



November 12th, 2019

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 13th November 2019** at **10:00 am** in **Boardroom, District Council Offices, Monaghan Row, Newry.**

Committee Membership:-

- Councillor M Larkin (Chair)
- Councillor H Reilly (Deputy Chair)
- Councillor P Brown
- Councillor W Clarke
- Councillor L Devlin
- Councillor G Hanna
- Councillor V Harte
- Councillor C Mason
- Councillor D McAteer
- Councillor H McKee
- Councillor M Ruane
- Councillor J Trainor

Agenda

1.0 Introduction and Apologies

2.0 Declarations of Interest.

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

4.0 Minutes of Planning Development Committee Meeting held on Wednesday 16 October 2019. (Attached).

[📄 Planning Committee Minutes 16.10.2019.pdf](#)

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For Discussion/Decision

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

[📄 Addendum list - 13-11-2019.pdf](#)

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Development Management - Planning Applications for determination

6.0 LA07/2019/0399/0 - proposed dwelling on infill site - between No. 86 Crabtree Road and 4 Cumber Road, Drumaness. (Case Officer report attached).

Rec: REFUSAL

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

[📄 LA07-2019-0399-O Report Infill Crabtree Rd.pdf](#)

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[📄 Item 6 - LA07-2019-0399-0 \(Crabtree Road\).pdf](#)

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7.0 LA07/2019/0445/0 - site for 1 dwelling and garage - 69m SW of 71 Dunmore Road, Spa, Ballynahinch. (Case Officer report attached).

Rec: APPROVAL

- Addendum list

[📄 LA07_2019_0445_O_Dunmore Road.pdf](#)

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8.0 LA07/2019/0456/0 - Infill dwelling, garage and associated site works - land 10m west of 8A Tyrella Road, Clough, Downpatrick. (Case Officer report attached).

Rec: APPROVAL

- A request for speaking rights has been received from Gerry Tumelty, on behalf of objectors to the application. **(Submission attached).**
- A request for speaking rights has been received from Barry Fletcher, agent, in support of the application. **(Submission attached).**

[LA07-2019-0456-O REPORT Infill 8A Tyrella Road Cole.pdf](#) Page 34

[Item 8 - LA07-2019-0456-0 \(objection\).pdf](#) Page 42

[Item 8 - LA07-2019-0456-0 \(support\).pdf](#) Page 45

9.0 LA07/2019/0978/F - erection of replacement dwelling and retention of existing structure as loose box - 77 Ballynahinch Road, Saintfield. (Case Officer report attached).

Rec: REFUSAL

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

[LA07-2019-0978-F - 77 Ballynahinch Road - Replacement.pdf](#) Page 46

[Item 9 - LA07-2019-0978-F \(Ballynahinch Road\).pdf](#) Page 54

10.0 LA07/2019/1130/0 - new end of terrace dwelling with associated site works - site adjacent to 33 Dunwellan Park, Newcastle. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Nicholas O'Neill, agent, in support of the application. **(Submission attached).**
- A written submission on behalf of objectors to the application has been submitted - the residents objecting to the application have asked that the attached statement is included for Planning Committee to consider, they will not be requesting speaking rights because they agree with the Planning Officer's decision. **(Submission attached).**

[LA07201911300 Site Adjacent to 33 Dunwellan Park .pdf](#) Page 55

[Item 10 - LA07-2019-1130-O \(Dunwellan Park\).pdf](#) Page 60

[Item 10 - LA07-2019-1130-0 \(objection to the application\).pdf](#) Page 62

11.0 LA07/2018/1801/0 - replacement dwelling and garage - site directly adjacent to and directly south of No. 67 Sturgan Brae Road, Camlough, Newry. (Case Officer report attached).

Rec: REFUSAL

- A request for speaking rights has been received from Lorna Cunningham, Annette Elmore and Brian Fearon, in support of the application. **(Submission attached).**

[LA07-2018-1801-O_67_Sturgan_Brae_Road.pdf](#) Page 65

[Item 11- Sturgan Brae Camlough.pdf](#) Page 72

12.0 LA07/2018/1453/F - proposed replacement dwelling - 25 Lower Knockbarragh Road, Rostrevor. (Case Officer report attached).

Rec: REFUSAL

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

[LA07_2018_1453_F- 25 Lower Knockbarragh Road.pdf](#) Page 82

[Item 12 - LA07-2018-1453-F \(Knockbarragh Road\).pdf](#) Page 88

13.0 LA07/2017/0542/F - retail park with ancillary coffee shop/restaurant units (supporting statement April 2019) - former HM Revenue Customs Custom House and Clearance Station, Carnbane Way, Carnbane Industrial Estate, Newry. (Case Officer report attached).

Rec: REFUSAL.

- Following a direction from the Department and legal advice this application has been withdrawn from the Committee.

[Carnbane PDF Report LA07-2017-0542-F.pdf](#) Page 96

[Addendum to CO Report Carnbane Retail f.pdf](#) Page 177

[Item 13 - LA07-2017-0542-F \(objection A Stephens\).pdf](#) Page 183

[Item 13 - LA07-2017-0542-F \(support\).pdf](#) Page 186

14.0 LA07/2015/0244/F - Lands adjacent to No 62 Newry Road

**Warrenpoint and the Gilbert Ash Complex Newry Road
Warrenpoint incorporating the Narrowwater Business Park
This application is for the change of use from the current
zoning as 'Employment Land' to 'Port Operational Land' to
bring it in line with the rest of the Harbour Estate. All activity
on the site will be for the carrying out the statutory function of
the port under the Warrenpoint Harbour Authority Order 2002
(Amended plans received). (Case Officer**

Rec: APPROVAL

- Addendum list

[WHA LA07-2015-0244-F.pdf](#)

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**15.0 LA07/2019/0574/F - Environmental Improvement Scheme -
from Killard Road south of Benderg Park site is bordered on
the south side by section of Rocks Road and to the east by
Ballyhornan Beach, Ballyhornan Environmental Improvement
Scheme. (Case Officer report attached).**

Rec: APPROVAL

- Addendum list

[LA07_2019_0574_F_Environmental Improvements Ballyhornan.pdf](#)

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**16.0 LA07/2019/0645/F - Delamont outdoor education centre 88
Downpatrick Road Killyleagh Reconstruction of existing
vehicle turning circle + replacement section of 1200 high
Stock proof fencing + construction of new boat slipway for the
exclusive use of the Education Authority. (Case Officer report
attached).**

Rec: APPROVAL

- Addendum list - Councillor Brown has requested this application be removed from the addendum list and deferred until the next Planning Committee Meeting.

[LA07-2019-0645-F REPORT Slip at Delmont OEC.pdf](#)

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For Discussion/Decision

17.0 Planning Enforcement Strategy. (Attached).

[PC - November 2019 - Planning Enforcement Strategy_.pdf](#)

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**18.0 Local Development Plan Steering Group Programme.
(Attached).**

[!\[\]\(3dfb8d66e81160ad61421a3452093d1b_img.jpg\) *LDP Steering Group Programme.pdf*](#)

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19.0 Historic Action Sheet. (Attached).

[!\[\]\(339a16584d5da0f0a3ca4e9ec17bf6a1_img.jpg\) *Planning HISTORIC TRACKING SHEET - UPDATED 30-10-2019.pdf*](#)

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**20.0 October 2019 Planning Committee Performance Report.
(Attached).**

[!\[\]\(3211b5d1d968fc1665909b34f9f16010_img.jpg\) *OCTOBER 2019 Planning Committee Performance Report.pdf*](#)

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**21.0 Record of Meetings between Planning Officers and public
representatives. (Attached).**

[!\[\]\(6a9b39b98eb945faa14c645ec99e4eaa_img.jpg\) *Record of Meetings report.pdf*](#)

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22.0 September Appeals and Decisions. (Attached).

[!\[\]\(f60b7a900783ac3fd531bfd9c111be6d_img.jpg\) *Current Appeals and Decisions September 2019.pdf*](#)

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23.0 October Appeals and Decisions. (Attached).

[!\[\]\(eabd9f9ababee93effadc3b380fe65fd_img.jpg\) *Current Appeals and Decisions October 2019.pdf*](#)

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NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of the Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 16 October 2019 at 10.00am in the Boardroom, District Council Offices, Monaghan Row, Newry

Chairperson: Councillor M Larkin

Deputy Chairperson: Councillor H Reilly

In attendance: **(Committee Members)**

Councillor W Clarke
 Councillor V Harte
 Councillor G Hanna
 Councillor C Mason
 Councillor D McAteer
 Councillor H McKee
 Councillor M Ruane
 Councillor J Trainor

(Officials)

Ms M Ward	Director, Enterprise, Regeneration & Tourism
Mr A McKay	Chief Planning Officer
Mr P Rooney	Principal Planning Officer
Ms A McAlarney	Senior Planning Officer
Mr M Keane	Senior Planning Officer
Mr F O Connor	Legal Advisor
Ms N Largey	Legal Advisor
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

P/100/2019: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillor Devlin.

P/101/2019: DECLARATIONS OF INTEREST

Councillor Mason declared an interest in Planning Application LA07/2019/0935/F and advised she would be withdrawing from the discussion/decision on this application.

With regard to Planning Application LA07/2017/0542/F – proposed retail park at Carnbane, Newry, Ms Largey advised Members that a previous decision had been

taken by the Planning Committee of Newry and Mourne Council in respect of a similar type application at Carnbane in June 2014. Ms Largey said it was a matter for the Committee to decide as to how to proceed at the Meeting today, and if they were conflicted and considered they should not take part in the vote. She continued saying, in the absence of audio recording at the Meeting in June 2014, it was difficult to advise Members about what they said and that it would be difficult for Members to recall any comments they may have made at that meeting.

In view of the legal advice received, Councillors Harte, Larkin, McAteer and Ruane advised they would withdraw from the Meeting for discussions on Planning Application LA07/2017/0542/F.

