The site is located on the outer part of the existing industrial estate with surrounding lands zoned for economic use but remain undeveloped, should these lands eventually be developed, will completely screen the proposal from view.

Notwithstanding this, the site is located some 312m from the nearest residential dwelling at Cloughanramer Road although the development will be visually seen.

The applicant proposes to use fencing and landscaping on the outer boundaries will screen development and soften its visual appearance.

There is an existing access to the site which services the existing building to the S. However the applicant proposes to construct a new private service laneway onto Carnbane Industrial Estate and will serve as the main access to the site (this will be conditional should planning permission be forthcoming - the access will be constructed prior to the operational use of the development).

A noise impact assessment has been submitted and considered Environmental Health having no objections. The Fire Authority and NIEA have been consulted on fire risk and in relation to storage of materials on site but neither have raised any issues of concern.

#### ***Impact on Natural or Manmade heirtage:***

There are no known built or natural heritage features on or within the general vicinity of the site. NIEA Natural Heritage in their consultation response dated 14.02.22 have advised they have no concerns with proposals.

#### ***Existence of Alternative Sites/ Routes***

The site is located within the urban limits of Newry City with the site specifically selected due to its strategic location and connection to Northern Ireland Electricity grid, it is immediately adjacent to existing infrastructure and a renewable energy facility to support the BESF. Given its location within the industrial estate it will have limited impact visually in terms of landscape character and is set well away from local residents/ receptors to avoid any amenity issues and will have no significant impact upon heritage or ecology interests.

#### ***Provsion to Mitigate adverse Effects***

Overall consultees are satisfied with proposals and have raised no objection to proposals. The Local Planning Authority will attach the recommended conditions sent out in consultee replies to alleviate concerns on transport issues raised by the objector but to also to ensure adequate management of the site.

#### **PPS3 – Access, Movement and Parking, Parking Standards and DCAN 15 – Vehicular Access Standards**

Transport NI in their consultation response dated 04.05.22 have no objection with proposals. Development includes the construction of a private service laneway onto Carnbane Industrial Estate which will serve as the main access to the site. The access arrangement will be conditioned to be constructed and in place prior to the operational use of the facility.

**SPPS and PPS15** – Rivers Agency in their consultation response 29.10.21 have raised no issues of concern.

## Water and Sewerage

Due to the nature of the development foul and public sewer connections are not required.

### Impact to European Sites:

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 is not likely to have a significant effect on the features of any European site.

### Consideration and Assessment Summary:

Having had regard to the development plan, consideration of the objection letters and all other material considerations (including SPPS, DES 2 of PSRNI, PPS2, PPS3, PPS4, PPS15, DCAN15, DOE Parking Standards,) the proposed scheme merits as a suitable development proposal which is compatible with the land zoning of the area plan and full complies with planning policy for the reasons set out above. Therefore, the application is recommended for approval subject to the necessary planning conditions outlined below.

**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:

- PL - 01 Revision C (Site Location Map, Site Location Overview Map, Existing NI Flood Map and Existing Area Plan)
- PL - 03 Revision D (Proposed Site Layout Plan)
- PL - 04 (Proposed Site Components)
- PL - 05 (Proposed Site Components)
- PL - 06 (Proposed Site Boundary Details)
- PL - 07 (Proposed Site Components)
- PL - 08 (Proposed Site Sections)
- PL - 09 Revision D (Proposed Site Landscaping and Management Plan)
- PL - 10 (Proposed Site Entrance Detail)
- PL - 11 (Proposed Concept Visuals)
- PL - 11 Revision B (Proposed Site Components)
- C - 02 (Site Drainage Plan)
- 45/CD/NY/20 (Exterior Lighting)

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

3. The vehicular access onto Carnbane Way, shall be provided in accordance with Drawing No. PL-03 Rev D date stamped ....., prior to the operation of the development hereby permitted. All means of vehicular access of the development hereby permitted shall only be from and onto Carnbane Way to be used in perpetuity

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users. 'Operation' used as the access is not needed for construction traffic.

4. The vehicular access onto Cloughanramer Road (to be used only during construction as referred to in item 5.3 of the Document Control Sheet date stamped 22 June 2021), including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. PL-10 date stamped 22 June 2021, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

5. The access gradient to the development 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.

6. The development hereby permitted shall not commence until effective vehicle wheel washing facilities have been installed and brought into operation for the construction of the development approved.

Reason: To prevent the carry-over of mud or debris onto the public road in the interests of road safety and convenience.

7. Once a contractor has been appointed, a Method of Works Statement (MOS) shall be submitted to the Local Planning Authority for their written agreement prior to works commencing on site. Development shall take place in accordance with the approved Method of Works Statement (MOS)

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment prior to works beginning on site.

8. There shall be no direct lighting on the sweet chestnut tree, as detailed in the Preliminary Ecological Assessment, and identified as target note 6, Figure 2.

Reason: To ensure protection of habitat.

9. Prior to the commencement of any of the development hereby approved, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 shall be submitted to and agreed in writing by the Local Planning Authority. Development shall take place accordance with the approved details.

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

10. If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works shall cease, and the Local Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance (available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>.) In the event of unacceptable risks being identified, a remediation strategy shall be agreed in writing with the Local Planning Authority and subsequently implemented in accordance with the approved details and timeframe.

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

11. After completing all remediation works under Condition 10 and prior to operational use of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority. This report shall be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance available at <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>. The verification report shall present all the remediation, decommissioning and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

12. All hard and soft landscape works shall be carried out in accordance with drawing No. .... and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following the operational use of the development hereby permitted.

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 Local Planning Authority, 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 Local Planning Authority gives its written consent to any variation.

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

- 14. A working strip along the watercourse shall be provided to facilitate future maintenance by DFI Rivers, other statutory undertakers or riparian land owners. The working strip shall have a minimum width of 5m with clear access and egress at all times and shall be retained thereafter.

Reason: To safeguard against flood risk to the development or elsewhere.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

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**Newry Mourne & Down District Council**

Local Planning Office

O'Hagan House

Monaghan Row

Newry

BT358DJ

22.06.2022

Our Ref: BGPS – 20-453

Your Ref : LA07/2021/1187/F

FAO : Democratic Services.

**Re: Proposed Erection of Battery Energy Storage Facility, Lighting & Closed-Circuit Television Columns, New Site Boundary Fencing, Construction of Private Service Laneway, Ancillary Development Works and Additional Landscaping, Located Upon lands Approximately 85 Meters North of No. 68, Cloughanramer Road, Carnmeen, Newry City, Co. Down, N. Ireland, BT34 1QG.**

Dear Collette,

In respect to the above planning application (**LA07/2021/1187/F**) which has been presented for the forthcoming planning committee meeting scheduled for Wednesday 22<sup>nd</sup> June 2022, I am writing to request attendance at the proposed meeting with additional speaking rights for myself and the applicant (Mr. Simon Best) in support of the recommended decision made by the District Council and to answer any possible queries regarding the development proposal which may arise during discussions by the planning committee. If you should require any further information, please do not hesitate to contact me.

Yours Sincerely,

**Barney McKeivitt**

ENVF



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

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<b>PLANNING MEETING – 1 AUGUST 2018</b>			
LA07/2017/1261/0	Thomas Mageean – proposed dwelling and garage – site abutting 20 Junction Road, Saintfield	<b>Defer application to enable the Council’s Legal Advisor to consider issues raised regarding ownership of the application site (Mr Thomas Mageean); the farm business in the name of Mr Bernard Mageean, who takes land in conacre from his brother and this farm business being altered by adding the applicant as an additional member of the business and in so doing have the applicants buildings at No. 20 Junction Road included within the farm business criterion © of CTY10</b>	Annette McAlarney	<b>Legal Advice received. Further information sought from the agent.</b>	N
<b>PLANNING COMMITTEE MEETING 26 AUGUST 2020</b>					
LA07/2019/1302/F	Provision of a dwelling with associated parking and amendment to application R/2011/0794/f to remove parking	<b>Defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can</b>	A McAlarney	<b>Awaiting agent on submission of requested information.</b>	N

	area for apartments and replace with shared amenity space - to rear of Nos 65-69 South Promenade, Newcastle.	<b>be secured for this proposal.</b>			
LA07/2019/1087/0	Replacement dwelling and garage - approx. 50m NE of 21 Drakes Bridge Road, Crossgar	<b>Removed from the agenda as agent unable to attend</b>	A McAlarney	<b>Application on hold to allow a Bat survey to be carried out by applicant. Survey season is May – August.</b>	N
<b>PLANNING COMMITTEE MEETING 23 SEPTEMBER 2020</b>					
LA07/2020/0176/F	Proposed rural infill detached dwelling and garage – 45m north of 5 Molly Road Lower, Jonesborough	<b>Defer for 3 months to allow time for the garage to the north of the proposed site to be built and then application to be re-considered</b>	A Davidson	<b>Under consideration by Planning Office</b>	N
<b>PLANNING COMMITTEE MEETING 09 MARCH 2022</b>					
LA07/2020/1567/F	Proposed GAA training pitch, multi-use games area, ball wall along with associated lighting, fencing, ball stops and ground works (amended drawings) - Ballyholland Harps GAA grounds Bettys Hill Road Ballyholland Newry BT34 2PL	<b>Removed from the schedule at the request of Planners – to be brought back to Committee</b>	Patricia Manley		N
LA07/2017/0978/F and LA07/2017/0983/LBC	Demolition of side and rear extension. New rear and side extensions and rear dormer 50 Hilltown Road Bryansford Newcastle	<b>Defer back to officers to see if agreement on design can be reached and delegate decision to officers</b>	Annette McAlarney	<b>Agent to submit revisions following meeting.</b>	N

<b>PLANNING COMMITTEE MEETING</b>					
<b>06 APRIL 2022</b>					
LA07/2021/1824/F	Replacement Dwelling House - 34 Ringdufferin Road Downpatrick	<b>Removed from the schedule at the request of Planners</b>	Annette McAlarney	<b>Under consideration by Planning Office</b>	N
<b>PLANNING COMMITTEE MEETING</b>					
<b>01 JUNE 2022</b>					
LA07/2019/1009/O	Redevelopment of existing residential site - Residential development at 113 South Promenade Newcastle	<b>Removed from the agenda at the request of Councillor Devlin to be re-presented at the next Committee Meeting</b>	Patricia Manley		
LA07/2019/1748/F	Erection of 12 dwellings, with boundary walls, fences, landscaping and associated site works - Site on Upper Burren Road between No's 6 and 10 and extending to the rear of 22 and 26 Milltown Street and 4 Upper Burren Road Burren	<b>Removed from the agenda at the request of Planners</b>	Mark Keane	<b>Remains under consideration</b>	
LA07/2021/1664/O	Proposed site for infill dwelling and domestic garage Between 8 and 12 Ballykeel Road Ballymartin Kilkeel BT34 4PL	<b>Removed from the agenda at the request of Councillor Hanna to be re-presented at the next Committee Meeting</b>	Mark Keane	<b>To be returned to 29<sup>th</sup> June P I C meeting</b>	
<b>END</b>					

## Newry, Mourne & Down District Council – May 2022

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### 1. Live Applications

MONTH 2022/23	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April 2022	142	1,120	235
May 2022	132	1,070	248

### 2. Live Applications by length of time in system

Month 2022/23	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April 2022	660	225	89	37	109	<b>1,120</b>
May 2022	609	213	94	43	111	<b>1,070</b>