P/102/2019: DECLARATIONS IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL PARA. 25
– MEMBER TO BE PRESENT FOR ENTIRE ITEM

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

- **Item 8 - LA07/2019/0830/0** – erection of 2 no. infill dwellings - land NW of 11 Wateresk Road, Dundrum **REFUSAL** – all Councillors can take part in the discussion / decision on this application with the exception of **Cllrs. Brown, Clarke, Devlin, Hanna, Harte and Reilly.**

MINUTES FOR CONFIRMATION

P/103/2019: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 18 SEPTEMBER 2019

Read: Minutes of Planning Committee Meeting held on Wednesday 18 September 2019. **(Copy circulated)**

AGREED: **On the proposal of Councillor Hanna, seconded by Councillor McAteer, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 18 September 2019 as a true and accurate record.**

FOR DISCUSSION/DECISION

P/104/2019: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 16 October 2019. **(Copy circulated)**

AGREED: On the proposal of Councillor Hanna seconded by Councillor McKee it was agreed to approve the Officer recommendation in respect of the following applications listed on the addendum list for Wednesday 16 October 2019: -

- **LA07/2019/0753/F** - Proposed new "Sure Start" nursery building, with additional 3 No. parking spaces provided by extension of existing car park – lands immediately to the north of Bessbrook Community Centre within "The Pond Field" park at No. 8 Mill Road Bessbrook. **APPROVAL**
- **LA07/2018/1259/F** - Redevelopment of existing petrol filling station and forecourt to include extension to existing supermarket to provide additional food server, deli space with associated seating and sanitary facilities, replacement of existing petrol pumps, fuel tanks and forecourt canopy with associated signage and additional carparking (amended site layout) - 82 Dundrum Road, Newcastle. **APPROVAL**
- **LA07/2019/0161/F** - Public Realm Improvement Scheme to include upgrading of paving and kerbing of existing street pedestrian footpaths, new street lighting scheme, street furniture and all associated works including new pedestrian path in St. Colman's Park - Hill Street, O'Hagan Street, Mill Street, Bridge Street John Mitchel Place and St. Colman's Park, Newry. **APPROVAL**
- **LA07/2019/0576/F** - Environmental improvement scheme - Main Street adjacent to Sacred Heart Catholic Church extending to the junction with School Hill adjacent to Dundrum Bay Holiday homes site also incorporates an area east of Murlough Bay Court to the rear of Kennan Commercials 30 Main Street and bordered on the north by the former boat building Quay. **APPROVAL**
- **LA07/2019/0625/LBC** - Public Realm Improvement Scheme to include upgrading of paving and kerbing of existing pedestrian footpaths, new street lighting scheme, street furniture and all associated works - Ballybot Bridge, Mill Street, Newry **CONSENT**
- **LA07/2019/0500/F** - extension of car park and fencing - Derryleckagh Playing Fields, Ballyholland Road, Newry. **APPROVAL**
- **LA07/2019/1245/F** - implementation of a pedestrian footpath to join into existing pedestrian footpath - approx 75m SW of 58 Derrymore Road, Newry **APPROVAL**

DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION

P/105/2019: PLANNING APPLICATIONS FOR DETERMINATION

The following applications were determined by the Committee:-

- (1) **LA07/2016/1074/RM**
(Audio recorded - YES)

Location:

Lands at Abbey Way/Courtney Hill (including part of former grammar school lands and lands to the rear of Abbey Yard) Ballynacraig, Newry (amended address).

Proposal:

Development of Community Treatment and Care Centre, associated parking including an area of decked parking, accesses from Abbey Way and Courtney Hill and other associated operational development (amended plans).

Conclusion and Recommendation from Planning Official:

Refusal

Speaking Rights:In objection:

Jim McCartan and Sean Carr

In objection:

DEA Councillor G Stokes

In support:

David Mountstephen, Karen McShane, Jim Kerr, Eamon O'Hare and Shane Devlin CEO SH&SCT Trust all presented in support of the application, detailing and expanding upon written statements that had been circulated to Committee Members.

The Chairman advised that the written submission from Shane Devlin CEO SH&SCT Trust had been received after the closing deadline and it was a matter for the Committee whether they agreed to hear it.

It was unanimously agreed to hear the submission from Mr Devlin.

Power-point presentation:

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

Issues raised:

- DFI expressed concern regarding accessibility and safety issues for road users.
- Mr McCartan who resided at No. 71 Castle Street considered a 10m radii at the proposed entrance would be more acceptable than the proposed 6m.
- Mr McCartan expressed concern regarding safety issues when accessing his property in that he would be forced to reverse either in or out of his driveway on to a very busy junction.
- Councillor Stokes said whilst he would welcome such a fantastic new health facility for the district, it was paramount that all road safety issues were addressed.
- The car parking provision had been increased from 228 spaces to 397.

- The proposed development would be served by two accesses; the Courtney Hill access would be for cars and service vehicles, whilst the Abbey Way access would be for cars only.
- There was a restricted radii of 6m to the proposed entrance at Abbey Way which would require approval for a formal relaxation agreement from DfI Roads.
- Senior Planner confirmed there was reference to a 10m radii on the outline planning approval permission.
- DfI said there was no provision to upgrade the existing footway network.
- DfI had previously indicated there would be improvements made to the traffic lights system on Abbey Way which it was hoped would improve the flow of traffic.
- The SH&SCT would be the main provider of care in the proposed development.
- Currently SH&SCT operated from fourteen locations within Newry, these would all move to the proposed development. This proposed facility was essential to the future provision of health and social care in the Newry area – there was no alternative site in Newry.
- Although it was common practice at many other SH&SCT sites to have a regular public transport facility, it had not insisted on this provision at the proposed development.
- Councillor Clarke considered it a fundamental component of the application to have a public transport facility at the proposed site, in an effort to reduce the carbon footprint.

Councillor Hanna proposed to defer Planning Application LA07/2016/1074/RM to allow for a site visit to take place. Councillor McKee seconded the proposal.

Councillor Clarke agreed with the proposal and said it was important a public transport facility was provided at the site and that DfI Roads should attend the site visit. Councillor Clarke continued, saying a meeting should take place with Mr McCartan, Applicant, Planning Officials and DfI Roads to address concerns regarding road safety and access to 71 Castle Street.

AGREED: On the proposal of Councillor Hanna seconded by Councillor McKee it was unanimously agreed to defer Planning Application LA07/2016/1074/RM to allow for a site visit to take place to which DfI Roads Representatives would be invited.

A meeting to be organised with Mr McCartan, 71 Castle Street, Applicant, Planning Officials and DfI to address concerns regarding road safety and access to Mr McCartan's property.

(Break 12.00 – 12.15pm)

(Councillor Larkin, Harte, McAteer and Ruane withdrew from the meeting – Councillor Reilly assumed the Chair).

**(2) LA07/2017/0542/F
(Audio recorded - Yes)**

Location:

Retail park with ancillary coffee shop/restaurant units (supporting statement April 2019)

Proposal:

Former HM Revenue Customs Custom House and Clearance Station, Carnbane Way, Carnbane Industrial Estate.

Conclusion and Recommendation from Planning Official:

Refusal

Speaking Rights:

In objection

Tomas Bell, Andrew Ryan and Andy Stephens.

In support

Martin Kelly, Laurence Breen, Declan Mackin, Mike Prentice and Stewart Beattie QC.

Ms Largey advised that late information had been received from TLT who were objecting to the application. She said they had submitted a holding submission in which they indicated their intention to make a further submission and it was a matter for the Committee to decide if they wished to consider this late information.

Councillor Hanna said he had not read the late information and proposed and Councillor McKee seconded that the late information should not be accepted.

The proposal was put to a vote and voting was as follows:-

FOR:	3
AGAINST:	3
ABSTENTIONS:	0

The Chairman used his casting vote in favour of the proposal and it was agreed not to consider the late information submitted by TLT.

Mr Pat Rooney, Principal Planning Officer gave a power point presentation on the application with supporting information including a site location plan, proposed site layout plan, and photograph of the site. He outlined the issues identified in the case officer's report and the reasons for the recommendation for refusal. He confirmed that the Council had appointed a retail consultant, who was present to provide clarity on any issues raised.

Ms Largey said she had been advised that further late information had been received and requested the Meeting be adjourned for a short recess to allow Officers time for further discussions.

Agreed: On the proposal of Councillor Hanna seconded by Councillor McKee it was agreed to adjourn the Meeting for a short recess to allow for further discussion to take place with Officers.

Following the recess, Ms Largey advised that regrettably they would be unable to proceed with Planning Application LA07/2017/0542/F as more investigation on late information was needed to be undertaken by Officers. Ms Largey confirmed the application would be considered at the Planning Committee Meeting on 13 November 2019.

Agreed: On the proposal of Councillor Clarke, seconded by Councillor Trainor it was agreed to defer Planning Application LA07/2017/0542/F until the November 2019 Planning Committee Meeting to allow further investigation on late information to be undertaken by Planning Officers.

(Lunch 1.10pm – 2.00pm)

(Councillor Larkin resumed Chairing the meeting).

(3) LA07/2019/0830/O
(Audio recorded – Yes)

(Councillors Clarke, Hanna, Harte and Reilly withdrew from the Meeting)

Location:

Land NW of 11 Wateresk Road, Dundrum.

Proposal:

Erection of 2 no. infill dwellings.

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

Power-point presentation:

Ms Anette 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.

Issues Raised:

- Ms McAlarney said the two buildings at No. 7b, a house and garage were the only buildings with frontage on to the lane and therefore the application contravened policy.
- The agent considered there to be four dwellings with frontage on to the lane at Wateresk Road which he said was one continuous lane in a loop.

AGREED:

On the proposal of Councillor Larkin, seconded by Councillor Ruane it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/0830/O contrary to Officer recommendation on the basis that it was a gap site with frontage onto a continuous lane and complied with Planning Policy CTY8.

(Councillors Clarke, Hanna, Harte and Reilly re-joined the meeting).

**(4) LA07/2019/0019/F
(Audio recorded – YES)**

Location:

Approximately 150m NW of the junction of 5 Church Road, Crossgar.

Proposal:

Proposed agricultural building, hard standing and all associated site works.

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Andy Stephens, agent and Francie Killen, applicant presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Power-point presentation:

Ms Anette 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.

Issues Raised:

- The proposed location was sited 5½ miles from the main farm house.
- The applicant had an active farm as evidenced by DAERA and had been unable to secure farmlands closer to his main farm.
- The applicant considered the building needed to be located at an isolated location as part of bio security measures.

- Planning Officials were not opposed to appropriate farm buildings in the countryside but considered the proposed application lacked sufficient substantive evidence.
- The ridge height of the proposed building was 4.8m, the eaves 2.1m, and to minimise visual impact, it was to be a green clad building within two hedgerows.