### 3. Live applications per Case Officer

Month 2022/23	Average number of Applications per Case Officer
April	69
May	66

### 4. Decisions issued per month

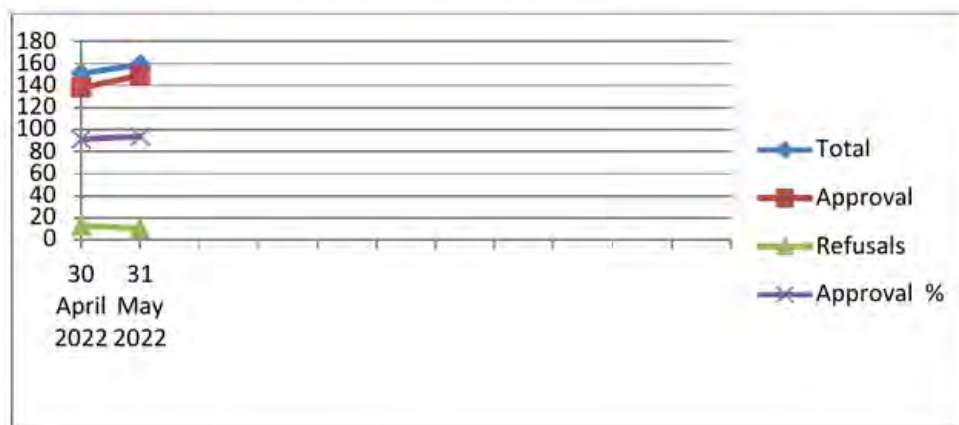
Month 2022/23	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	151	139
May	159	152

### 5. Decisions Issued YTD

Month 2022/23	Number of Decisions Issued	Breakdown of Decisions	
April	151	Approvals (138)	91%
		Refusals (13)	9%
May	310	Approvals (287)	93%
		Refusals (23)	7%

## Newry, Mourne &amp; Down District Council – May 2022

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## 6. Enforcement Live cases

Month 2022/2023	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+ yrs	Total
April	214	154	75	74	78	96	691
May	218	144	79	79	75	97	692

## 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
6 April 2022	10	7	3	1
11 May 2022	9	7	2	5
1 June 2022	9	6	3	3
<b>Totals</b>	<b>28</b>	<b>20</b>	<b>8</b>	<b>9</b>

## 8. Appeals

Planning Appeal Commission Decisions issued during period 1 May 2022 to 31 May 2022

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	29	2	2(1 partially*)	1 partially*	-
Down	46	0	-	-	-
<b>TOTAL</b>	<b>75</b>	<b>2</b>	<b>2*</b>	<b>1*</b>	<b>0</b>

## Newry, Mourne &amp; Down District Council – May 2022

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## Statutory targets monthly update - May 2022 (unvalidated management information)

## Newry, Mourne and Down

Major applications (target of 30 weeks)														
	Number received	Number decided/ withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 30 weeks		Number received	Number decided/ withdrawn <sup>1</sup>	Average processing time <sup>2</sup>	% of cases processed within 15 weeks		Number opened	Number brought to conclusion <sup>3</sup>	"70%" conclusion time <sup>3</sup>	% of cases concluded within 39 weeks
April	0	1	303.8	0.0%		128	147	20.8	34.0%		30	46	98.9	45.7%
May	1	-	0.0	0.0%		87	142	19.5	31.7%		36	39	61.6	59.0%
June	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
July	0	-	0.0	0.0%		0	-	0.0	0.0%		0	-	0.0	0.0%
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%
<b>Year to date</b>	<b>1</b>	<b>1</b>	<b>303.8</b>	<b>0.0%</b>		<b>215</b>	<b>289</b>	<b>20.4</b>	<b>32.9%</b>		<b>66</b>	<b>85</b>	<b>79.8</b>	<b>51.8%</b>

Source: NI Planning Portal

**Notes:**

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

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

## Newry, Mourne & Down District Council – May 2022

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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

123

**AUTHORITY** Newry, Mourne and Down

<b>ITEM NO</b>	1	<b>PAC Ref:</b>	2019 /A0248
<b>Planning Ref:</b>	LA07/2019/1130/	<b>DEA</b>	The Mournes
<b>APPELLANT LOCATION</b>	Mr James Rogan Site Adjacent To 33 Dunwellan Park Newcastle		
<b>PROPOSAL</b>	New end terrace Dwelling with associated site works		

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** 10/03/2020

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**

<b>ITEM NO</b>	2	<b>PAC Ref:</b>	2020/A0003
<b>Planning Ref:</b>	LA07/2019/1021/	<b>DEA</b>	Rowallane
<b>APPELLANT LOCATION</b>	Mrs E Fitzsimons 53A Saintfield Road Crossgar		
<b>PROPOSAL</b>	Retention of building in substitution of previous approval LA07/2015/1224/F		

**APPEAL TYPE** DC- Refusal of Planning Permission

**Appeal Procedure** **Date Appeal Lodged** 16/07/2020

**Date of Hearing**

**Date Statement of Case Due for Hearing**

**Date Statement of Case Due - Written Representation**

**Date of Site Visit**



## Current Appeals

124

<b>ITEM NO</b>	<b>3</b>	<b>PAC Ref:</b>	2020/A0142
<b>Planning Ref:</b>	LA07/2020/1072/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Chris Ball		
<b>LOCATION</b>	67 St Patricks Avenue Downpatrick		
<b>PROPOSAL</b>	Change of use from commercial/office to a 2 bedroom dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	15/02/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>4</b>	<b>PAC Ref:</b>	2020/A0145
<b>Planning Ref:</b>	LA07/2020/1485/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Leo Mcgrenaghan		
<b>LOCATION</b>	Land Adjacent To 32 Teconnaught Road Downpatrick		
<b>PROPOSAL</b>	Dwelling House		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	12/02/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

125

<b>ITEM NO</b>	<b>5</b>		
<b>Planning Ref:</b>	LA07/2018/0293/	<b>PAC Ref:</b>	2020/A0156
<b>APPELLANT</b>	Paul McEvoy	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Opposite 49 And Adjacent To 56 Darragh Road Darraghcross		
<b>PROPOSAL</b>	Erection of housing development consisting of 3 pairs of semi-detached dwellings, 1 detached chalet dwelling and 1 detached bungalow fronting Darragh Road.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	15/03/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>6</b>		
<b>Planning Ref:</b>	LA07/2018/1616/	<b>PAC Ref:</b>	2020/C002
<b>APPELLANT</b>	David Trevor Shields	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Approximately 35 Metres South East Of 8 Ballinran New Road Kilkeel		
<b>PROPOSAL</b>	Retention of 2no. existing pig sheds with underground slurry tanks, 3no. feed silos and gravel yard, and extension to western gable of shed at rear of site, with loading bay.		
<b>APPEAL TYPE</b>	DC- EIA Determination - app ES is required		
<b>Appeal Procedure</b>	<b>Formal Hearing</b>	<b>Date Appeal Lodged</b>	11/08/2020
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

126

<b>ITEM NO</b>	<b>7</b>	<b>PAC Ref:</b>	2021/0153
<b>Planning Ref:</b>	LA07/2021/0159/	<b>DEA</b>	The Mournes
<b>APPELLANT LOCATION</b>	Mr & Mrs S Morrison 37 Ballagh Road Newcastle		
<b>PROPOSAL</b>	Proposed Replacement two-storey split level dwelling with retention of existing dwelling for ancillary use		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	01/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>8</b>	<b>PAC Ref:</b>	2021/A0008
<b>Planning Ref:</b>	LA07/2020/0258/	<b>DEA</b>	Crotlieve
<b>APPELLANT LOCATION</b>	Johnny Farrell 49a Greenan Road Newry		
<b>PROPOSAL</b>	Co Down Retention of construction access with new improved sight lines- previously approved under P/2011/0702/F		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	20/08/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>9</b>		
<b>Planning Ref:</b>	LA07/2020/1568/	<b>PAC Ref:</b>	2021/A0009
<b>APPELLANT</b>	Mr & Mrs Pat Hayes	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	To The Rear And Immediately South West Of 62 Crawfordstown Road		
<b>PROPOSAL</b>	Drumaness Retrospective extension to domestic curtilage, construction of garden feature and greenhouse along with all associates hard and soft landscaping.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	18/05/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>10</b>		
<b>Planning Ref:</b>	LA07/2020/1360/	<b>PAC Ref:</b>	2021/A0022
<b>APPELLANT</b>	Charlie Magennis	<b>DEA</b>	The Mournes
<b>LOCATION</b>	Base And Morelli's 71-73 Central Promenade Newcastle		
<b>PROPOSAL</b>	Proposed erection of temporary retractable awning and lightweight structure		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	09/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

128

<b>ITEM NO</b>	<b>11</b>		
<b>Planning Ref:</b>	LA07/2020/1077/	<b>PAC Ref:</b>	2021/A0031
<b>APPELLANT</b>	Mr Eammon McAteer	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	12 Cullion Road Mayobridge RT34 2H11		
<b>PROPOSAL</b>	Improvements to existing lorry parking area, erection of a building for the maintenance of lorries and collection and compacting of cardboard polystyrene for transfer to re cycling centers		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	25/05/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>12</b>		
<b>Planning Ref:</b>	LA07/2021/0096/	<b>PAC Ref:</b>	2021/A0033
<b>APPELLANT</b>	Mr Bailey	<b>DEA</b>	Rowallane
<b>LOCATION</b>	18a Drumgivan Road Drumgivan Ballynahinch		
<b>PROPOSAL</b>	Extension and renovation of Schoolhouse to domestic dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/05/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

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<b>ITEM NO</b>	<b>13</b>		
<b>Planning Ref:</b>	LA07/2020/0770/	<b>PAC Ref:</b>	2021/A0034
<b>APPELLANT</b>	Jamie McDonald	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Approx. 40m NE Of 29 Clontigora Hill Newry		
<b>PROPOSAL</b>	Infill dwelling and garage, associated landscaping and site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	25/05/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>14</b>		
<b>Planning Ref:</b>	LA07/2020/0115/	<b>PAC Ref:</b>	2021/A0046
<b>APPELLANT</b>	Brendan Ferris	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	110 Southwest Of 50 Crawfordstown Road Downpatrick		
<b>PROPOSAL</b>	Retrospective change of use of agricultural building to gym		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	28/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

130

<b>ITEM NO</b>	<b>15</b>		
<b>Planning Ref:</b>	LA07/2020/0079/	<b>PAC Ref:</b>	2021/A0049
<b>APPELLANT</b>	M Farrell	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Approximately 50m North West Of No. 53 Ayalogue Road Newry		
<b>PROPOSAL</b>	Dwelling and garage on gap site		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	14/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>16</b>		
<b>Planning Ref:</b>	LA07/2020/1828/	<b>PAC Ref:</b>	2021/A0051
<b>APPELLANT</b>	Richard Hall	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Adjacent And Immediately North Of 42 Old Belfast Road Dundrum Newcastle		
<b>PROPOSAL</b>	Infill site for dwelling with domestic garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	16/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

131

<b>ITEM NO</b>	<b>17</b>		
<b>Planning Ref:</b>	LA07/2021/0616/	<b>PAC Ref:</b>	2021/A0052
<b>APPELLANT</b>	Andrew Davis	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	East And Adjacent To 4 Turmennan Road Crossgar		
<b>PROPOSAL</b>	Dwelling at a crossroads/cluster in compliance with PPS21 CTY2a		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>18</b>		
<b>Planning Ref:</b>	LA07/2020/0387/	<b>PAC Ref:</b>	2021/A0074
<b>APPELLANT</b>	Mr C O'Connor	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	59 Drumnaquoile Road Castlewellan		
<b>PROPOSAL</b>	Change of house type and siting in substitution to Planning permission LA07/2018/1590/F		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/07/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

132

<b>ITEM NO</b>	<b>19</b>	<b>PAC Ref:</b>	2021/A0075
<b>Planning Ref:</b>	LA07/2021/0450/	<b>DEA</b>	The Mournes
<b>APPELLANT LOCATION</b>	Paul Smith 57 Castlewellan Road Newcastle		
<b>PROPOSAL</b>	Artist studio and study to existing dwelling, for domestic use associated with the dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	28/07/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>20</b>	<b>PAC Ref:</b>	2021/A0083
<b>Planning Ref:</b>	LA07/2020/1830/	<b>DEA</b>	Crotlieve
<b>APPELLANT LOCATION</b>	Briege McComiskey Approx 160m North West Of No.26 Leode Road Hilltown		
<b>PROPOSAL</b>	<sup>Newrv</sup> Erection of dwelling and domestic garage on a farm		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	03/08/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

133

<b>ITEM NO</b>	<b>21</b>		
<b>Planning Ref:</b>	LA07/2020/0936/	<b>PAC Ref:</b>	2021/A0092
<b>APPELLANT</b>	Mr James Hughes	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Mountview Business Park Rathfriland Road		
<b>PROPOSAL</b>	New Replacement free standing vertical sign with logos to both faces		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	17/08/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>22</b>		
<b>Planning Ref:</b>	LA07/2021/0055/	<b>PAC Ref:</b>	2021/A0105
<b>APPELLANT</b>	Heather & Stephen Verner	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Adjacent & 40m North Of 22 Tullyveery Road Killyleagh		
<b>PROPOSAL</b>	Dwelling and garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	17/09/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

134

<b>ITEM NO</b>	<b>23</b>		
<b>Planning Ref:</b>	LA07/2021/0790/	<b>PAC Ref:</b>	2021/A0107
<b>APPELLANT</b>	Mr & Mrs Wayne Garrett	<b>DEA</b>	Rowallane
<b>LOCATION</b>	135m South Of 58 Carsonstown Road Saintfield		
<b>PROPOSAL</b>	Single dwelling and garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	14/09/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>24</b>		
<b>Planning Ref:</b>	LA07/2021/0473/	<b>PAC Ref:</b>	2021/A0109
<b>APPELLANT</b>	Rhys Dowsall	<b>DEA</b>	The Mournes
<b>LOCATION</b>	5 Killowen Road Rostrevor		
<b>PROPOSAL</b>	Retention of mobile home on concrete hardstanding		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	16/09/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

135

<b>ITEM NO</b>	<b>25</b>		
<b>Planning Ref:</b>	LA07/2020/1834/	<b>PAC Ref:</b>	2021/A0112
<b>APPELLANT</b>	Mr & Mrs Christopher Kelly	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Approx. 200m SE Of No. 36 Mountain Road Ballynahinch		
<b>PROPOSAL</b>	Dwelling on a Farm		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	28/09/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>26</b>		
<b>Planning Ref:</b>	LA07/2021/1088/	<b>PAC Ref:</b>	2021/A0113
<b>APPELLANT</b>	MPG Wind	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Lands Approximately 230m To The North West Of 15 Barnmeen Road Rathfriland		
<b>PROPOSAL</b>	Proposed retention of existing turbine tower, replacement of existing turbine nacelle and blades with new nacelle and blades. The replacement nacelle and blades will create a hub height of 40m with a maximum rotor diameter of 31m and tip height of 55.5m (up to 250kW)		
<b>APPEAL TYPE</b>	DC - Non Determination of a Planning Application		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	09/11/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

136

<b>ITEM NO</b>	<b>27</b>		
<b>Planning Ref:</b>	LA07/2018/0932/	<b>PAC Ref:</b>	2021/A0116
<b>APPELLANT</b>	Dynes Bros	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	No's 12 And 14 St Patrick's Way And Lands Between 12 And 14 St Patrick's Way Ballyhornan Road Ballyalton Downpatrick (amended Address)		
<b>PROPOSAL</b>	Detached dwelling on lands between 12 and 14 St Patrick's Way and amendments to existing dwellings 12 and 14 to provide additional lands, landscaping and amendments to previously approved parking arrangements. (Amended Proposal)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	13/10/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>28</b>		
<b>Planning Ref:</b>	LA07/2019/1206/	<b>PAC Ref:</b>	2021/A0118
<b>APPELLANT</b>	Kilbroney Timberframe Limited	<b>DEA</b>	Newry
<b>LOCATION</b>	Land At 76 Canal Street Newry And Lands 15 Metres North Of 31-43 Catherine Street		
<b>PROPOSAL</b>	Proposed 8 dwellings (2 blocks of four terrace dwellings)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	13/10/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

137

<b>ITEM NO</b>	<b>29</b>	<b>PAC Ref:</b>	2021/A0120
<b>Planning Ref:</b>	LA07/2021/0762/	<b>DEA</b>	Rowallane
<b>APPELLANT LOCATION</b>	Mr B McCallister 70 Old Belfast Road Saintfield		
<b>PROPOSAL</b>	Extension to curtilage of dwelling to provide additional access to rear of dwelling, double garage/garden store with games room over.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	15/10/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>30</b>	<b>PAC Ref:</b>	2021/A0122
<b>Planning Ref:</b>	LA07/2020/0921/	<b>DEA</b>	Downpatrick
<b>APPELLANT LOCATION</b>	Alan Humphries Adjacent To 127a Shore Road Kilclief		
<b>PROPOSAL</b>	Dwelling and garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	18/10/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

138

<b>ITEM NO</b>	<b>31</b>	<b>PAC Ref:</b>	2021/A0128
<b>Planning Ref:</b>	LA07/2020/1002/	<b>DEA</b>	Slieve Gullion
<b>APPELLANT</b>	Cathal McGroder & Moira Fegan		
<b>LOCATION</b>	Site 50m West Of 15 O'Callaghan Road Tullydonnell		
<b>PROPOSAL</b>	Silverbridge Proposed erection of a dwelling house and garage.		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	28/10/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>32</b>	<b>PAC Ref:</b>	2021/A0137
<b>Planning Ref:</b>	LA07/2021/0092/	<b>DEA</b>	Crotlieve
<b>APPELLANT</b>	Mr Paul Henry Murney		
<b>LOCATION</b>	39 Chapel Hill Road Mayobridge		
<b>PROPOSAL</b>	Newry Retention of agricultural shed used for the wintering of animals and the storage of fodder and farm machinery		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	04/11/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

139

<b>ITEM NO</b>	<b>33</b>		
<b>Planning Ref:</b>	LA07/2021/0174/	<b>PAC Ref:</b>	2021/A0138
<b>APPELLANT</b>	Mary Boal	<b>DEA</b>	Croilieve
<b>LOCATION</b>	To The Rear Of No. 56 Milltown Street Burren		
<b>PROPOSAL</b>	Warrenpoint Proposed dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	04/11/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>34</b>		
<b>Planning Ref:</b>	LA07/2021/1066/	<b>PAC Ref:</b>	2021/A0141
<b>APPELLANT</b>	Sean & Linda Tumelty	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Adjacent To And North West Of 150A Vianstown Road Downpatrick		
<b>PROPOSAL</b>	Single Dwelling House		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	10/11/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

140

**ITEM NO** 35  
**Planning Ref:** LA07/2020/0518/ **PAC Ref:** 2021/A0143  
**APPELLANT** Mr Alan Milne **DEA** Slieve Gullion  
**LOCATION** 100m North Of 245 Armagh Road  
 Tullyhappy

**PROPOSAL** <sup>Newry</sup>  
 Retention of replacement agricultural store

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Written Reps** **Date Appeal Lodged** 17/11/2021  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

**ITEM NO** 36  
**Planning Ref:** LA07/2021/0536/ **PAC Ref:** 2021/A0148  
**APPELLANT** Messrs. M & P Fitzsimons **DEA** Downpatrick  
**LOCATION** Lands 186m Due West Of 83 Crew Road  
 Ardglass  
<sup>Downpatrick</sup>  
**PROPOSAL** Proposed building for mixed use agricultural purposes.

**APPEAL TYPE** DC- Refusal of Planning Permission  
**Appeal Procedure** **Date Appeal Lodged** 23/11/2021  
**Date of Hearing**  
**Date Statement of Case Due for Hearing**  
**Date Statement of Case Due - Written Representation**  
**Date of Site Visit**

## Current Appeals

141

<b>ITEM NO</b>	<b>37</b>	<b>PAC Ref:</b>	2021/A0149
<b>Planning Ref:</b>	LA07/2019/1375/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Cacola Ltd		
<b>LOCATION</b>	Lands Immediately South Of 17 Leitrim Road Ballymaginaghy Castlewella Co Down		
<b>PROPOSAL</b>	Erection of 2 Dwellings		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	01/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>38</b>	<b>PAC Ref:</b>	2021/A0150
<b>Planning Ref:</b>	LA07/2021/1061/	<b>DEA</b>	Crotlieve
<b>APPELLANT</b>	Mr Dermot O'Hare		
<b>LOCATION</b>	Lands Between 17A And 17B Hilltown Road Mayobridge RT34 2A1		
<b>PROPOSAL</b>	Proposed dwelling and garage		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	02/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

142

<b>ITEM NO</b>	<b>39</b>		
<b>Planning Ref:</b>	LA07/2019/1490/	<b>PAC Ref:</b>	2021/A0154
<b>APPELLANT</b>	Castlehinch Ltd	<b>DEA</b>	Rowallane
<b>LOCATION</b>	North Of 7 And 9 Saintfield Road Ballynahinch		
<b>PROPOSAL</b>	Vary condition 10 of planning approval R/2011/0648/F;  Condition 10: No other development hereby permitted shall be commenced until the works necessary for the improvement of a public		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	02/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>40</b>		
<b>Planning Ref:</b>	LA07/2021/0502/	<b>PAC Ref:</b>	2021/A0156
<b>APPELLANT</b>	Mr & Mrs J Wade	<b>DEA</b>	Rowallane
<b>LOCATION</b>	71 Lisburn Road Lisdalgaun Saintfield		
<b>PROPOSAL</b>	Replacement dwelling and conversion of existing dwelling to domestic store.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	01/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

143

<b>ITEM NO</b>	<b>41</b>		
<b>Planning Ref:</b>	LA07/2019/1262/	<b>PAC Ref:</b>	2021/A0158
<b>APPELLANT</b>	SJ Anderson & Sons	<b>DEA</b>	Rowallane
<b>LOCATION</b>	11 Lisburn Road Ballynahinch		
<b>PROPOSAL</b>	Replacement of existing dwelling with 4 townhouses and associated site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	03/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>42</b>		
<b>Planning Ref:</b>	LA07/2021/0639/	<b>PAC Ref:</b>	2021/A0161
<b>APPELLANT</b>	Declan Clarke	<b>DEA</b>	Newry
<b>LOCATION</b>	Located Upon Lands Approximately 50 Meters North Of No 33 Ferryhill Road Clontarf		
<b>PROPOSAL</b>	Proposed Erection of outline rural detached infill dwelling house and detached domestic garage, site works and associated landscaping		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	14/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

144

<b>ITEM NO</b>	<b>43</b>		
<b>Planning Ref:</b>	LA07/2021/0578/	<b>PAC Ref:</b>	2021/A0162
<b>APPELLANT</b>	Mr Brendan Quinn	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	Located Upon Lands Approximately 40m South East Of No. 20 Creamery Road		
<b>PROPOSAL</b>	Carran Proposed erection of a rural infill detached dwelling house together with detached domestic garage, site works and associated landscaping		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	14/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>44</b>		
<b>Planning Ref:</b>	LA07/2021/0361/	<b>PAC Ref:</b>	2021/A0163
<b>APPELLANT</b>	Gerard Murphy	<b>DEA</b>	Slieve Gullion
<b>LOCATION</b>	Approximately 84 Metres North East Of No. 2 Milltown Road Lislea		
<b>PROPOSAL</b>	Co. Armagh Proposed erection of an agricultural storage building and associated site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	14/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

145

<b>ITEM NO</b>	<b>45</b>	<b>PAC Ref:</b>	2021/A0168
<b>Planning Ref:</b>	LA07/2020/1025/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Patrick Fitzsimons		
<b>LOCATION</b>	Adjacent To And North West Of 59 Annacloy Road Downpatrick		
<b>PROPOSAL</b>	RT30 9AQ Proposed dwelling accessed by existing entrance and proposed new entrance for 59 Annacloy Road, Downpatrick		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	14/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>46</b>	<b>PAC Ref:</b>	2021/A0169
<b>Planning Ref:</b>	LA07/2021/0066/	<b>DEA</b>	Newry
<b>APPELLANT</b>	Mr Peter Connolly		
<b>LOCATION</b>	3 River Street Newry BT34 1DQ		
<b>PROPOSAL</b>	Conversion of commercial property to four number self contained one bedroom apartments		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	15/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