AGREED:

On the proposal of Councillor Hanna, seconded by Councillor McAteer it was unanimously agreed to issue an approval in respect of Planning Application LA07/2019/0019/F contrary to Officer recommendation on the basis that the applicant had demonstrated sufficient evidence to support the application and in the interests of animal welfare and the sustainability of the farm business.

It was also agreed Officers be delegated authority to impose any relevant conditions.

(Councillor Trainor left the Meeting at this point – 2.30 pm).

**(5) LA07/2019/0512/O
(Audio recorded – YES)**

Location:

Lands between Nos. 151 and 149 Dunmore Road, Ballynahinch.

Proposal:

Infill dwelling and detached garage

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

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.

Issues Raised:

- The agent considered there to be six buildings all with frontage to Dunmore Road and therefore the application represented an infill opportunity.
- Planning Officials considered there to be only one building with frontage and consequently the application failed to meet policy.

AGREED: On the proposal of Councillor Clarke seconded by Councillor McAteer it was unanimously agreed to defer Planning Application LA07/2019/0512/O to allow for a site visit to take place so that Members could assess the site in more detail.

(Councillor Mason withdrew from the Meeting)

(6) LA07/2019/0935/F
(Audio recorded – IN CLOSED SESSION - NO)

AGREED: On the proposal of Councillor Hanna seconded by Councillor Clarke it was agreed to exclude the public and press from the Meeting during discussion on the following matter which related to exempt information by virtue of Paragraph 1 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 – information relating to any individual.

Location:

4 Oldpark Road, Loughinisland, Downpatrick

Proposal:

Extension to side dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

Power-point presentation:

Ms Anette 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.

Issues raised:

- Planning Officials considered the scale of the proposed extension to be excessive and not ancillary to the main dwelling.
- The agent advised Members the proposed extra space was needed to cater for the family's needs and it had been kept to the minimum in terms of size.
- The agent advised Members that in order to retain the vernacular of the countryside and use the existing form on the site, the proposed extension was a separate building.

Councillor Reilly proposed to issue an approval in respect of Planning Application LA07/2019/0935/F on the basis that the applicant had demonstrated exceptional need. Councillor Hanna seconded the proposal.

Ms Largey advised that if the Planning Application was to be overturned, the two refusal reasons would have to be addressed.

Councillor Reilly responded as follows:

1. The proposed design enhanced the rural character of the area
2. Based on the drawings demonstrated, the proposed design did not impact on the streetscene and did not contravene Policy EXT1 (a) of Addendum to PPS7.

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

FOR:	2
AGAINST:	4
ABSTENTIONS:	2

The proposal was declared lost.

Councillor Clarke said whilst he sympathised with the needs of the applicant he considered the scale of the proposed building to be too extensive.

Councillor Clarke proposed to defer Planning Application LA07/2019/0935/F to allow Planning Officials and the applicant / agent to meet and agree on a revised design that would be suitable for all parties. Councillor McAteer seconded the proposal.

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

FOR:	7
AGAINST:	0
ABSTENTIONS	1

The proposal was declared carried.

AGREED: **On the proposal of Councillor Clarke seconded by Councillor McAteer it was agreed to defer Planning Application LA07/2019/0935/F to allow for Planning Officials, the applicant and agent to meet to agree on a revised design.**

It was also agreed Officers be delegated authority to impose any relevant conditions.

AGREED: **On the proposal of Councillor McAteer seconded by Councillor McKee it was agreed to come out of 'closed session'.**

(7) **LA07/2019/1031/F**
(Audio recorded – YES)

Location:

178 Crew Road, Downpatrick

Proposal:

Proposed shed for storage of vintage vehicles

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

Power-point presentation:

Ms Anette 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.

Issues Raised:

- Planning Officials considered the siting of the proposed shed was the main issue and contravened policies CTY1 and CTY8.
- The proposal would not be eligible for permitted development as it was more than 20m from the dwelling.
- The proposed siting for the shed was 43m from the main dwelling but the agent said it could be sited closer.

Councillor Hanna proposed to accept the Officer's recommendation and issue a refusal, Councillor Larkin seconded the proposal.

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

FOR:	6
AGAINST:	1
ABSTENTIONS:	2

The proposal was declared carried.

AGREED: On the proposal of Councillor Hanna seconded by Councillor Larkin it was agreed to issue a refusal in respect of Planning Application LA07/2019/1031/F, as per the information and recommendation contained in the Case Officer report presented to Committee.

**(8) LA07/2019/0283/O
(Audio recorded – YES)**

Location:

30m west of 45 Cranfield Road, Kilkeel, County Down

Proposal:

Site for dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

Ian Patterson and Pamela Houston presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Power-point presentation:

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.

Issues Raised:

- Chestnutt Caravan Park was discounted by Planning Officials when assessing the application, as only a small section of it was bound to the south west corner of the site and therefore they did not consider it formed part of the cluster.
- Applicant considered the application met all six criteria of Planning Policy CTY2A.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2019/0283/O on the basis that it met the criteria for a cluster in that there were more than four dwellings, Cranfield Hall was a focal point, the development was enclosed at either end and there would be little impact as all neighbouring properties appeared to have separate accesses. Councillor Reilly seconded the proposal.

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

FOR:	6
AGAINST:	3

The proposal was declared carried.

AGREED: **On the proposal of Councillor Hanna seconded by Councillor Reilly it was agreed to issue an approval in respect of Planning Application LA07/2019/0283/O contrary to Officer recommendation on the basis that it complied with CTY2A.**

It was also agreed Officers be delegated authority to impose any relevant conditions.

P/106/2019 JUDICIAL REVIEW OF PLANNING DECISION P/2010/0904/F

AGREED: On the proposal of Councillor Clarke seconded by Councillor Hanna it was agreed to exclude the public and press from the Meeting during discussion on the following matter which related to exempt information by virtue of Paragraph 1 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 – information relating to any individual.

Read: Report dated 16 October 2019 from Fearghal O'Connor regarding Judicial Review of Planning Decision P/2010/0904/F. **(Copy circulated)**

AGREED: On the proposal of Councillor Clarke seconded by Councillor Ruane it was agreed that Members accept the legal advice given by our Counsel and legal advisors in this matter and concede the application for leave to apply for judicial review on one ground, namely the 'reasons' issue.

It was also agreed the solicitors for the applicant be notified at the earliest opportunity to minimise the accrual of legal costs.

AGREED: On the proposal of Councillor McAteer seconded by Councillor Reilly it was agreed to come out of 'closed session'.

FOR NOTING**P/107/2019: HISTORIC ACTION SHEET**

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

AGREED: It was unanimously agreed to note the Planning historic action sheet.

P/108/2019: PLANNING COMMITTEE MEETING PERFORMANCE REPORT – SEPTEMBER 2019

Read: Planning Committee Performance Report September 2019. **(Copy circulated)**

AGREED: It was agreed to note the Planning Committee Performance Report September 2019.

P/109/2019: MEETINGS BETWEEN PLANNING OFFICERS AND PUBLIC REPRESENTATIVES

Read: Record of Meetings between Planning Officers and Public Representatives. **(Copy circulated)**

AGREED: It was agreed to note the record of Meeting between Planning Officers and Public Representatives.

P/110/2019: APPEALS & DECISIONS

Read: Report re: Appeals and Decisions – September 2019.
(Copy circulated)

AGREED: It was agreed to note the Appeals and Decisions September 2019.

The Meeting concluded at 5.40pm

For confirmation at the Planning Committee Meeting to be held on Wednesday 16 October 2019.

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 13 November 2019

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

- **LA07/2019/0445/O** – site for 1 dwelling and garage – 69m SW of 71 Dunmore Road, Spa, Ballynahinch. **APPROVAL**
- **LA07/2015/0244/F** - Lands adjacent to No 62 Newry Road Warrenpoint and the Gilbert Ash Complex Newry Road Warrenpoint incorporating the Narrowwater Business Park This application is for the change of use from the current zoning as 'Employment Land' to 'Port Operational Land' to bring it in line with the rest of the Harbour Estate. All activity on the site will be for the carrying out the statutory function of the port under the Warrenpoint Harbour Authority Order 2002 (Amended plans received). **APPROVAL**
- **LA07/2019/0574/F** – Environmental Improvement Scheme – from Killard Road south of Benderg Park site is bordered on the south side by section of Rocks Road and to the east by Ballyhornan Beach, Ballyhornan Environmental Improvement Scheme. **APPROVAL**
- **LA07/2019/0645/F** – Delamont outdoor education centre 88 Downpatrick Road Killyleagh – reconstruction of existing vehicle turning circle and replacement section of 1200 high stock proof fencing and construction of new boat slipway for the exclusive use of the Education Authority. **APPROVAL**

-0-0-0-0-0-



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0399/O

Date Received: 11.03.2019

Proposal: Proposed Dwelling on Infill site

Location: Between No 86 Crabtree Road and 4 Cumber Road, Drumaness



The site is located in the countryside.

Site Characteristics & Area Characteristics

The site is the side garden of a larger property with a detached dwelling and yard and outbuilding to the rear and a large garden.



The site is south west of the dwelling, NO 86 Crabtree Road. This roadside site has a mature SW and SE boundary. The NW and NE boundaries form part of the larger plot of No 86.

Site History:

R/1989/0598 GRANTED

Extension to dwelling at 86 Crabtree Road, Ballynahinch

Planning Policies & Material Considerations:

The proposal will be assessed in relation to the Regional Development Strategy, the Ards and Down Area Plan 2015, the Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21), PPS3 Access, Movement and Parking. Department Guidance documents such as Building on Tradition, a design guide for the Northern Ireland Countryside, DCAN 15 Vehicular Access, Parking Standards.

The list of planning policy and guidance documents is not exhaustive. Should any additional document form part of the assessment for the proposal it will be referenced within the report.

Consultations:

The proposal is an outline application for a dwelling in the countryside. The Planning Authority sought comments from NI Water Ltd and Transport NI. NI Water Ltd provided a generic response which contains information for the applicant's benefit. Transport NI were content with the details of the outline and recommended a planning condition referencing their returned RS1 form which refers to visibility splays of 2.0m by 60m.

Objections & Representations

The site was advertised in Mourne Observer and Down Recorder on the 27.03.2019. 3 Neighbouring properties were notified (Nos 4 and 6 Cumber Road and 86 Crabtree Road) on the 28.03.2019

No representations were received prior to statutory expiry (11th April 2019).

Consideration and Assessment:

The site is a short distance from the settlement limits of Drumaness village. The application is an outline proposal for a dwelling within the Countryside.

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

The SPPS must be considered along with PPS21 Sustainable Development in the Countryside. Policy CTY1 of PPS21 identifies a range of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

The proposal has been submitted as an infill dwelling and Policy CTY1 states that planning permission will be granted for an individual dwelling house in the countryside can be facilitated where development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.

The SPPS and CTY8 refer to the exception to ribbon development where 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 the development respects the exciting pattern of development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

Policy CTY8 provides definition of a substantial and continuously built up frontage for the purposes of the policy, as a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The frontage in this case is the Crabtree Road. The site shares its south-western boundary with the Crabtree Road. It is a side garden of No 86 Crabtree Road and abuts the rear garden of No 4 Cumber Road along its south-eastern boundary. To the north-west of No 86 is No 84 Cumber Road. Nos 84 and 86 Cumber Road are detached single storey dwellings with large rectangular plots that front onto the Cumber Road with a small set back and side drive.



The dwellings have deep garden plots. No 4 Cumber Road is a 2 storey detached dwelling that shares its frontage with the Cumber Road and its side garden abuts the Crabtree Road so the dwelling has a dual frontage plot onto the Crabtree and Cumber Road.



The site proposed is created through the artificial subdivision of a larger plot. It is a small gap that sits between Nos 84, 86 Crabtree Road and No 4 Cumber Road. The proposal would only be permitted where the development respects the existing development pattern.

The development pattern along the Cumber Road is characterised large deep plot sizes, with single storey detached dwellings with a strong building line of over 10m between the Cumber Road and the front gable of the dwelling. The dwellings have a side access and are modest in size. The building line is maintained by the position of No 4 Cumber Road within its medium plot.



The site has an area of 0.1Ha and shares a 27m frontage with the Crabtree Road. The plots of Nos 84 and 86 Crabtree Road are large with over 50m frontage shared with the public Road and plot depths of approx. 120m creating large plot areas of 0.8 and 0.5Ha respectively. The plot of No 4 Cumber Road is modest at 0.2Ha and frontage limited to 38m long the Crabtree Road.

The proposed site could facilitate a dwelling that respects the building line of Nos 84 and 86 Crabtree Road and the plot depth, of No 4 Cumber Road. However, it would not be able to respect the large plot areas of Nos 84, 86 and No 4. The plot size of the proposal would be significantly less than Nos 86, 84 Crabtree Road and half the site area of No 4 Cumber Road. This is contrary to CTY8

The proposal requires the artificial subdivision of plot serving No 86 Crabtree Road. While the loss of the side garden area would not have an adverse impact on the amenity or privacy of the dwelling, the reduction of the plot frontage from 58m to approx. 30m coupled with the addition of a dwelling on a plot that shared 28m with the Crabtree Road would contribute to a localised sense of built-up and fail to respect the traditional pattern of development within the countryside.

The proposal has not satisfied the criteria of the SPPS and Policy CTY8 as an exception to ribbon development. The proposal is contrary to the SPPS and Policy CTY1 of PPS21 as no justification for development within the countryside has been demonstrated in support of the application.

The site will be visible from the Newcastle Road, the Drumaness Road and the Crabtree Road.

The site benefits from an established roadside boundary and a mature group of trees adjacent to its roadside boundary. A planning condition could be attached to ensure the dwelling would be positioned within the middle of the plot and respect the building line of No 86 Crabtree Road and the side gable of No 4 Cumber Road. The site could accommodate a single storey dwelling with a ridge height restriction of less than 5.6m to reflect Nos 84 and 86 Cumber Road. The established ditch could be positioned to the rear of the necessary splays and it would not rely on new planting for integration. The proposal satisfies Policy CTY13 of PPS21 in that a single storey dwelling could be visually integrated into the surrounding landscape.

The site is a short distance from the settlement limits of Drumaness village. The proposal would not mar the settlement limits of the village.

The site would erode the rural character of the area. Planning conditions could be used to ensure development would not be prominent in the landscape provided it is designed in accordance with the single storey nature, size and scale of the existing dwellings of Nos 86 and 84 Crabtree Road. The proposal would not be able to respect the existing development pattern along the Crabtree Road.

The artificial subdivision of the plot serving No 86 to facilitate a detached dwelling would result in a build-up of development and would be detrimental to the rural character of the area. The cumulative impact of an additional dwelling within the side garden of No 86 and the detrimental impact that would have on the established development pattern of the Crabtree Road is contrary to CTY14.

Policy CTY16 permits development relying on non-mains sewerage, or where the applicant can demonstrate that this will not create or add to a pollution problem. The applicant has stated within the P1Form that the foul sewage will be disposed of via bio-disc and use of soakaways for surface water. A planning condition should be attached to ensure the applicant has sought and been granted a consent to discharge prior to commencement of the development, if the principle of development was accepted.

Recommendation:

Refusal – The proposal could not facilitate development of a small gap site within a substantially and continuously built up frontage along the road that can respect the existing development pattern along the Crabtree Road.

Refusal Reasons/ Conditions:

Conditions recommended by planning officer and consultees, can be subject to edit prior to the issuing of the decision:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would fail to respect the existing development pattern in terms of size, scale and plot size and would, if permitted, result in the addition of ribbon along the Crabtree Road.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted:
 - (b) would result in a suburban style build-up of development when viewed with existing and approved buildings;
 - (c) would not respect the traditional pattern of settlement exhibited in that area;
 - (d) would add to a ribbon of development along the Crabtree Road; and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

Case Officer signature:

Date:

Appointed Officer signature:

Date:

Planning Committee Schedule of 13th November 2019

Planning reference: **LA07/2019/0399/O**

Proposal: **Proposed dwelling on infill site.**

Applicant: **Mr Joe Molholland**

Location **Between No 86 Crabtree Road and 4 Cumber Road, Drumaness**

Recommendation: **Refusal**

Reasons

- 1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.**
- 2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would fail to respect the existing development pattern in terms of size, scale and plot size and would, if permitted, result in the addition of ribbon along the Crabtree Road.**
- 3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted:**
 - (b) would result in a suburban style build-up of development when viewed with existing and approved buildings;**
 - (c) would not respect the traditional pattern of settlement exhibited in that area;**
 - (d) would add to a ribbon of development along the Crabtree Road;****and would therefore result in a detrimental change to (further erode) the rural character of the countryside.**

Site Description

The site is a gap site in the side garden of No86 it being a detached dwelling, garden and outbuilding to the rear.

The site is south west of the dwelling, NO 86 Crabtree Road and adjacent to boundary of No 4 Cumber Road. The site has a mature boundaries to the SW and SE sides while rear boundary is currently undefined.

Site History

R/1989/0598 GRANTED

Extension to dwelling at 86 Crabtree Road, Ballynahinch

Planning Policies & Considerations

RDS, SPPS, PPS 21, PPS2, PPS3, Ards & Down Area Plan 2015

Consultations and Representations

The following consultations were carried out –

Water Ni - No objections

Dfi RS1 - issued as access is acceptable

Following notifications of the relevant neighbours and advertisement in the local press no objections to the proposal were received either.

Assessment of reasons for Refusal

1 The development of a small gap site within an otherwise substantial and continuous built up frontage in accordance with Policy CTY8 falls within the range of types of development which in principal are considered to be acceptable in the countryside and will contribute to the aims of sustainable development and as such this application is a gap site and its meets with criteria and is compliant with SPPS and Policy CTY1 of PPS21 and as such is not contrary to the policies and it clearly meets the tests of Policy CTY1.

2 The Council Planning Department state that the proposal does not respect the existing development pattern and this has to be argued that the proposal has a frontage similar in length to that of 4 Cumber Road and the remaining frontage of 86 and would also have plot size similar to adjacent sites, it has to be noted that not all plot sizes in the countryside are uniform that is the nature which allows for infill opportunities.

Reference to the scale of the site are made by the Council but this is misleading and unclear as the scale of any proposal would be a matter for condition to be imposed if an approval were to be forthcoming.

3 The Proposal would not result in the build-up of development when viewed with existing and approved buildings rather it completes and rounds off the existing gap which exists in this built up frontage and it would respect the settlement pattern of this area as it has a similar frontage and size to dwellings in the area. The development of the site would not further erode the rural character as development of this gap site would be read in the totality of this area and development of the site would not create a ribbon rather it would link the existing development and cause no demonstrable harm to the countryside thus compliance with Policy CTY14.

Overview

The writer would indicate that the officer's report does not show a copy of the submitted location map rather it relays on roughly drawn generic map and aerial photography which clearly does not reflect the application site boundaries and this is construed as misleading.

The main consideration in relation to this proposal is to whether the site is a gap site in a substantially built up frontage along this stretch of road capable of accommodating a dwelling.

Conclusion

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





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0445/O

Date Received: 20.03.2019

Proposal: The application is for outline planning permission for a site for 1 dwelling and garage.

Location: The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015.



Site Characteristics & Area Characteristics:

The site comprises the northern section of a larger grassed agricultural field on the northern side of Dunmore Road. The site lies above the level of the road and gradually rises in a northerly direction. There is an agricultural field gate onto Dunmore Road. The frontage along Dunmore Road comprises a flat grassed area and hedgerow. A bus shelter is located along the site frontage to the SE of the site entrance. The eastern boundary remains undefined and is cut from the larger agricultural field. A 3 tier wooden

fence provides the western boundary which it shares with the adjacent neighbour at No 140. The northern boundary lies adjacent to McAuleys Lake, there are mature trees along this boundary. There is some hardcore along what would be the proposed access and the site is pegged out. Adjacent are the foundations of two dwellings which had been approved under R/2010/0580/F.

No 140 Ballymacarn Road lies to the west of the site and comprises a bungalow, and No. 139 Ballymacarn Road, a two storey dwelling, lies opposite and to the south west of the site. To the south of the site lies No. 141 Ballymacarn Road, a two storey dwelling. To the south west of the site lies the Magherahamlet Parish Church and Church Hall. To the north east of the site lies No 71 Dunmore Road. To the SE of the site and on the opposite side of the crossroads is a two storey dwelling at No 82 Dunmore Road.