146

<b>ITEM NO</b>	<b>47</b>		
<b>Planning Ref:</b>	LA07/2021/0552/	<b>PAC Ref:</b>	2021/A0173
<b>APPELLANT</b>	Stephen Grogan	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Between 1a And 1b Mullavat Road Newry		
<b>PROPOSAL</b>	Private dwelling on gap/infill site (two storey requested)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Informal Hearing</b>	<b>Date Appeal Lodged</b>	17/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>48</b>		
<b>Planning Ref:</b>	LA07/2021/0408/	<b>PAC Ref:</b>	2021/A0177
<b>APPELLANT</b>	Irwin Carr Consulting Ltd	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Lands Located To The Rear Of No. 7 Osbourne Promenade (together With Rear Access And Parking From Great Georges Street South)		
<b>PROPOSAL</b>	Proposed Retention of Existing Office/Storage Building to be used in conjunction with No. 7 Osbourne Promenade (amended description)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	20/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

147

<b>ITEM NO</b>	<b>49</b>		
<b>Planning Ref:</b>	LA07/2020/0982/	<b>PAC Ref:</b>	2021/A0178
<b>APPELLANT</b>	Mr Noel McKeivitt	<b>DEA</b>	Newry
<b>LOCATION</b>	Lands Approximately 55 Metres North West Of No.5 Upper Fathom Road		
<b>PROPOSAL</b>	Fathom Lower Proposed erection of 2 No. Rural infill detached dwelling houses and detached garages, rural entrance pillars and gates, additional landscaping and associated site works.		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	20/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>50</b>		
<b>Planning Ref:</b>	LA07/2021/0598/	<b>PAC Ref:</b>	2021/A0179
<b>APPELLANT</b>	Ryan Kelly	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Adjacent To 104 Downpatrick Road Ballynahinch		
<b>PROPOSAL</b>	Farm dwelling, detached garage and site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	22/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

148

<b>ITEM NO</b>	<b>51</b>	<b>PAC Ref:</b>	2021/A0182
<b>Planning Ref:</b>	LA07/2021/0246/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Gerard Milligan		
<b>LOCATION</b>	Immediately North-west Of 102 Tullybrannigan Road Newcastle		
<b>PROPOSAL</b>	Proposed 3no. self contained tourism units		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	05/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>52</b>	<b>PAC Ref:</b>	2021/A0185
<b>Planning Ref:</b>	LA07/2021/0428/	<b>DEA</b>	Newry
<b>APPELLANT</b>	Michael Berrill		
<b>LOCATION</b>	Casa Bella Interiors 4 The Mall Newry		
<b>PROPOSAL</b>	Replacement of existing shop front sign		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	06/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

149

<b>ITEM NO</b>	<b>53</b>		
<b>Planning Ref:</b>	LA07/2021/1747/	<b>PAC Ref:</b>	2021/A0186
<b>APPELLANT</b>	Walter Watson	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Site Between 121 And 121a Ballylough Road Castlewellan		
<b>PROPOSAL</b>	New Infill Dwelling (CTY 8)		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	10/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>54</b>		
<b>Planning Ref:</b>	LA07/2021/0339/	<b>PAC Ref:</b>	2021/A0192
<b>APPELLANT</b>	Mr Daniel Clarke	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Lands Approx. 30m To North East Of No 16 Ringhaddy Road, Killinchy		
<b>PROPOSAL</b>	Proposed site for dwelling in accordance with Policy CTY8 of PPS21		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	14/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

150

<b>ITEM NO</b>	<b>55</b>		
<b>Planning Ref:</b>	LA07/2020/1796/	<b>PAC Ref:</b>	2021/A0196
<b>APPELLANT</b>	Joseph McKeivitt	<b>DEA</b>	Croilieve
<b>LOCATION</b>	Immediately North West Of No. 4 Aughnamoira Road Warrenpoint BT34 2PR		
<b>PROPOSAL</b>	Erection of dwelling (amended address)		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	14/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>56</b>		
<b>Planning Ref:</b>	LA07/2021/1407/	<b>PAC Ref:</b>	2021/A0197
<b>APPELLANT</b>	Mr & Mrs Orr	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Adjacent To 60 Carsonstown Road Carsonstown Saintfield		
<b>PROPOSAL</b>	Erection of Replacement Dwelling and Retention of existing building as outbuilding		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	18/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

151

<b>ITEM NO</b>	<b>57</b>		
<b>Planning Ref:</b>	LA07/2021/0956/	<b>PAC Ref:</b>	2021/A0200
<b>APPELLANT</b>	David Og Downey	<b>DEA</b>	Newry
<b>LOCATION</b>	101m North West Of No.60 Lower Foughill Road Jonesborough		
<b>PROPOSAL</b>	Newry Proposed off site replacement dwelling and associated site works		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	24/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>58</b>		
<b>Planning Ref:</b>	LA07/2021/0620/	<b>PAC Ref:</b>	2021/A0203
<b>APPELLANT</b>	Mr Martin Russell	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Magheralagan Corn Mill Opposite 68 Drumcullan Road		
<b>PROPOSAL</b>	Downpatrick Restoration and Conversion of Magheralagan Corn Mill to single dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	25/01/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

152

<b>ITEM NO</b>	<b>59</b>	<b>PAC Ref:</b>	2021/A0211
<b>Planning Ref:</b>	LA07/2021/1079/	<b>DEA</b>	Slieve Croob
<b>APPELLANT LOCATION</b>	Bridgeen King 7 Woodgrove Castlewellan		
<b>PROPOSAL</b>	Use of building as salon for home-working (retrospective)		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	07/02/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>60</b>	<b>PAC Ref:</b>	2021/A0225
<b>Planning Ref:</b>	LA07/2021/1123/	<b>DEA</b>	Slieve Croob
<b>APPELLANT LOCATION</b>	Mr & Mrs Malone Lands Approx. 50m South East Of 55 Leitrim Road Castlewellan		
<b>PROPOSAL</b>	Proposed Site for erection of 1no detached off site Replacement Dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/02/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

153

<b>ITEM NO</b>	<b>61</b>	<b>PAC Ref:</b>	2021/A0229
<b>Planning Ref:</b>	LA07/2021/1188/	<b>DEA</b>	Croilieve
<b>APPELLANT LOCATION</b>	Frank Clerkin 170 Metres North West Of 107 Kilbroney Road Rostrevor		
<b>PROPOSAL</b>	RT34 3RW Proposed extension to existing farm yard		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	25/02/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>62</b>	<b>PAC Ref:</b>	2021A0234
<b>Planning Ref:</b>	LA07/2021/1091/	<b>DEA</b>	Rowallane
<b>APPELLANT LOCATION</b>	Mr Garth & Mrs Kathryn Belshaw Land Adjoining 26 Windmill Avenue Ballynahinch		
<b>PROPOSAL</b>	Single Dwelling House		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	14/03/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

154

<b>ITEM NO</b>	<b>63</b>	<b>PAC Ref:</b>	2021/A0235
<b>Planning Ref:</b>	LA07/2021/0251/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Robin Dalzell		
<b>LOCATION</b>	Site Adjacent To 57 Castlewellan Road Newcastle		
<b>PROPOSAL</b>	Single Dwelling		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission	<b>Date Appeal Lodged</b>	14/03/2022
<b>Appeal Procedure</b>			
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>64</b>	<b>PAC Ref:</b>	2021/A0239
<b>Planning Ref:</b>	LA07/2021/0368/	<b>DEA</b>	Downpatrick
<b>APPELLANT</b>	Mr & Mrs L Venney		
<b>LOCATION</b>	Lands Contained Between 1 Minerstown Road And 55 Rossglass Road		
<b>PROPOSAL</b>	Downpatrick 2 no. Infill dwellings and detached garages		

<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission	<b>Date Appeal Lodged</b>	15/03/2022
<b>Appeal Procedure</b>			
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

155

<b>ITEM NO</b>	<b>65</b>		
<b>Planning Ref:</b>	LA07/2021/1640/	<b>PAC Ref:</b>	2021/A0244
<b>APPELLANT</b>	Luke Rea & Claire McIlwaine	<b>DEA</b>	Rowallane
<b>LOCATION</b>	Lands Adjacent To And 35m West Of 73 Lisbane Road Ballynahinch		
<b>PROPOSAL</b>	Proposed Site for a Single Infill Dwelling		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	21/03/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>66</b>		
<b>Planning Ref:</b>	LA07/2020/1906/	<b>PAC Ref:</b>	2021/E0010
<b>APPELLANT</b>	Eamonn McAteer McAteer Recyclin	<b>DEA</b>	Crotlieve
<b>LOCATION</b>	Lands At And To The Rear Of No. 12 Cullion Road Mayobridge		
<b>PROPOSAL</b>	Newrv Existing area, yard and access, for storage, parking and circulation of vehicles associated with McAteer Recycling Ltd, and all associated site works and infrastructure		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	10/06/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

156

<b>ITEM NO</b>	<b>67</b>		
<b>Planning Ref:</b>	LA07/2021/0778/	<b>PAC Ref:</b>	2021/E0057
<b>APPELLANT</b>	Norman Graham	<b>DEA</b>	Rowallane
<b>LOCATION</b>	50m North To Rear Of 46 Riverside Road Ballynahinch		
<b>PROPOSAL</b>	Erection and use of two agricultural sheds for agricultural uses for storing farm machinery and equipment for active farm and provide lambing/calving, TB Testing onsite facilities with crush		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	21/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>68</b>		
<b>Planning Ref:</b>	LA07/2021/0780/	<b>PAC Ref:</b>	2021/E0058
<b>APPELLANT</b>	Norman Graham	<b>DEA</b>	Rowallane
<b>LOCATION</b>	50m North To Rear Of 46 Riverside Road Ballynahinch		
<b>PROPOSAL</b>	Erection and Use of Dwelling House		
<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>	<b>Written Reps</b>	<b>Date Appeal Lodged</b>	22/12/2021
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

157

<b>ITEM NO</b>	<b>69</b>		
<b>Planning Ref:</b>	LA07/2021/1361/	<b>PAC Ref:</b>	2021/E0069 LDC
<b>APPELLANT</b>	Mr Christopher Skelly	<b>DEA</b>	Slieve Croob
<b>LOCATION</b>	Land Adjacent And NW Of 50 Flush Road Ballyward Castlewella		
<b>PROPOSAL</b>	The formation of a laneway to the site and the digging of foundations		

<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	22/02/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

<b>ITEM NO</b>	<b>70</b>		
<b>Planning Ref:</b>	LA07/2021/0990/	<b>PAC Ref:</b>	2021/E0074 LDC
<b>APPELLANT</b>	Mr Brendan Starkey	<b>DEA</b>	Downpatrick
<b>LOCATION</b>	Approx 90m East Of 27 Bright Road Downpatrick		
<b>PROPOSAL</b>	The digging of foundations, the lying of concrete and the construction of a portion of block-work		

<b>APPEAL TYPE</b>	DC- Refusal of CLUD		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	16/03/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

## Current Appeals

158

<b>ITEM NO</b>	<b>71</b>	<b>PAC Ref:</b>	2022/A0019
<b>Planning Ref:</b>	LA07/2021/1781/	<b>DEA</b>	Rowallane
<b>APPELLANT LOCATION</b>	Trevor Lindsay Between 5 & 7 The Nursery Killyleagh		
<b>PROPOSAL</b>	Site for Dwelling and Garage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	26/04/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>72</b>	<b>PAC Ref:</b>	2022/A0020
<b>Planning Ref:</b>	LA07/2022/0021/	<b>DEA</b>	The Mournes
<b>APPELLANT LOCATION</b>	Terence O'Hanlon 161 Bryansford Road Cross Kilronn		
<b>PROPOSAL</b>	Retrospective application for Garage building, also accommodating Home office and Gymnasium on hardstanding on increased Dwelling Curtilage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	27/04/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