Site History:

2004/A711 Adjacent to 71 Dunmore Road, Spa, Ballynahinch. Appeal Dismissed 26.10.2005

R/1986/0792 Opposite Magherahamlet Parish Church, Ballymacarn Road, Ballynahinch. Dwelling Permission Refused

R/1987/0333 Ballymacarn Road Near 71 Dunmore Road Ballynahinch Dwelling Permission Granted

R/1988/0107 Adj To 71 Dunmore Road Ballynahinch Dwelling Permission Refused

R/1989/0062 Adjacent To 71 Dunmore Road Ballynahinch Dwelling Permission Refused

R/1989/0222 Ballymacarn Road Ballynahinch Erection Of Bungalow And Attached Garage Permission Granted

R/1990/6064 North of the junction of the Dunmore and Ballymacarn Dwelling North of the junction of the Dunmore and Ballymacarn Roads Ballynahinch

R/2004/0863/O Adj to 71 Dunmore Road, Spa, Ballynahinch
Site for new dwelling and garage. PERMISSION GRANTED 10.11.2004

R/2004/1949/O Adjacent to 71 Dunmore Road, Spa, Ballynahinch.
Proposed site for new dwelling and garage for domestic use only. APPEAL DISMISSED

R/2007/0873/RM Adj to 71 Dunmore Road, Spa, Ballynahinch. New dwelling and garage for domestic use only. PERMISSION GRANTED 14.11.2007

R/2010/0580/F 69m South West of 71 Dunmore Road, Spa, Ballynahinch. 2 No new dwellings & garages. (Amended plans) PERMISSION GRANTED 10.06.2011

LA07/2019/0148/CA - Dunmore Road, Spa, Ballynahinch - Alleged unauthorised works (Marking out of site splays when application has expired). No breach – enforcement case closed.

LA07/2018/0963/O - Lands adjacent to and west of 83 Dunmore Road, Ballynahinch. Erection of dwelling and garage and associated site works as per CTY2A. – Dismissed at appeal 2018/A0238.

Planning Policies & Material Considerations:

The application site is located outside the settlements in the open countryside as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document, which is read in conjunction with PPS 3 and PPS 21.

Consultations:

NI Water – Statutory response

DFI Roads – No objections subject to conditions and RS1 form indication visibility splays of 2 x 60m in both directions and bus shelter to be removed.

Environmental health – No objections subject to condition relating to proximity of septic tank (The venting for the septic tank should be located a minimum of 15m from any habitable dwelling)

Rivers Agency – No objections subject to a condition relating to retention of a working strip to be shown on a site layout drawing and be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development.

Shared Environmental Services – No objections

Objections & Representations

In line with statutory requirements five neighbours have been notified on 03.04.2019. The application was advertised in the Mourne Observer and the Down Recorder on 10.04.2019. A total of 9 objections were received from a total of 6 different households including Claire and Martin Crainy of 141 Ballymacarn Road, Mr Sam Patterson 140 Ballymacarn Road, Mr Martin Moffett 82 Dunmore Road, W McMullan 139 Ballymacarn Road, Sam Simpson 88 Dunmore Road and Mr Kieran Devlin 60 Dunmore Road.

All objection letters have been read and fully considered as part of the application. Below is a summary of the main points raised in the letters, however, for a full transcript of the letters please refer to the file or planning portal.

- Concerns regarding the planning history on the site and how previous applications on the site and land adjoining the site were approved.
- Previous applications have now lapsed – these should be revoked from further re-submissions or appeals for future approval
- Concerns regarding the correct visibility splays
- The planning appeal under 2004/A711 should be taken into account and remain valid in relation to this application
- Road safety
- Application does not meet planning guidelines or regulations or AONB regulations
- Any new application here should meet the correct planning guidelines
- Site has been an eyesore for local residents
- Overdevelopment / visual impact / out of character with existing development / loss of existing views / contrary to PPS 21
- Impact of surface water and foul water effluent discharge – concerns re flooding
- One dwelling only on the entire lands

To clarify in relation to some of the points raised by the objectors regarding the previous planning appeal under 2004/A711 the appeal was dismissed overall when refusal reasons 1 and 3 were sustained, however, in term of the refusal reason regarding integration this refusal reason was not sustained. This is evident from the 'Consideration' section from said appeal. The objectors are quoting from the 'Case For The Department'.

Consideration and Assessment:

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

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

This is an application for outline planning permission whereby a P1 form, site location plan, site layout plan and floorplans and elevations have been included as part of the application.

A previous application for a similar site (larger red line) received planning permission under R/2004/0863/O and R/2007/0873/RM. These approvals were under a different policy context. PPS 21 was not introduced until June 2010. A pre-commencement condition required the implementation of visibility splays to be in place prior to any other development commencing. These visibility spaces were never put in place as it required the removal of the bus shelter along the frontage of the site which is still there to date. These approvals have therefore since lapsed and the agent was advised of this before the submission of this application. On the basis of this approval a further two dwellings were approved under CTY 2A of PPS 21 under R/2010/0580/F. The foundations of these dwelling are apparent on the site and can be viewed through google earth imagery. Similarly, within these approvals a pre-commencement condition was imposed that no development shall commence until the required visibility splays were in place. These permissions have also since lapsed.

The application therefore needs to be assessed under Policy CTY1 of PPS21. CTY 1 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a. It follows that if the development complies with Policy CTY2a it will also comply with Policy CTY1 of PPS21.

Policy CTY2a of PPS21 states that planning permission will be granted for a dwelling at an existing cluster of development provided all of six criteria are met:

- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- the cluster appears as a visual entity in the local landscape;
- the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,
- the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- development would not adversely impact on residential amenity.

This policy states that planning permission will be granted for a dwelling at an existing cluster of development provided all of its six criteria are met. A cluster of development is not defined by the Policy. The initial issue then is whether an existing cluster of development exists at the location of the proposed site. The normal meaning of 'cluster' is a bunch or close grouping of something, and a judgement on this issue is also informed by the first three criteria which give an indication of its intended meaning. The first criterion requires the cluster of development to lie outside of a farm and to consist of four or more buildings (excluding ancillary buildings such as garages) of which at least three are dwellings. The second criterion indicates that the cluster should appear as a visual entity in the local landscape. The third criterion indicates the cluster is to be associated with a focal point such as a social/community building/facility, or is located at a crossroads.

- **The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.**

The proposal is sited adjacent to a dwelling house at No 140. Further along the Ballymacarn Road is a church and associated hall and two additional dwellings and out buildings are opposite the site. The site is associated with a cluster of development of four or more buildings, 3 of which are dwellings, this aspect of policy is met.

- **The cluster appears as a visual entity in the local landscape.**

The cluster of development has developed around the road junction and further to the NW of Ballymacarn Road towards the Church. The road junction is not quite a crossroads, but a layout junction where the Edendariff, Dunmore and Ballymacarn Roads all meet. There is development on both sides of the road around this 3 road junction. Given the layout and positioning of buildings close to road frontages the cluster does appear as a visual entity in the local landscape.

- **The cluster is associated with a focal point such as a social/community building/facility or is located at cross-roads.**

The cluster is associated with a focal point being the church and church hall and the crossroads type junction in close proximity to the site.

- **The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.**

The wording of the fourth criterion states that the site should have suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. The proposed site is bounded to the west by No 140 Ballymacarn Road. McAuleys Lake bounds the site to the north with no further development beyond the site. The Drumaness River separates the site to the NE with No 71 Dunmore Road. Notwithstanding the separation of the Drumaness watercourse, a small portion of the site would run parallel to the boundary of No 71 Dunmore Road. However, whilst the wording of the criterion does not state a specific proportion for which the side of a prospective site must bound with other development, the thrust of this specific criterion and the policy as a whole is one of proposed new development being sited to consolidate with and read as part of an existing cluster. It is clear that the site forms part of the overall cluster and while No 71 Dunmore Road would not form part of the cluster, it bounds with the edge of the cluster and terminates any development beyond the cluster. Thus by the very fact that the site is contained within the cluster, the site would seek to consolidate and read as part of the cluster.

The site is cut from a larger field and is located on what would be the highest part of the site (it steadily rises from the roadside to the north of the site but starts to fall back down towards McCauley Lake). The agent has also submitted a design including floorplans and elevations for the proposed dwelling which would have a ridge height of 4.8m. Given this ridge height (which could be conditioned as part of any approval) a suitably designed dwelling on the site would not be viewed as unduly prominent. The set back of the site would form a settlement pattern similar to the dwelling at No 140.

Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.

Due to the positioning of the site on lands that read as being part of the cluster, the site therefore would be absorbed into the existing cluster. The site represents the rounding off of a cluster and would not significantly alter the character of the cluster.

- **Development would not adversely impact on residential amenity.**

A suitably designed dwelling on the site would not adversely impact on the residential amenity of the area. There is sufficient separation between the site and the neighbouring dwellings so as to not cause any unacceptable negative impacts.

CTY 13 – Integration and Design of buildings in the Countryside

The application is also considered against CTY 13. The application meets with the requirements of CTY 13 in that a dwelling on this site would not be a prominent feature in the landscape. The site could accommodate a low profiled, suitably designed dwelling without having an unacceptable visual impact on the landscape. Ancillary works can integrate with the surroundings, the dwelling is to be set back off the road and would not have a frontage to the road but would be accessed via a new lane which is to run along the boundary of the neighbouring property in a straight line. Ancillary works are not thought to offer any negative

impacts. While the design of the building has been presented and had previously been acceptable, the planning context is now different. However, if the principle was established a dwelling of a suitable rural design could be accommodated on the lands and with careful design could blend with the topography and existing features.

CTY 14 Rural Character

The application is also considered against CTY 14 Rural Character. Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. As stated in consideration of CTY 13 a building on this site would not be a prominent feature in the landscape. Therefore, a building on the site would not change the character and appearance of the rural area.

PPS 16 Development relying on Non Mains Sewerage

This is an outline application, however, the detailed drawings that accompany the proposal indicate the soakaways on lands outside the red line but within blue lands in whereby the applicant owns or controls the land.

PPS 3 - Access, Movement and Parking

Transport NI have offered no objections to this proposal and the required visibility splays can be achieved in accordance with the RS1 Form of 2.0 x 60m. It is also considered that sufficient provision has been made parking and turning within the site.

Conclusion

Taking into account all material consideration including objections and history on the site, determining weight is not given in this case to the previous approval on the site which has since expired as this was granted under a different policy context. The proposal has been assessed using the relevant policy context which is the SPPS and PPS 21 - CTY 2A and since it meets the requirement of this policy context then approval is recommended.

Recommendation

Approval

Conditions

Time, access, ridge height restriction

Case Officer Signature

Date

Appointed Officer Signature

Date



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0456/O

Date VALID (by office): 26.03.2019

Proposal: Infill dwelling, garage and associated site works

Location: Land 10m west of 8A Tyrella Road, Clough, Downpatrick



Site Characteristics & Area Characteristics

The site is comprised of the southern corner of a larger agricultural field. The southern boundary of the site abuts the Tyrella Road and is defined by a mature hedge and a small portion of ranch style fencing which covers approximately 5m of the approx. 38m roadside boundary. The western boundary abuts the drive and garden of No 8b Tyrella Road and is defined by post and wired fencing. The eastern boundary is shared with No 8a Tyrella Road and defined with a post and wire fencing and a hedge. The northern boundary is undefined and the ground level rises from the southern boundary to and beyond the northern boundary as defined in the site location map.

Site History:

R/1999/0575 GRANTED 28.10.1999

Site for Dwelling Almost opposite 10 Tyrella Road, Tyrella North, Downpatrick

R/2000/1226/F GRANTED 25.05.2001

Dwelling with Integral Garage Lands 20m South and Opposite 10 Tyrella Road, Tyrella North, Downpatrick

R/2005/1155/F GRANTED 08.11.2005

Alterations to existing garage and extension to provide a car port 8a Tyrella Road, Downpatrick

R/2001/0717/O WITHDRAWN

Proposed dwelling Adjacent to 8 Tyrella Road, Carrickinab, Downpatrick

R/2002/0764/O GRANTED 12.10.2002

R/2003/0440/RM GRANTED 05.08.2003

Erection of dwelling Approx. 170 Metres north east of 8 Tyrella Road, Tyrella North

Planning Policies & Material Considerations:

The proposal will be assessed in relation to the Regional Development Strategy, the Ards and Down Area Plan 2015, the Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21) and PPS3 Access, Movement and Parking. Guidance documents published by the Department will also form part of the consideration such as Building on Tradition Design Guide for the Northern Ireland Countryside and DCAN 15 Vehicular Access Standards.

The list of planning policy and guidance documents is not exhaustive. Should any additional document form part of the assessment for the proposal it will be referenced within the report.

Consultations:

NI Water Ltd provided comments for the applicants benefit, copy of their response available on file and planning portal.

Transport NI responded with no objections to the proposal with a requirement of 2mX33m Visibility Splays and planning condition to support their requirements.

Objections & Representations

The site was advertised in Mourne Observer and Down Recorder on the 10th with statutory expiry.

4 Neighbouring properties were notified within the neighbour notification process. 4 Representations have been received for consideration. The representations object to the proposal on a number of planning grounds summarised below:

- Traffic generation on a narrow road

- Road Safety concerns and inadequacy of potential visibility splays as they include the road frontage along neighbouring properties objecting to the proposal and may not be forthcoming
- Discharge from the method of sewage disposal concerns neighbours due to impact on environment and habitats
- BT Pole within proposed visibility splay will limit sight lines
- Concerns raised due to impact on views from existing dwellings (NOTE: this is not a planning concern)
- Impact on privacy of existing residents due to overlooking, noise generation
- Impact on wildlife and habitats due to noise
- Badgers crossing within the vicinity raised by objector

Consideration and Assessment:

The application is an outline proposal for a dwelling within the Countryside. The proposal is supported with a Design and Access Statement submitted with the application.

The Strategic Planning Policy Statement for Northern Ireland includes strategic policy for residential and non-residential development in the countryside. It must be considered along with PPS21 Sustainable Development in the Countryside.

Policy CTY1 of PPS21 identifies a range of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One such avenue is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8.

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. The policy also provides definition and criteria for the consideration of an exception to ribbon development. Policy CTY8 permits the development of a small gap site sufficient 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.

Policy CTY8 provides definition, for the purposes of this policy, of a substantial and continuous frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The site shares its southern boundary with the Tyrella Road and is the southern portion of a larger agricultural field. The site abuts the side boundary of No 8a and 8b Tyrella Road. The northern boundary of the site is undefined. This boundary is shared with the larger agricultural field the site sits within. To the west of No 8b Tyrella Road is No 6 Tyrella Road and a roadside dwelling which is not numbered (this was checked on site and it was noted the building was not occupied). Opposite the site sits detached dwelling 10a and 10 Tyrella Road further east.

The frontage in this assessment is the Tyrella Road. The site sits within a small gap located within the Tyrella Road frontage of dwellings 6, 8b, 8a and the un-numbered dwelling.

For the purposes of assessment of the proposal in relation to Policy CTY8 Nos 10 and 10a Tyrella Road would not form part of the assessment as they do not share the same frontage as the site as they are located opposite.



The dwelling sits within an 80m gap between No 8a and the unnumbered single storey roadside building west of No 8b and No 6 Tyrella Road. No 8b has a roadside frontage which is a maintained front garden and includes a decorative stone feature, that abuts the Tyrella Road with ranch style fencing.

The site shares a frontage with the Tyrella Road and this frontage measures approximately 30m. The site accounts for 30m of the larger gap between buildings. The gap between buildings would be of a sufficient size to accommodate the maximum of 2 dwellings however given the access, visibility splays and front garden of No 8b within this gap and the side amenity area of the unnumbered dwelling, it would only accommodate 1 dwelling.

The existing development pattern is characterised by roadside plots with single storey detached dwellings on medium sized plots which is detailed in the table;

Plot	Plot Area (Hectares)	Frontage Shared with Tyrella Road (m)
EXISTING		
8a Tyrella Road	0.2HA	45m
8b Tyrella Road	0.4HA	38m
Unnumbered Building	0.1HA	36m
6 Tyrella Road	0.2HA	48m
AVERAGE	0.23HA	41m
PROPOSED		
Site	0.2HA	30m

The site proposed would have a slightly reduced frontage with the Tyrella Road when compared to that of the existing buildings within the continuously built up frontage. This frontage would measure at approx. 6m less than the frontage the unnumbered building shares with the road.

The site area and plot depth of the proposal would reflect that of Nos 8a, 6 and the un-numbered building. It would be less than the larger plot size of No 8b however as the views of No 8b are limited its impact on the rural character of the area is reduced.

A dwelling on the site proposed could be accommodated with a suitable amenity space and achieve development which would respect the existing development pattern in terms of size, scale and plot size.

Policy CTY13 (a-f) permits a building in the countryside that can be visually integrated into the surrounding landscape and it is of an appropriate design. The application is for outline and therefore the design, materials and finishes will not form part of the assessment and if appropriate planning conditions can be attached to address such details.

The site is roadside and the lower ground level of a much larger agricultural field. The site has a slight increase in ground level moving north through the site into the field beyond. The rear ie northern, boundary of the site is undefined and would require boundary definition such as a native hedge and stock proof fencing to define the site from the agricultural land.

A single storey dwelling, with a ridge height of less than 6m above finished floor level, provided the under build is less than 0.4m, would integrate with the site and the rural landscape. This would reflect the scale and height of the dwellings within the existing development pattern and can be appropriately assessed with the provision of existing and proposed ground levels, to include finished floor levels, at reserved matters stage.

The undulation of the drumlin topography within the area will provide enclosure of the site and views are limited to within the vicinity of Tyrella Road adjacent to the site. A dwelling on the site would not be a prominent feature in the landscape and the rising level of the agricultural field to the rear of the site will facilitate a suitable backdrop.

Policy CTY14 (a-e) permits a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

Views of the site are limited to the vicinity of the site. This is facilitated by the undulating nature of the wider drumlin landscape and the meandering road network. A dwelling on the site would respect the medium sized plots and pattern of roadside development exhibited in this area. The development would not add to the ribbon as it would take advantage of a small gap site which is an exception, under Policy CTY8, to ribbon development and it would not result in a suburban style development when viewed with existing buildings as it will maintain the established pattern of development along the Tyrella Road.

Policy CTY16 permits development relying on non-mains sewerage, or where the applicant can demonstrate that this will not create or add to a pollution problem. The applicant has stated within the P1Form their intention to use Soakaways for surface water disposal and Septic Tank for foul sewage disposal. The proposal has provided information on the method of sewage disposal. A planning condition should be attached, in the event of approval, to ensure the applicant has sought and been granted a consent to discharge prior to commencement of the development.

One of the objections received stated there is badger crossing near the site. The crossing is not referenced as within the site and badgers are a protected species. A biodiversity Checklist was requested from the

The proposal will abut the side boundary of No 8a Tyrella Road. This shared boundary is adjacent to the conservatory of No 8a which is positioned to the side of the dwelling. Impact on the neighbouring conservatory can be reduced through appropriate design and boundary treatments which will be assessed at reserved matters stage. A dwelling on the site can be accommodated without detriment to the privacy and amenity of No 8a Tyrella Road.

Neighbouring residents are concerned about potential overlooking and loss of privacy on their property. Considering the distance, No 8B is from the site, measuring approximately 125m it would be unlikely the proposal would result in loss of privacy due to overlooking. Overlooking concerns were also raised by dwelling located opposite, No 10A. As the site is opposite No 10A the proposal would have potential to look into the front elevation and front amenity space of the existing dwelling. However, the separation by the Tyrella Road and the set back of No 10A would ensure the windows would not be overlooked and result in loss of privacy and the front garden abuts the public road so there is a level of overlooking at present. No 10A has private rear amenity space that will not be affected by the development.

Representations received referred to impact on wildlife, habitats and protected species Badgers were highlighted. The applicant provided a Biodiversity Checklist which has been completed by a qualified ecologist and did not identify any concerns relating to protected species. The proposal will require removal of some roadside hedges to accommodate visibility splays which can be mitigated through planning conditions which require native species planting to the rear of the necessary splays. The proposal does not offend the policies of PPS2 Natural Heritage.

Recommendation:
Approval / Refusal

Refusal Reasons/ Conditions:

Conditions recommended by planning officer and consultees, can be subject to edit prior to the issuing of the decision:

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

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

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

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

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

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

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

The dwelling hereby permitted shall be single storey with a ridge height not exceeding 6 metres above FFL, and shall be designed and landscaped in accordance with Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside.