159

<b>ITEM NO</b>	<b>73</b>	<b>PAC Ref:</b>	2022/A0024
<b>Planning Ref:</b>	LA07/2021/1011/	<b>DEA</b>	The Mournes
<b>APPELLANT</b>	Gary Gordon		
<b>LOCATION</b>	14 Church Road Kilkeel County Down		
<b>PROPOSAL</b>	Proposal for the erection of a shed for equestrian use and retention of extension to domestic curtilage		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	03/05/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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<b>ITEM NO</b>	<b>74</b>	<b>PAC Ref:</b>	2022/A0028
<b>Planning Ref:</b>	LA07/2019/1084/	<b>DEA</b>	Slieve Gullion
<b>APPELLANT</b>	CP & A Supplies Ltd		
<b>LOCATION</b>	110m South West Of No. 1 Carrickcroppan Road Camlough BT35 7HA		
<b>PROPOSAL</b>	Extension to the existing commercial yard		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	06/05/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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## Current Appeals

<b>ITEM NO</b>	75	<b>PAC Ref:</b>	2022/A0029
<b>Planning Ref:</b>	LA07/2021/1982/	<b>DEA</b>	Slieve Croob
<b>APPELLANT</b>	Mr Trevor Nelson		
<b>LOCATION</b>	70m SE Of 5 Coach Lane Cottage Road Seaforda		
<b>PROPOSAL</b>	New agricultural shed		
<b>APPEAL TYPE</b>	DC- Refusal of Planning Permission		
<b>Appeal Procedure</b>		<b>Date Appeal Lodged</b>	09/05/2022
<b>Date of Hearing</b>			
<b>Date Statement of Case Due for Hearing</b>			
<b>Date Statement of Case Due - Written Representation</b>			
<b>Date of Site Visit</b>			

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# Costs Decision

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

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<b>Appeal Reference:</b>	2020/E0023
<b>Appeal against:</b>	An Enforcement Notice alleging an unauthorised building; unauthorised laying of hardcore; unauthorised modular building and an unauthorised access.
<b>Location:</b>	Premises at 72 Longfield Road, Lislea, Armagh
<b>Claim by:</b>	Mr John Doherty
<b>Claim against:</b>	Newry, Mourne and Down District Council for a full award of costs
<b>Decision by:</b>	Commissioner Donaghey, dated 23 <sup>rd</sup> May 2022

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## Decision

An award of costs is denied.

## Reasons

- Paragraph 12 of the Commission's Costs Award Guidance states that the Commission will normally award costs only where all of four stated conditions are met. The stated conditions are as follows:-
  - The claim relates to a relevant type of appeal;
  - The claim is timely;
  - The party against whom the award is sought has acted unreasonably; and
  - The unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.

### *Eligibility*

- The claimant submitted the costs award claim for this appeal made under Section 143 of the Planning Act (Northern Ireland) 2011, one of the types of appeal for which a costs claim can be made. The Commission therefore has the power to make an order as to the costs of parties in accordance with Section 205 of the Planning Act.

### *Timeliness*

- In the case of an appeal proceeding by exchange of written representations, any costs claim must accompany the claiming party's final written submission. The final submission will normally be the party's rebuttal to the evidence submitted by the opposing party or parties. As the claim was submitted with the claimant's rebuttal statement, I consider that it was submitted in a timely manner.

*Unreasonable behaviour*

4. The claimant argues that the respondent has acted unreasonably by causing an unnecessary appeal and therefore removing the appellants rights for a Certificate of Lawful Use or Development. The claimant alleges that this EN was issued without any preceding warning letter or Planning Contravention Notice (PCN). The claimant alleges that the Council failed to properly interpret and apply the appropriate planning matters.
5. The issue of an EN is a discretionary power of Council. It is not a ground of appeal or a matter for the Commission to adjudicate on. The mechanisms which the Council have used to arrive at the decision to issue an EN such as warning letters or PCN's are also for the Council themselves to determine. Therefore, I do not consider that the respondent acted unreasonably in issuing an EN for the development and on that basis the respondent did not cause an unnecessary appeal.
6. The appellant also alleges that the Council did not properly assess the planning matters. No elaboration was provided but it is inherent in the appellant's written statements that he disagrees with several of the Councils arguments. Disagreement is an expected feature of the appeals process and is not inherently unreasonable. Costs will not be awarded to a party just because the appeal has been awarded in their favour. Elements of the EN appeal were finely balanced with both the claimant and the Council providing credible evidence to support their considered opinions.
7. In considering the points above, I have found that the respondent has not caused an unnecessary appeal and an award of costs is therefore denied.

**COMMISSIONER KENNETH DONAGHEY**

**List of Appearances**

Planning Authority:-

Ms L Duffy (Newry, Mourne and Down DC)  
Mr D Watson (Newry, Mourne and Down DC)

Appellant:-

Mr J O'Keefe (BL)  
Mr R Woods (Genesis Planning)  
Mr J Doherty  
Mr C Doherty  
Mr G Johnston

**List of Documents**

Appellant (claimant):-

B4 – Written cost claim





# Enforcement Appeal Decision

Park House  
87/91 Great Victoria Street  
BELFAST  
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<b>Appeal Reference:</b>	2020/E0023
<b>Appeal by:</b>	Mr John Doherty
<b>Appeal against:</b>	An enforcement notice dated 12 <sup>th</sup> August 2020
<b>Alleged Breach of Planning Control:</b>	Building; Laying of hardcore; Modular building and Access.
<b>Location:</b>	Premises at 72 Longfield Road, Lislea, Armagh.
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Authority's Reference:</b>	EN/2020/0067 & LA07/2018/0156/CA
<b>Procedure:</b>	Hearing on 23 <sup>rd</sup> September 2021
<b>Decision by:</b>	Commissioner Donaghey, dated 23 <sup>rd</sup> May 2022

## Grounds of Appeal

1. The appeal was brought on Grounds (a), (c), (d), (f) and (g) as set out in Section 143(3) of the Planning Act (Northern Ireland) 2011 (the Act). There is a deemed planning application by virtue of Section 145(5).

## Claim for Costs

2. A claim for costs was made by the appellant against the Council. This claim is the subject of a separate decision.

## Nullity

3. The appellant has alleged that the Enforcement Notice (EN) lacks clarity due to how the breaches of planning control have been described. It is the appellants opinion that the use of the term 'unauthorised' in respect of all the alleged breaches renders them incorrectly described. Furthermore, the appellant states that the Council has not properly considered the immunity of elements of the building or hardcore; or that the access has the benefit of planning approval.
4. Section 140 (1) (a) of the Act states that an EN must contain "*the matters which appear to the council or, as the case may be, the Department to constitute the breach of planning control*". Therefore, if a matter appears to represent a breach of planning control then it must be stated on the EN. It is for the Council to describe the matters which appear to be a breach of planning control. The consideration of the matters which appear to constitute a breach of planning control is a normal part of an enforcement appeal rather than an issue of nullity. As these issues are directly related to the matters described in the EN, it is in this context which they must be considered. The Council have clearly described each matter which it considers is a breach of planning control within the EN. It is these matters that I will consider in this

appeal. Accordingly, I do not find the concerns raised by the appellant in respect of the EN gives rise to a nullity.

5. The appellant also alleges that the steps which must be taken to rectify the breach of planning control are not properly described on the EN, particularly in relation to the step which requires that the appellant '*restore lands to original condition within 70 days*'. He suggests that the use of the term 'original condition' is ambiguous and therefore this gives rise to the issue of the notice being a nullity. This is one of the steps set out by the notice to remedy the alleged breach of control. Consideration of this element of the notice forms part of ground (f) part of this appeal. The appellant has pleaded ground (f) and therefore it is appropriate that such matters are considered in that context. This of itself does not render the notice a nullity.

**Ground (c) - that those matters (if they occurred) do not constitute a breach of planning control**

6. Ground (c) raises the questions whether the alleged breach of planning control is 'development'; and if it is development is planning permission required. I shall consider each matter as stated on the EN in this context.

*The building*

7. There was no dispute that the building is development. The appellant stated that this building is used for agriculture and referred to the Planning (General Permitted Development) Order (Northern Ireland) 2015 (GPDO) Part 7, Class A - Agricultural Building and Operations, to support the position that the alleged unauthorised shed was permitted development and therefore did not require planning permission.
8. The Council referred to Article 3 (10) of the GPDO which states that:- "*The permission granted by the Schedule shall not apply if –(a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful; (b) in the case of permission granted in connection with an existing use, that use is unlawful*". The appeal building is not a building in connection with an existing building on site. Reliance on this Article is misplaced.
9. Part 7, Class A of the GPDO permits the carrying out in agricultural land comprised in an agricultural unit of – (a) works for the erection, extension or alteration of a building; or (b) any excavation or engineering operation; reasonably necessary for the purposes of agriculture within that unit. The Council stated that it is not permitted as the development fits within criteria (a), (c), (d), (e), (f) and (g) of Part 7 Class A.1 of the schedule to the GPDO.
10. The appellant has provided written evidence in relation to his farm holding which demonstrates that this development is on agricultural land of over 0.5ha. Furthermore, the building exhibits all the features of a typical agricultural building and has clearly been designed for the purposes of agriculture. Thus, I consider that the building and area of hardcore do not offend criteria (a) and (b) of Part 7 Class A.1 of the schedule to the GPDO.
11. In response to the arguments raised by the Council, the appellant provided a full set of up-to-date farm maps and at the hearing elaborated that he had several existing farm buildings on his agricultural holding. Whilst this parcel of land is located away from these existing buildings, it is nonetheless a part of the appellants agricultural

unit. On the balance of probabilities, I accept that the appeal building is not the first agricultural building on the unit. I consider that the building and area of hardcore do not offend criterion (d) of Part 7 Class A.1 of the schedule to the GPDO.

12. In respect of criterion (e), the dwelling at 72 Longfield Road is in the ownership of Mr & Mrs Graham and Aine Johnston. Neither of these parties are listed on the submitted farm maps as forming part of the agricultural business. I do not consider that 72 Longfield Road comprises part of the farm business. Furthermore, criterion (e) refers to a group of principal farm buildings, this is clearly plural and requires that any shed to be erected under permitted development should be sited less than 75m from a principal group of farm buildings. The dwelling at 72 Longfield Road is a single residential dwelling with an ancillary detached garage, I do not consider that this represents a group of principal farm buildings.
13. The appellant refers to the existence of a historic shed at the site when the appeal building was erected. This building did not have the benefit of planning permission and was not subject of a Certificate of Lawful Use or Development. The building had already been removed prior to the service of the EN. A Google Street view image (2011) was provided in which it had the appearance of a shipping container, this structure was not on site at the time of my site visit. The appellant has provided two case law examples in order to demonstrate that this structure could be considered as a building; *Cardiff Rating Authority V Guest Keen Baldwin's Iron & Steel Co Ltd (1949)* and *Skerrits of Nottingham Ltd V's Secretary of State for the Environment, Transport and the Regions (2000)*. Whilst the structure on site may well have constituted a building prior to its removal, limited details have been provided in regard to its agricultural use. From the orthographic image submitted dated 13<sup>th</sup> August 2015 it appears to be within the residential curtilage of the dwelling at 72 Longfield Road rather than on the agricultural unit. Therefore, I do not consider that the existence of a historic structure in the vicinity of the site satisfies the provisions of criterion (e) of Part 7 Class A.1 of the schedule to the GPDO. I have not been persuaded that the appeal building is within 75m of a group of principal farm buildings.
14. In respect of criterion (f), the dwelling at 72 Longfield Road sits 40m to the south of the agricultural shed. Whilst it is in different ownership to the farm unit itself, I was informed at the hearing that Mr and Mrs Johnston assist in the day-to-day farming activities. Criterion (f) requires that the residents of dwellings within 75m of the agricultural shed be 'engaged in agricultural operations at that unit'. It does not specify to what extent. I consider that the residents of 72 Longfield Road are engaged in agricultural operations on the unit for the purposes of Part 7 Class A.1 of the schedule to the GPDO.
15. In addition to the dwelling at 72 Longfield Road, the Council identified a vacant dwelling which sits approx. 50m to the west of the agricultural shed. This structure is not owned by any persons engaged in operations on the agricultural unit. The appellant argued that this structure was long since derelict and relied on *Gravesham Borough Council V Secretary of State for the Environment QBD (1982)* to demonstrate that it was no longer a dwelling. This case defines a dwellinghouse as a building that provides for the main functions of day-to-day domestic activities. It is the view of the appellant that as the building is derelict, it no longer functions as a dwelling. The appellant has provided several statutory definitions to demonstrate what comprises a derelict dwelling. However, these definitions relate to legislation which is not within this jurisdiction, and I am not persuaded that they are of relevance

to this appeal. From my own inspection, the structure is intact and weatherproof. Whilst vacant and in poor repair, it retains the features which would provide for day-to-day domestic activities, I do not consider that it is so far deteriorated that the residential use or function may be considered abandoned. Dwellinghouse is only defined in the GPDO to exclude flats or apartments from the term. No assistance is taken from the statutory definition. I consider that this structure presents as a dwelling house and should be considered as such for the purposes of the GPDO. Therefore, this building and area of hardcore is less than 75m from a dwellinghouse other than a dwellinghouse of any person engaged in agricultural operations on that unit. On this basis the development is not permitted by virtue of criterion (e) within Part 7 Class A.1 of the schedule to the GPDO.