REASON: To ensure that the proposal is in keeping with the character of this rural area.

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

REASON: In the interest of visual amenity.

Any application for approval of reserved matters shall include plans indicating floor levels of the proposed dwelling and garage in relation to existing and proposed ground levels, all in relation to an identified datum point on the Tyrella Road.

REASON: In the interest of visual amenity and to ensure the development integrates into the countryside.

No development shall take place until there has been, submitted to and approved by the Planning Authority, a landscaping scheme showing a scheme of planting behind visibility splays, provision of a stock proof fence with native species hedge planted on the inside along new boundary labelled A-B and native species hedge planted along boundaries D-A and C-D.

The scheme shall provide the location, numbers, species and sizes of trees and shrubs to be planted within the site.

The scheme of planting as finally approved shall be carried out during the first planting season after the dwelling is occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the council gives written consent to any variation.

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

Case Officer signature:

Date:

Appointed Officer signature:

Date:

Planning Committee Schedule of 13th November 2019

Planning reference: **LA07/2019/0456/O**

Proposal: **Infill dwelling, garage and associated site works**

Applicant: **Mr & Mrs Cole**

Location **Land 10m west of 8A Tyrella Road, Downpatrick**

Recommendation: **Approval**

Site Description

The site is located off the main A2 Tyrella Road along an existing tributary road also known as Tyrella Road (known locally as Nogneys Lane). The site is bounded by No 8a a single storey dwelling to the East while the northern boundary is undefined, the southern boundary adjacent to the road has a mature hedge and fencing while the western boundary is abutted by the laneway servicing 8b which is located on the higher ground to the rear of the road frontage.

Beyond the western boundary is a piece of divorced garden or manicured grassland in a triangular shape again owned by the occupants of 8b.

Immediately to the west is a derelict dwelling with no defined curtilage while the single storey detached hipped roofed dwelling has a boundary which wraps around the old dwelling.

Planning Policies & Considerations

RDS, SPPS, PPS 21, PPS2, PPS3, Ards & Down Area Plan 2015.

Consultations and Representations

The following consultations were carried out – Transport NI, NI Water

No objections were received from any of the consultees and following notifications of the relevant neighbours and advertisement in the local press 4 No objections to the proposal were received.

Relevant Planning History

The Planning history as outlined in the officer's report is accepted as the relevant history of applications in the vicinity of the site

Case for the Objectors

- Traffic generation on a narrow road

- Road Safety concerns and inadequacy of potential visibility splays as they include the road frontage along neighbouring properties objecting to the proposal and may not be forthcoming
- Discharge from the method of sewage disposal concerns neighbours due to impact on environment and habitats
- BT Pole within proposed visibility splay will limit sight lines
- Concerns raised due to impact on views from existing dwellings (NOTE: this is not a planning concern)
- Impact on privacy of existing residents due to overlooking, noise generation
- Impact on wildlife and habitats due to noise
- Badgers crossing within the vicinity raised by objector.

Overview

The main consideration in relation to this proposal is to whether the site is a gap site in a substantially built up frontage along this stretch of the Tyrella Road capable of accommodating a dwelling and garage.

The assessment is that the site is an odd shaped site 5 sided non rectangular site as can be seen from the site map with triangular piece of land to the west of the site adjacent to the unoccupied road side dwelling which does not have a defined curtilage.

The site has roadside frontage of some 30m while the adjacent frontages vary from 36m to 48m with an average frontage of 41m which is approx. 1/3 larger than the application site.

The application site does not respect the development pattern in this area in terms of size, scale and plot size as shown on the officer's report in map and photographic form.

The officer appears to have ignored the fact that there is a portion of land in the form of a divorced area of land / garden between the existing derelict dwelling and the application site which is not compliant with other applications sites which have been presented to this committee and which have been refused.

I would appreciate an explanation of this logic from the reporting officer.

Conclusion

We would respectfully ask the Planning Committee to overturn this recommendation and grant Planning Permission for the development as applied for in compliance with Policy CTY 8 for development of a small gap site in a continuous built up frontage.

BY EMAIL

BF / J594 / 06 November 2019

Newry, Mourne & Down Council, Planning Office
Monaghan Row
Newry, Co Down
BT35 8DL

RE: PROPOSED SITE FOR SINGLE STOREY INFILL DWELLING & DETACHED GARAGE AT LAND 10m WEST OF 8a TYRELLA ROAD, CLOUGH, CO. DOWN

REF: LA07/2019/0456/O

Dear Sir

I refer to the above planning application, which is to be discussed at the Council's planning committee meeting on 13 November 2019. The application has been recommended for approval.

The application is for outline planning permission in relation to the erection of a Single Storey Infill Dwelling & Detached Garage and has been assessed by the planning office complying with the following planning policies

- Ards & Down Area Plan 2015
- PPS 1 - General Principles
- PPS 3 - Access, Movement and Parking
- PPS 21 - Sustainable Development in the Countryside
- Strategic Planning Policy Statement for Northern Ireland (SPPS)

Objections where raised by local residents and our response is as followings

Traffic Roads:

DFI Roads have no objection and requested 2x33m sight splays which is achievable on the road.

Sewage Disposal:

A septic tank / treatment plant is proposed discharging to lands within client control in accordance with NIEA Water Management approval. Similar to that of dwellings in the area.

BT Pole limiting sight splays:

The poles are set back from the road and will not interfere with sight lines.

Views from dwelling:

This is not a valid planning concern.

Privacy / overlooking / noise:

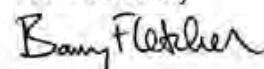
The proposed dwelling shall be limited to a 6m ridge height. It is 44m from no 10 opposite and 130m away from no 8b to the rear. It may be 15-20m from no 8a adjacent. This is in keeping separation distances within the pattern of development along the road.

Wildlife / Badgers:

The applicant has provided an NI Biological Checklist which has confirmed that there was no evidence of protected or priority species on site.

I would be grateful if the planning committee would take the above response into consideration in determination of this application.

Yours sincerely



Barry Fletcher RIBA
Director, Architect

FLETCHER ARCHITECTS (N.I.) Ltd

Enc



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0978/F

Date Received: 20th June 2019

Proposal: Erection of replacement dwelling and retention of existing structure as loose box.

Location: 77 Ballynahinch Road, Saintfield, Co Down.

Site Characteristics & Area Characteristics:

The site in question is located off the Ballynahinch Road and consists of an existing dwelling house and additional agricultural lands. The site is on elevated ground, exposed, and at a distance from the Main Road that the site accesses out onto. The site sits adjacent to an existing collection of farm buildings and is accessed via the same yard and lane. The existing building sits within a concrete yard and has buildings to the rear and fencing to the front separating it from agricultural fields.

The site is not located within any settlement limits as defined in the Ards and Down Area Plan 2015. The site is located within the sphere of influence of an Archaeological Site and Monument being a windmill stump that sits within the application site. The site accesses out onto a protected route.

Site History:

LA07/2017/1671/F – 50m East of 77 Ballynahinch Road, Saintfield – dwelling on a farm – granted – 30-01-2019.

LA07/2017/0379/LDP – 47m east of dwelling house at 77 Ballynahinch Road, Saintfield – proposed agricultural shed – permitted development – 14-09-2017.

R/2014/0067/O – Lands 80m South of 79 Ballynahinch Road, Saintfield – dwelling on a farm – refusal – 29-02-2016.

R/2001/1491/F – 77 Ballynahinch Road, Saintfield – change of use to transport warehouse and alteration of associated access to main road – granted – 18-04-2002.

R/1982/0460 – 77 Ballynahinch Road, Saintfield – improvements and extension to dwelling – granted – 01-10-1982.

Planning Policies & Material Considerations:

The application is considered against the Ards and Down Area Plan 2015 and in addition to this it is also considered against PPS 3, Access, Movement and Parking, PPS 6 Planning, Archaeology and Built Heritage, PPS 21 Sustainable Development in the Countryside and SPPS.

Consultations:

NI Water was consulted in relation to the application and has responded with no objections

DFI Roads was also consulted in relation to the application has responded with no objections provided this application falls within the exceptions listed within policy as the access is out onto a protected route. If this application does not fall within one of the exceptions, then DFI Roads recommends refusal.

Historic Environment Division, Built Heritage was consulted in relation to the application, the site involves lands within the immediate setting of a windmill stump in the townland of Tonaghmore. The stump is noted as a regionally important industrial heritage site and is scheduled for protection under the Historic Monuments and Archaeology Objects Order 1995. This proposal will result in an adverse impact on the monuments setting.

Objections & Representations:

The application was advertised in the local press on 10th July 2019 which expired on 24th July 2019. Neighbour notification issued in relation to the application on 10th July 2019 which expired on 24th July 2019, to date there have been no objections in relation to the application.

Consideration and Assessment:

This application is for a replacement dwelling and therefore the correct policy context is PPS 21 Sustainable Development in the Countryside, CTY 3 Replacement Dwellings.

PPS 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling.

The building presented exhibits all the characteristics of a dwelling house, there would be no question about the use of the building given the openings, design, and materials and overall appearance. The initial test of CTY 3 has been met.

The dwelling presented for replacement is not a vernacular building and is not locally important therefore it will be considered under all replacement cases which states the following.

- **The proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.**

The application seeks to re site the replacement on higher lands adjacent to the buildings existing on the site. The proposed site is not within the curtilage of the existing dwelling although it is noted that the dwelling sits within a yard with limited amenity adjacent.

The dwelling on the site at present is located in a yard with what appears to be agricultural buildings to the rear and horse boxes to the side. It is not uncommon for dwellings to sit in close proximity to farm buildings on working farms. It is noted that there was no sign of much activity within the yard on the day of the site inspection and it is also noted that the yard was clean and did not appear to be heavily used.

There has to be a justification to replace a dwelling outside of the established curtilage and no justification has been given as to the chosen siting of the dwelling.

The existing curtilage is not so restricted so as to not be able to accommodate a dwelling, the location adjacent to farm buildings is noted but that in itself is not sufficient to justify siting this dwelling outside of the curtilage of the dwelling.

The alternative site would lead to development on more elevated and exposed lands than the existing dwelling and it has not been demonstrated that the site would result in demonstrable landscape, heritage, access or amenity benefits, in fact the proposed siting would be much more detrimental in terms on impacts on both the landscape and the heritage given the open, exposed nature of the site and the close proximity of the proposed buildings to the windmill stump on the site.