16. In respect of criterion (g), the erected shed has an approximate floor area of 219m<sup>2</sup>, the entire area of hardcore within the site is approx. 565m<sup>2</sup>. The appellant has argued that much of this area of hardcore is to accommodate parking and access and is not for the purposes of accommodating livestock or any plant or machinery arising from engineering operations. He argues that only the building itself should be considered in relation to the 500m<sup>2</sup> restriction in floor area set out by criterion (g). The appellant has provided an annotated orthographic image which divides the area of hardcore into two separate functions (area c and area d) for the purposes of criterion (g). Area c measures 145m<sup>2</sup> and is simply referred to as non- agricultural. Area d measures 415m<sup>2</sup> and is referred to as parking and access. I do not accept that the entire area of hardcore is not for the accommodation of livestock or plant or machinery arising from engineering operations. It is within the curtilage of an agricultural shed and acts as an agricultural yard which compliments the function of that shed. In the absence of any persuasive evidence in respect of the actual functions within the yard I am compelled to consider the extent of the hardcore and floor area of the building combined in relation to criterion (g). As such I consider that the floor area provided by the shed and area of hardcore exceeds the threshold of 500m<sup>2</sup> and is not permitted by virtue of criterion (g) within Part 7 Class A.1 of the schedule to the GPDO. In consideration of the points above, the building and area of hardcore cannot be considered permitted development.

*The laying of hardcore and access*

17. The appellant has further suggested that the area of hardcore and access referred to in the EN has been approved by a previous planning application. Planning permission (LA07/2019/0063/F) was granted for the retention of side and rear extension to dwelling, detached domestic garage and site entrance to include boundary walls, piers & railings, all as existing at 72 Longfield Road. The red line for this application encompasses the dwelling and its associated curtilage. The lands to the north of the dwelling which comprise the appeal site are shown outlined in blue to demonstrate that they are within the applicant's control. The shared access straddles the red and blue lands, with the access to the appeal site being within the blue lands and the residential access within the red outline. Section 52 (1) of the Planning Act 2011 sets out how conditions may be imposed and allows for the planning authority to condition 'any land under the control of the applicant'.
18. Drawing 03 Rev 2 (dated 5<sup>th</sup> August 2019) is one of the drawings approved as part of the planning application. This stamped approved drawing clearly shows the access as it is constructed. Furthermore, the development as described on the decision notice specifically details the creation of a site entrance including boundary walls, piers and railings. The access includes an area of hard core which extends

from the external walls and gates of the site to the edge of the carriageway. Therefore, the matter of the access as stated on the EN does not give rise to a breach of planning control as it has the benefit of planning permission.

19. The approved plans which relate to LA07/2019/0063/F also show a small annotation which denotes the area of hardcore to the front of the building as a 'yard'. It is the appellants assertion that this represents expressed permission for the retention of the area of hardcore as a farmyard. The annotation simply reads 'yard' and does not show any further detail in respect of this yard. Furthermore, there is no mention of an agricultural yard or area of hardcore on the description of the development with the decision notice or application form. I do not consider that this annotation is adequate to indicate that the area of hardcore within the appeal site has the benefit of planning approval.

#### *The modular building*

20. The appellant has also indicated that the modular building on site is permitted development under Part 1 Class D of the Schedule to the GPDO (development within the curtilage of a dwellinghouse). This part of the GPDO offers permitted development rights within the curtilage of a dwelling only. As outlined above, the dwelling and the appeal site are under separate ownership. They are also two distinct and separate land uses. The modular building is sited adjacent to the agricultural building on land which is under the ownership of the appellant and not clearly associated with the residential property, therefore it cannot benefit from the permitted development rights as bestowed by Part 1 Class D of the schedule to the GPDO.
21. In context of the consideration above, I have found that the access has the benefit of planning approval. Therefore, the appeal on ground (c) succeeds in relation to the access only. The appeal on ground (c) fails in all other matters.

**Ground (d) - that the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters.**

22. The enforcement notice was issued on the 12<sup>th</sup> August 2020. Under ground (d) of appeal the onus is on the appellant to demonstrate, on the balance of probabilities, that on the date when the notice was issued (12<sup>th</sup> August 2020), no enforcement action could be taken in respect of the area of hardcore and the building. The appellant therefore must demonstrate that both aspects of the appeal development which he has pursued under ground (d) were substantially complete on or before 12<sup>th</sup> August 2015.

#### *The building*

23. Council have provided various orthographic images of the site, the most critical of which was taken on the 13<sup>th</sup> August 2015. This image shows the shed with the blockwork at the height which it remains at present and steel framework in place. There is no cladding or roof on the structure, similarly there is no roller door to the front and the concrete floor or any associated services have not been installed. The appellant has argued that it was his intent to construct an open structure which was required for the storage of bales.
24. The appellant advised that typical agricultural construction practice is that silage storage buildings are commonly constructed with steel frames incorporated into

walls, and such buildings are left open. He goes on to add that the rationale for this agricultural construction method is twofold: It provides structural support to perimeter walls; It future proofs an agricultural building as it then also provides an option for a latter roof cladding if required, or if finances allow. The appellant has provided documentary evidence in terms of photographs, receipts and time sheets to demonstrate that works were underway at the site from May 2014 onwards. These are persuasive in demonstrating when work began at the site. However, they do not assist in establishing when the structure was substantially complete.

25. The EN was served on the building in the condition as it is currently found. To my mind the building as it sits is complete. It has a concrete sub floor, blockwork walls and cladding on the upper walls and roof. It is weather tight and has the necessary services in place. Whilst I accept that the construction of open sided sheds in the countryside is commonplace, I do not accept this is the case for sheds without roofs. To erect a structure which has all the structural features of a covered shed such as steel roof supports with additional cross members indicates that the intention remained to install a roof and cladding to the structure. Whilst it may have functioned at some level without a roof, it was eventually roofed and completed. This indicates that there was always an intention to roof the shed and make it weatherproof. It was not contested by the appellant that the roof and doors etc were added after the critical date of 12<sup>th</sup> August 2015.
26. The appellant has referred to *Sage vs Secretary of State for the Environment, Transport and the Regions and others [2003] UKHL 22* to support his view that the building was substantially complete for its original intended purpose before the 12<sup>th</sup> August 2015. The referred case law is specific in that it relates to both changes in status of the completion and use of buildings. The agricultural building subject to this appeal was erected as an agricultural building. Whether roofed or unroofed its use was agricultural. The addition of a roof did not change the use of the building, other than to take it to a state of completeness. The appellants position that the shed was erected with the intention of remaining unclad and roofless is undermined by the fact that cladding, a roof and doors were all added in time. Regardless of the appellant's intention, I am not persuaded by the argument that the building, as it was shown in the orthographic images dated 13<sup>th</sup> August 2015, was substantially complete for the purpose of which the building was intended. Thus, I consider that the building is not immune from enforcement action.

#### *The laying of hardcore*

27. The appellant has provided orthographic imagery dated 13<sup>th</sup> August 2015 & 24<sup>th</sup> June 2018 which show the area of hardcore as two separate entities. The appellant alleges that the area immediately surrounding and to the west of the building (referred to as area 'a') is immune from enforcement. The appellant has referred to the additional areas of hard core within the site as area 'b', there are there are also some areas of hardcore which sit outside both area 'a' and area 'b'. I have set out above that the area of hardcore which lies outside the built boundary of the site and adjacent to the carriageway forms part of the access, which I have considered to have the benefit of planning permission. The appellant has restricted his ground (d) argument to the area of hard core referred to as area 'a'.
28. The orthographic image of the 13<sup>th</sup> August 2015 shows a significant area of disturbed earth to the front of the shed which is broadly commensurate with the appellant's drawing of area 'a'. It is unclear from this image in isolation if these areas have been filled with compacted stone. However, when assessed in conjunction with

the appellants photographs, which show the building at various stages of construction throughout 2014, it is evident that the surface was in fact compacted with the blue/grey stone which is currently on site. These images show much of the hardcore as it is currently found except for a green wedge which separates the side of the road from the site and an area directly to the south of the building. Therefore, I consider that the area of hardcore which has been identified as area 'a' has been on site for a period in excess of five years and therefore no enforcement action may be taken against it.

29. In context of the consideration above, I have found that no enforcement action may be taken against elements of the hardcore. Therefore, the appeal on ground (d) succeeds in relation to the laying of hardcore identified as area 'a' only. The appeal on ground (d) fails regards to the building and other areas of hard core.

### **Ground (a) and the Deemed Planning Application**

30. The remaining issues to be determined under ground (a) relate to the building, modular building and remaining areas of hardcore. In this context the main issues relate to the principle of this development in the countryside.
31. Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Banbridge, Newry and Mourne Area Plan 2015 acts as the LDP for this area as Newry, Mourne and Down District Council has not yet adopted a plan strategy for the district as a whole. The plan locates the site in the countryside, outside of any settlement limit and within the Ring of Gullion Area of Outstanding Natural Beauty (AONB).
32. There is no conflict between the provisions of the Strategic Planning Policy Statement (SPPS) and the retained policies on the issues raised in the appeal. In accordance with the transitional arrangements set out in the SPPS, the appeal development should be determined in accordance with the retained policies namely Planning Policy Statement 21, Sustainable Development in the Countryside (PPS21).
33. Policy CTY 1 of PPS 21 sets out a range of types of development which, in principle, are acceptable in the countryside and will contribute to the aims of sustainable development. These include agriculture and forestry development in accordance with Policy CTY 12.
34. Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural holding. Paragraph 5.56 of PPS 21 states that the criteria for determining what constitutes an active and established business is that as set out under Policy CTY 10 'Dwellings on Farms'. This requires that the farm business is currently active and has been established for at least six years. I have previously considered that the appellant is a farmer, his farm business encompasses over 40ha of land across several satellite farms. There is no dispute that the appellant satisfies this fundamental requirement of Policy CTY 12. However, the Council retain concerns in relation to the siting of the agricultural buildings on the holding.

35. The appellant has provided Department of Agriculture, Environment and Rural Affairs farm maps which show the extent of his agricultural business. The submitted maps (dated 15th January 2021) show the extent of the lands farmed by the appellant. The appellant confirmed that he (Mr J Doherty) and Mr S Doherty are the individuals named on the farm business. The business ID was provided. From this information I note that Mr J Doherty resides at 11 Crossmaglen Road and Mr Sean Doherty resides at an address in Warrenpoint.
36. The dwelling at 72 Longfield Road is owned and occupied by the appellants daughter and son-in-law, Mr & Mrs Johnston. Land Registry Maps and accompanying information from Land and Property Service confirm that the dwelling and fields 108(7), 108(8), 108(9), 108(10), and 108(11) of the appellants farm business are within the ownership of G and A Johnston. The appeal site sits immediately to the north of the dwelling at 72 Longfield Road and is shown to be in the ownership of Mr J. Doherty and Ms A Johnston on the same Land Registry information.

#### *The building*

37. The erected agricultural shed is located away from the principal group of buildings on the farm. The principal group of buildings on the farm are located at 11 Crossmaglen Road with a further farm dwelling and additional buildings at 62 Ballard Road. While the dwelling at 72 Longfield Road does not comprise part of the appellants farm holding as it is found on a farm map, he is connected to it in some way as it is owned by this daughter and son-in-law (Mr & Mrs Johnston). Furthermore, land ownership maps provided by the Council illustrate that a significant amount of land around the site which is shown on the appellant's farm maps is under the ownership of Mr & Mrs Johnston. Ms Johnston is also listed as a co-owner of the remainder of the agricultural lands at this location along with Mr Doherty.
38. The Council have not pursued any argument in respect of the qualifying criteria a) – e) within Policy CTY 12 of PPS 21. Instead choosing to rely on the exceptionality test within the policy which is to be applied in instances where a new building is sought away from the existing farm buildings. The crux of the Council's argument stems from the fact that the appeal site and the dwelling to the south are under different ownership and therefore the agricultural building is not sited beside existing farm buildings. Furthermore, the Council are of the opinion that no information has been provided to demonstrate if any other buildings are suitable at the holding, or the construction of a new building is essential for the efficient functioning of the business.
39. I have previously considered that the adjacent dwelling and outbuildings are under separate ownership from the agricultural holding. It is evident that the owners of the dwelling assist the appellant with the running of the farm. Ms Johnston is also listed as a co-owner in the remainder of the agricultural lands at this location. Notwithstanding, Mr Doherty is the registered farmer and for the purposes of the policy it is his agricultural business. He does not retain any legal title to the dwelling and as such I consider that the dwelling does not comprise part of the agricultural holding.
40. The appellant has argued that the shed was initially sited beside a historic farm building on the site. Some orthographic images and Google Street view images have



been provided to demonstrate this buildings existence. However, I have previously considered that no evidence has been presented to demonstrate that this farm building had the benefit of any planning permission or Certificate of Lawful Use or Development. From the orthographic images provided this building appears to be on lands which are owned by Mr & Mrs Johnston, furthermore it has now been removed. The lack of detail around its planning status leads me to consider that it cannot be accepted as a lawful agricultural building on the appellants holding. The appeal building is therefore not sited beside any existing buildings on the farm. However, Policy CTY 12 of PPS 21 allows for exceptional situations when consideration may be given to an alternative site away from existing farm or forestry buildings.

41. Such exceptionality depends on several criteria, firstly that there are no other sites available at another group of buildings on the holding. Then it must then be shown that it is essential for the efficient functioning of the business; or there are demonstrable health and safety reasons. At the hearing the appellant provided a detailed account of his day-to-day farming activities and how this site and building were used in the normal running of the agricultural business. This shed is used to store machinery and bales as well as house sheep and horses. The appellant has advised that this element of his holding is generally used as grazing for around 150 sheep. He added that a shed was required at this part of the holding to comply with requisite animal welfare standards and to improve the mortality rate of sheep during lambing. It was also stated that being able to house sick animals and store feedstuffs at this site is important to allow him to reduce costs and save time as it reduces the need to regularly transport items to and from the site from his other farm buildings. These arguments relate to the efficient functioning of the farm business, before considering the merit of these points it must firstly be considered if there are any sites available to the appellant at another group of buildings on the holding.
42. The appellant has a large herd of sheep which are almost exclusively kept at this part of his agricultural holding. I visited each of the further groups of agricultural buildings within the appellants holding. The appellant has stated that none of these buildings are available for the required agricultural purpose, the test of the policy does not necessarily refer to existing buildings but rather to sites which may be available for the siting of a new building. The appellant has a significant land holding which consists of several groups of established buildings. It has not been demonstrated persuasively that there are no other sites available to the appellant at another group of buildings on the holding which could accommodate an agricultural building such as the one subject to the EN. Therefore, I do not consider that this building complies with Policy CTY 12 of PPS 21. Thus, the appeal under ground (a) must fail in respect of the agricultural building.

#### *The modular building*

43. At the hearing, parties could not agree what specific use or policy related to the modular building. The building is essentially a portacabin which is mounted on bricks upon the area of hardcore adjacent to the agricultural building. The appellant has suggested that it is used daily as a home office for Mr Johnston and occasionally as an office in conjunction with the agricultural business. The appellant suggests that the modular building is predominantly domestic and should be assessed under Policy EXT 1 of the Addendum to Planning Policy Statement 7 – Residential Alterations and Extensions. However, this policy relates to development within the curtilage of a dwelling house. I have considered above that this part of the site is not

within the established curtilage of the adjacent dwelling and as such the addendum to PPS 7 is not applicable.

44. The modular building is sited upon land used for agriculture. The land use itself is not subject to the EN, the notice merely refers to the operational development within the site. Given the mobile nature of the building, the most logical means of policy assessment is as an agricultural building in accordance with Policy CTY 12 of PPS 21. I have considered above that the agricultural building on the site does not comply with Policy CTY 12 of PPS 21 as it not sited beside any existing buildings on the farm holding and it has not been demonstrated persuasively that there are no other sites available to the appellant at another group of buildings on the holding. Therefore, as no additional arguments have been presented in respect of the modular building, I must consider that this building also does not comply with Policy CTY 12 of PPS 21. Thus, the appeal under ground (a) must fail in respect of the modular building.

*The laying of hardcore*

45. I have considered above that area 'a' of hardcore is immune from enforcement action by virtue of Section 132 (1) of the Planning Act 2011. I have also determined that the access and the hardcore of which it is constituted has the benefit of planning permission. This then leaves the planning merits of the residual areas of hardcore within the site to be considered as part of the deemed planning application. Policy CTY 12 of PPS 21 allows that planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that the development meets criteria (a) – (e). The additional tests in the policy are only for new buildings and as such do not apply to the formation of areas of hardcore. Furthermore, the Council have not raised any objections with the character and scale of the development; its visual impact; its impact on natural or built heritage or its impact on residential amenity.
46. Criterion (a) of Policy CTY 12 of PPS 21 requires that the development is necessary for the efficient use of the agricultural holding. The appellant has provided evidence to demonstrate why the agricultural building may be necessary for the efficient use of the agricultural holding, however the area of hardcore has differing functions to the building. In respect of the area of hardcore, the appellant stated in his evidence that much of the area is used for access and parking or other non-agricultural functions. I do not consider that a modest area of hardcore used in this manner is necessary for the efficient use of the agricultural holding. Therefore, any hardcore outside of that identified as area 'a' and the access does not comply with criterion 'a' of Policy CTY 12 of PPS 21. As such I consider that the remaining area of hardcore does not comply with the provisions of Policy CTY 12 of PPS 21. Thus, the appeal under ground (a) fails regarding any areas hardcore outside of the access and the area identified as area 'a' on drawing PAC1.
47. In context of the consideration above, I have determined that the building, modular building and any hardcore outside of the access and 'area a' are contrary to planning policy. Therefore, the appeal on ground (a) must fail.

**Ground (f) - that the steps required by the notice, to be taken, exceed what is necessary to remedy any breach of planning control.**

48. The main issue in respect of ground (f) is whether the steps required by the EN exceed what is necessary to remedy the breach of planning control. The remaining parts of the appeal development to be considered under this ground of appeal are; the agricultural building, the modular building and the remaining areas of hard core. The steps as they pertain to each of these elements requires their removal.
49. The appellant stated that as the development contained within the EN is either permitted development or immune from enforcement action, the requirements of the notice are ultra vires and exceed what is required to remedy a breach of planning control. I have considered the matters of permitted development and immunity under the grounds of appeal which are applicable to these arguments. It remains that the agricultural building, modular building and parts of the area of hardcore are a breach of planning control. The appellant has not provided persuasive evidence to demonstrate that the removal of these elements exceed what is necessary to remedy the breaches of planning control.
50. The appellant also argues that the remedial step set out at part 3 (5) of the EN lacks clarity. This step requires that the appellant 'restore lands to original condition within 70 days'. This step is now only relevant to the removal of any hardcore on the site that is not within the yellow line which denotes 'area a' on map PAC 1 or within the approved access. It is the appellants view that the term 'original condition' lacks clarity. I accept that this term may be ambiguous in certain instances. However, it is broadly considered that this term refers to the original condition of the land prior to the breach of planning control. In this case, the appellant has provided orthographic imagery to demonstrate what the condition of the land was prior to the breach of planning control. It was a grassed agricultural field. Therefore, it is clear to the appellant what he must do to remedy the breach of planning control and as such this step remains clear and reasonable.
51. I consider that the remedial steps as set out in the EN in so far as they relate to the agricultural building, the modular building and the remaining areas of hard core are reasonable. The EN is upheld in relation to these matters and the appeal under ground (f), against the remaining elements of the EN, must fail.

**Ground (g) - that any period specified in the notice falls short of what should reasonably be allowed**

52. The main issue to consider in respect of ground (g) is if the period for compliance with the notice falls short of what should reasonably be allowed. The Council has stipulated a 42 day timescale for the removal of the agricultural building, 49 days for the removal of hardcore and 56 days for the removal of the modular building.
53. The appellant argues that the required time period is unreasonably short as it would take significant capital and resources to remove the agricultural building and dispose of the waste generated accordingly. The modular building is mobile by design and could be removed from the site with relative ease, Therefore I do not consider that a period of 56 days for its removal is unreasonable and the appeal in this regard must fail.

54. However, I agree that the removal of the agricultural building and hardcore represents a significant engineering operation. The appellant has other day to day farming duties to attend to as well as other business interests. To request that these elements are removed and properly disposed of, within 42 days (6 weeks) of this decision, is not reasonable given that it may involve the procurement of specialist services or equipment. With this in mind I find it reasonable to extend the period for the removal of the agricultural building and remaining hardcore to 84 days (12 weeks). The appeal in respect of ground (g) succeeds in regard to the agricultural building and remaining hardcore and the period for compliance with this step is amended to 84 days.

### **Decision**

The decision is as follows:-

- The appeal on Ground (c) succeeds in relation to the access and associated area of hard core (coloured blue on map PAC 1) only and fails in regard to the building, the modular building and the laying of hardcore.
- The appeal on Ground (d) in respect of the laying of hardcore succeeds in relation to the area of hardcore referred to as 'Area A' outlined in yellow on map PAC 1 and fails in relation to the building, the modular building and the remaining areas of hardcore within the site.
- The appeal on Ground (a) fails. The deemed planning application is refused in relation to the building, the modular building and the remaining areas of hardcore within the site.
- The appeal on Ground (f) fails.
- The period for compliance is varied in relation to the removal of the agricultural building and removal of the remaining areas of hardcore (outside of area 'a' and the access) within the site to 84 days and the appeal on Ground (g) succeeds to that extent. The appeal on Ground (g) fails in respect of the modular building.
- The notice as varied is upheld.

### **COMMISSIONER KENNETH DONAGHEY**

2020/E0023

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**List of Appearances**

Planning Authority:-

Ms L Duffy (Newry, Mourne and Down DC)  
Mr D Watson (Newry, Mourne and Down DC)

Appellant:-

Mr J O'Keefe (BL)  
Mr R Woods (Genesis Planning)  
Mr J Doherty  
Mr C Doherty  
Mr G Johnston

**List of Documents**

Planning Authority:-

"A1" Written statement of case and appendices  
"A2" Rebuttal statement and appendices  
"A3" Response to post hearing submission

Appellant:-

"B1" Written Statement of case and appendices  
"B2" Rebuttal statement and appendices  
"B3" Post hearing submission

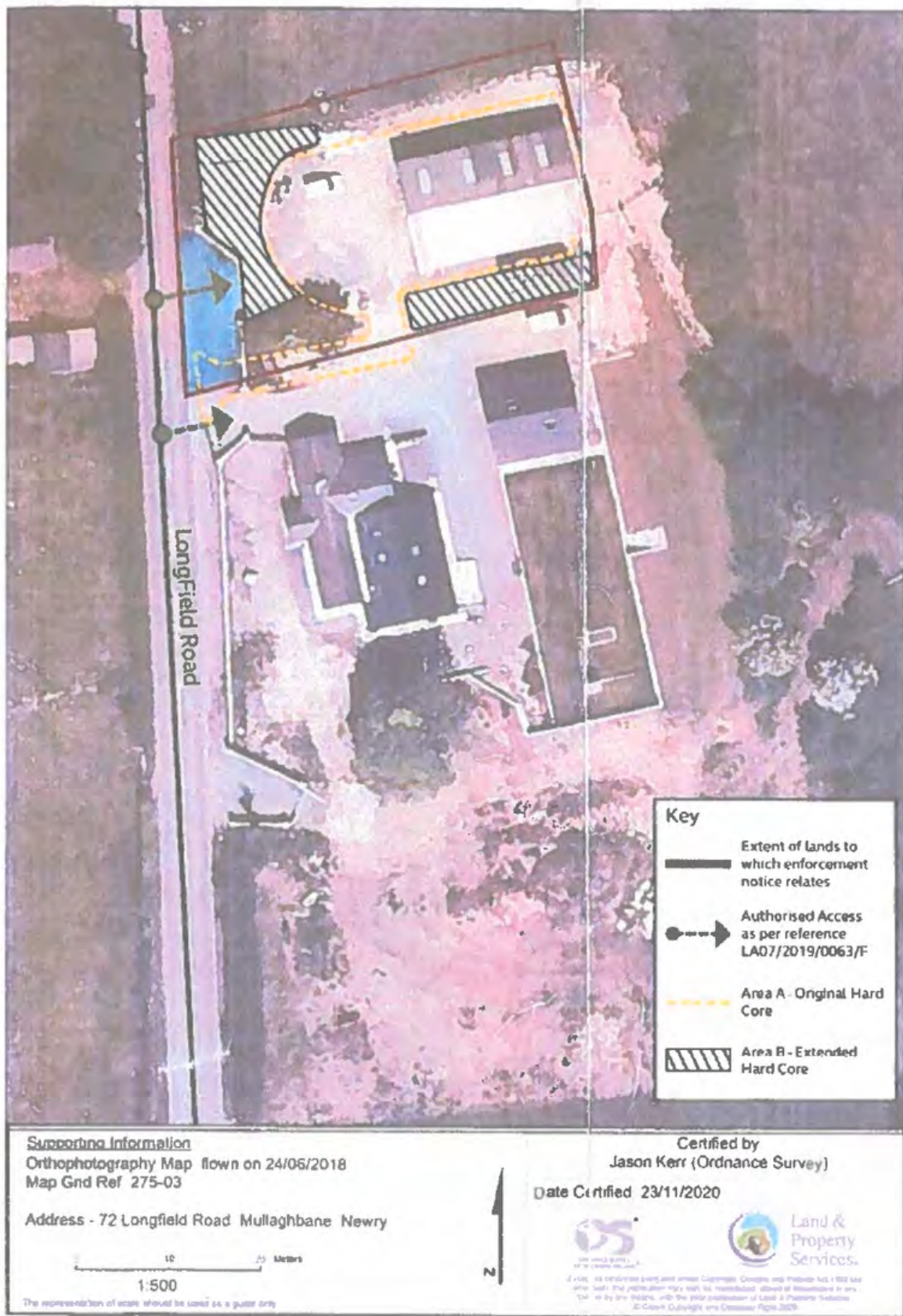


Figure 28 Site area as existed 24.6.2018

As can be noted from this image, the extent of hardcore then in-situ is clearly identifiable, as was the building with a latter roof added. The extent of operations which is enforceable is restricted to the hardcore 'extended yard' as shaded 'hatch black' under area 'E' above.

PAC 1



# Appeal Decision

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<b>Appeal Reference:</b>	2021/A0083
<b>Appeal by:</b>	Miss Briege McComiskey
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Erection of dwelling and domestic garage on a farm.
<b>Location:</b>	Approx. 160m north-west of No. 26 Leode Road, Hilltown
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2020/1830/O
<b>Procedure:</b>	Written Representations and Commissioner's Site Visit on 12 April 2022
<b>Decision by:</b>	Commissioner Pauline Boomer dated 31 May 2022

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## Decision

1. The appeal is allowed, and outline planning permission is granted, subject to the conditions set out below.

## Reasons

2. The main issue in this appeal is whether the appeal proposal is acceptable in principle in the countryside and whether or not it would be satisfactorily integrated into the landscape.
3. Section 45 (1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act states that, where in making any determination, regard is to be had to the LDP, and the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) is the local development plan for the area with the appeal site located in the open countryside. The appeal site lies within the Mourne Area of Outstanding Natural Beauty (AONB).
4. The relevant policy context is provided by Planning Policy Statement 21 (PPS21) which is identified by the Strategic Planning Policy Statement for NI (SPPS) as a retained policy document. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is a dwelling on a farm in accordance with Policy CTY 10 and no conflict arises between this policy and the policy provisions of the SPPS.

Policy CTY10 indicates that planning permission will be granted for a dwelling house on a farm where various criteria are met. The listed criteria are as follows: -

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
- (c) 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. 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(s).

In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.

5. The PIC form as submitted provides details of the farm business being operated by Mr Terry McComiskey who has had his own Farm Business ID No. since 1991. Based on the details presented on the PIC form, as confirmed by DAERA, the Local Planning Authority (LPA) are satisfied that the farm business operated by Mr McComiskey is currently active and has been established for more than 6 years in compliance with Criterion (a) of Policy CTY 10.
6. Criterion (b) of Policy CTY10 requires that no dwellings or development opportunities outwith settlement limits have been sold off from the farm holding within 10 years of the date of the planning application, applicable from 25 November 2008. A new one and a half storey dwelling is currently under construction to replace the original dwelling at No. 34 Leode Road which lies south-west of the main farm group and is accessed via the main laneway serving the farm group and the main farmhouse at No.26. As Mr T. McComiskey has been the owner of this plot since 1990, the LPA are satisfied that Criterion (b) of Policy CTY10 is complied with.
7. The LPA's objection is that the proposal fails to comply with Criterion (c) which requires that the new dwelling and garage is visually linked or sited to cluster with the established farm group. The existing farm group comprises a one and a half storey dwelling enclosed by a large number of farm buildings on three sides, all accessed via an existing concrete laneway. That laneway which extends 360m back from the public road, falls away from Leode Road, with the gradient dropping steeply in an easterly direction. Given the significant difference in levels, part of the existing farm group is obscured when travelling



along Leode Road. The appellant seeks to erect a dwelling and garage in the western corner of a large field which lies 80m to the north/northwest of the main farm group. It is proposed to access the appeal site via an adjoining laneway which abuts it and currently serves a large 2-storey dwelling at No. 20, positioned due north of the appellant's farm group. Sited 220-270m back from the adjacent public road, the appeal site would lie well below the local crestline.

8. In Paragraph 5.41 of the Justification & Amplification text of Policy CTY10, it states that "to help minimise impact on the character and appearance of the landscape, such 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 (my emphasis). Whilst the LPA states that the proposed dwelling would not be visually linked or clustered with the established buildings on the farm, they have failed to identify any specific vantage points from where its physical separation from the main farm group would be readily apparent. Given its significant setback from the Leode Road and its positioning well beyond the local crestline, I am not persuaded that the appeal site would actually be visible from that public road and would have any intervisibility with the main farm group from that aspect. Given the topography of the appeal site and its surroundings, and the failure of the LPA to specify from where and to what extent the appeal building would be read with the existing farm group, I consider that there would be little appreciation of any physical separation that exists between the proposed and existing buildings from any identified public aspect. In the absence of any evidence to the contrary, I conclude that there would be no public awareness of the physical separation of the appeal dwelling from the main farm group and the LPA has failed to provide adequate justification for their second reason for refusal.
9. In these particular circumstances, I find that the appeal proposal would not conflict with Criterion (c) and therefore finds support in Policy CTY10. As I therefore do not need to consider the alternative arguments presented by the appellant to justify the proposed siting, this appeal is distinguishable from the two appeals referred to me by the LPA. I note that the appeal site would be accessed via the different laneway from that serving the main farmgroup which would allow the necessary sightline improvements to be made, to which DFI Roads raised no objection.
10. As I have found that the appeal proposal complies with the SPPS and Policy CTY 10, it also accords with Policy CTY 1. The LPA has not sustained the first and second reasons for refusal.
11. Any approval for a farm dwelling is conditional upon compliance with other policies in PPS21, including Policy CTY13. The third reason for refusal refers to conflict with Policy CTY13 which states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding countryside. subject to a number of stated criteria. However, in their Statement of Case, the LPA have only referred to Criteria (g) which addresses the issue of visual linkage with an established group of buildings on

the farm. I have already considered this matter above and concluded that there would be little appreciation of any physical separation that exists between the proposed and existing buildings from any viewpoint identified by the LPA. The LPA has therefore failed to sustain its third reason for refusal.

12. As none of the three reasons for refusal have been sustained, the appeal is allowed.
13. With regards to conditions, given the differential in levels within the appeal site, details of existing and proposed ground levels and proposed finished floor levels should be submitted to and agreed by the LPA. Given the elevated nature of the site, I agree with the LPA that a ridge height restriction of 6m above finished floor level should be applied with a 0.45m underbuild. In the interest of road safety, sightlines of 2.4m by 60m are required to be provided prior to the commencement of development and permanently retained. In the interest of visual amenity, a landscaping scheme including hard and soft landscaping should be submitted to and agreed with the LPA, introducing native hedgerows and trees around all the boundaries of the curtilage and behind the required sightlines, prior to the occupation of the dwelling hereby permitted.

#### **Conditions**

- (1) Except as expressly provided for by Conditions 2 and 3, the following reserved matters shall be as approved by the Planning Authority – the siting, design and external appearance of the dwelling and the means of access thereto.
- (2) The dwelling and garage hereby permitted shall have a ridge height not exceeding 6m above finished floor level and underbuilding shall not exceed of 0.45m.
- (3) Any application for approval of reserved matters shall include plans and sections indicating existing and proposed ground levels and proposed finished floor levels, all in relation to a known datum point. The drawings should also indicate the location, height and materials of any proposed retaining walls.
- (4) Visibility splays of 2.4m by 60m shall be laid out on Leode Road before any building operations commence and shall be permanently retained thereafter.
- (5) No development shall take place until there has been submitted to and approved by the Planning Authority a landscaping scheme showing hard and soft landscaping, including trees and hedgerows to be provided along all site boundaries (including to the rear of the visibility splays), the location, numbers, species and sizes of trees to be planted within the site during the first planting season prior to the occupation of the dwelling. Trees or shrubs dying, removed or becoming seriously damaged shall be replaced during the next planting season with others of a similar size unless the Planning Authority gives written consent to any variation.
- (6) Application for approval of reserved matters shall be made to the Planning Authority before the expiration of three years from the date of this decision.
- (7) The development shall be begun before the expiration of 5 years from the date of this permission or before the expiration of two years from the date

of approval of the last of the reserved matters to be approved, whichever is the later.

This decision is based on Drawing No.PL-01A date stamped received by the LPA on 31 March 2021.

**COMMISSIONER PAULINE BOOMER**

**2021/A0083****List of Documents**

LPA1 Statement of Case and Appendices from Newry Mourne and Down District Council

LPA 2 Rebuttal and Appendices from Newry Mourne and Down District Council

APP1 Statement of Case from the Appellant

APP2 Rebuttal from Appellant.