- **The overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building.**

The length of the front of the dwelling is 17.5m in length, the dwelling has a considerably longer depth, being 23.8m in length, the height of the dwelling is 6.3m in height. The length of the dwelling and overall design is not in keeping with that typical of the rural area and is also not typical of dwellings at this location. That said it is noted that the site does sit a considerable distance from the public road and given the siting distance from public view points it is considered that the overall design of the dwelling would have the ability to integrate into the landscape. The levels of the site will not alter substantially from the existing levels and it is considered that a dwelling at this location would not have a visual impact

significantly greater than the existing dwelling, the visual impact would be greater given the higher ground and the removal from a cluster of buildings, but it would not be significant.

- **The design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness.**

The design of the dwelling is not in general terms what is generally found in the rural area. The length of the rear return of the dwelling is considerable and has the appearance of greater depth than the frontage of the dwelling however the height remains the same. That said the proposal does use traditional materials to include a slate roof, rendered walls and natural stone facing in part. Given the distance from the road and the overall level of visibility it is considered that this design can be considered acceptable. The planting proposed to the rear of the site will reduce the visibility of the dwelling from the remainder of the lane that serves other dwellings on the lane. It is noted that there is a mix of designs within the overall area and the design, while not typical of the character of the rural area in general could be considered acceptable at this location.

The dwelling does however have a direct impact on the immediate setting of the windmill stump which is a regionally important industrial heritage site and to include such a site within the curtilage of a dwelling and screening and blocking the public views of the stump is not considered to be demonstrating having regard for local distinctiveness or demonstrating a siting and design solution that is appropriate to its local setting.

- **All necessary services are available or can be provided without significant adverse impact on the environment or character of the locality and access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.**

Necessary services are available at the site, there already is an access lane in place and this lane will require a small extension to accommodate the proposed dwelling. All other services are available at the site. A septic tank and soak away is proposed and this runs in close proximity to the historic windmill stump. In general terms necessary services available and can be provided without significant adverse impact.

It is noted that DFI Roads have stated that if the application does not fall within one of the exceptions as identified in Policy AMP 3 Access onto Protected Route (consequential revision). It is noted that this application in principle would fall under Part A Replacement Dwellings and does make use of an existing access onto the road however it is the particulars of the application that are not acceptable.

Part of the proposal description seeks to retain the existing dwelling as a loose box for horses. CTY 3 states that in some cases a non listed vernacular dwelling may be retained where it is sympathetically incorporated into the layout of the overall development scheme. It is noted that the dwelling to be replaced is not considered to be a vernacular building and makes no contribution to the heritage, appearance or character of the locality therefore given this application has been considered under all replacement cases and is not a vernacular building there is no policy provision for retention. Furthermore no plans have been put forward supporting how the building would be sympathetically incorporated into the layout of

the overall development scheme and the building as stands is clearly not suitable to be used as a loose box nor due to the siting, and layout does the existing dwelling have the ability to be considered incorporated into the overall scheme as the siting of the new dwelling is clearly removed from the existing dwelling. To retain the building would lead to an accumulation of buildings on the site, The provisions of CTY 3 aim to avoid accumulation of buildings in the rural area.

In addition to CTY 3 it is necessary to consider the application against CTY 13 Integration and Design of Buildings in the Countryside. CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. A new building will be unacceptable where:

- **It is a prominent feature in the landscape.**

The siting chosen is on more elevated and exposed lands than what exists at present however it is considered that a dwelling at this location, given the distance from the road and level of visibility and change in levels will not result in a dwelling becoming a prominent feature in the landscape. The dwelling with a proposed ridge of 6.3m could be accommodated on these lands, any greater height would be questionable however.

- **The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape or it relies primarily on the use of new landscaping for integration.**

The site has relatively little screening or natural boundaries serving the site. The site is open and exposed and would rely on new planting and integration to help soften and screen the development from one view point being that when travelling along the lane from dwelling no 79 Ballynahinch Road because from this view the site is extremely open and exposed and will rely on new planting.

The majority of the site lacks long established natural boundaries however from the most critical view points travelling along the Ballynahinch Road there is adequate planting and screening to the site between the road and the site to help screen, this will be the case to a lesser degree in the winter months when the site would rely more on planting for screening.

- **Ancillary works do not integrate with their surroundings.**

Ancillary works will integrate into the surroundings, as stated previously necessary services are already in close proximity and the dwelling will use, for the most part, an existing access lane.

- **The design of the building is inappropriate for the site and its locality.**

Design has been detailed earlier within this report and it is considered that the design is satisfactory.

- **It fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.**

The dwelling is located on higher lands than the existing dwelling that is to be replaced however it is considered as stated previously that a dwelling at this location would not have any detrimental impacts and could blend adequately into the existing landscape given the separation from the road and vegetation although it is noted that the site will be visible from the road but a single storey dwelling could be accommodated when read with existing development. It is notable however that the site is more prominent than the existing dwelling.

The application is considered against CTY 14 Rural Character which 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. A new building will be unacceptable where:

- **It is unduly prominent in the landscape**

It is noted that the site chosen is more visible than the existing dwellings location and that no argument for the necessity to re site the dwelling has been put forward however it is not considered that the new siting will result in a building that is unduly prominent in the landscape but it will be less well integrated into the landscape than the existing dwelling currently is.

- **It results in a suburban style build-up of development when viewed with existing and approved buildings.**

This application seeks to retain the existing structure on the site however the retention of the structure on the site is not in keeping with the spirit of CTY 3 Replacement Dwellings and the reasoning behind the demolition of existing buildings is to ensure proposed development does not result in the accumulation of dwellings on the site and to preserve the amenity of the area. In retaining the existing dwelling it will result in an unnecessary accumulation of buildings on the site which is more akin to suburban style development and would result in an unnecessary build-up of development on the site thus having a negative impact on the visual amenity of the area. This is especially so given that no plans have been put forward as to how the building will be altered to be suitable as a loose box, certainly the foot print has not altered.

- **It does not respect the traditional pattern of settlement exhibited in that area; or (d) it creates or adds to a ribbon of development (see Policy CTY 8)**

The development would not have an impact on the pattern of settlement exhibited within the area, nor is it considered that a ribbon of development is added to or created as a result of the works.

- **The impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.**

It is not considered that ancillary works would damage rural character, for the most part an existing lane is to be utilised. Ancillary works can be provided without great detriment to rural character.

Given that the application is within the sphere of influence of an archaeological site and monument consultation was undertaken with Historic Environment Division – Archaeology and Built Heritage and the application requires to be considered under PPS 6, Planning, Archaeology and Built Heritage. BH1 as Historic Monuments has confirmed that the windmill stump on site is a regionally important industrial heritage site. It is considered that to develop in such close vicinity to this monument and to incorporate it into the residential curtilage of the development is not considered acceptable and would impact on the integrity of the setting. It is also noted that critical viewpoints available of the monument when travelling along the Ballynahinch Road will be lost due to physical development in front of the stump and this further impacts on the integrity of the monument.

No exceptional circumstances have been put forward to override the objections to the development at this location within the vicinity of the monument.

Recommendation:

Refusal

Reasons for Refusal:

- The proposal is contrary to SPPS and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.
- 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 the proposed building relies primarily on the use of new landscaping for integration.
- The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the (building) would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to the rural character of the countryside due to accumulation of buildings on the site.

- The proposal is contrary to Policy BH1 of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the development would, if permitted, adversely affect the setting of an archaeological site/monument of regional importance namely a windmill stump (DOW 022:501) in the townland of Tonaghmore as the proposal compromises the setting of the monument and no exceptional circumstances have been demonstrated which would justify the proposed development.

<p>Case Officer Signature:</p> <p>Date:</p>
<p>Appointed Officer Signature:</p> <p>Date:</p>

Re: LA07/2019/0978/F Dwelling at Ballynahinch Rod Tonaghmore Saintfield --Mr McConnell Item 9

Sir/Madam

with reference to the above planning application and the recommendation to refuse the application we would respectfully request speaking rights in favour of the application.

Points in question include the restricted curtilage of the site Integration and clustering with existing buildings on the farm Distance of the proposal from any public viewpoint Separation distance and protection of existing windmill stump Thanking you in anticipation of a positive and prompt response

Yours

Gary Thompson



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1130/O

Date Received: 23rd July 2019

Proposal: New end of terrace dwelling with associated site works

Location: Site adjacent to 33 Dunwellan Park, Newcastle

Site Characteristics and Area Characteristics:

The application site currently comprises a residential garden belonging to no.33 Dunwellan Garden in Newcastle. This garden is set to the north of no.33 and is flanked to the north by a footpath which separates this residential space from the front gardens of no.29 and no.30 Dunwellan Gardens. The southern end of the site connects on to no.33 Dunwellan Gardens.

The site is located within the settlement limits of Newcastle and also lies within the AONB. The surrounding area is residential in character and made up of terraced dwellings of a similar design along with apartment blocks to the south.

Site History

No relevant planning history found.

Planning Policies and Material Considerations:

The application is considered against the Ards and Down Area Plan 2015 and in addition to this is also considered against:

PPS3: Access, Movement and Parking,

PPS7: Quality Residential Environments,

Addendum to PPS 7: Safeguarding the Character of Established Residential Areas, PPS12: Housing in Settlements, DCAN 8: Housing in Existing Urban Areas and SPPS.

Consultations:

No consultations were considered necessary in order to determine this application.

Objections & Representations:

The application was advertised in the local press on 7th August 2019 which expired on 21st August 2019 and neighbour notification issued on 30th July 2019 and expired on 13th August 2019. To date there has been one petition received, objecting on behalf of 14 different addresses.

The petition raises objection on the following grounds:

- The proposed new development is contrary to Policy QD1 of PPS7.
- It will overshadow my front garden and front living room for most of the day
- This overshadowing will prevent me from enjoying my property
- This is garden grabbing to the extreme – the small garden is not suitable for development and will dominate the front of my property
- In Dunwellan Park, parking provision has surpassed capacity, there is a problem with parking every day as there is not enough parking already. Two additional spaces cannot be obtained by the applicant
- The development will look out of place and does not fit in with the existing character of the area

Consideration and Assessment:

The proposal is for the erection of a two-storey end of terrace dwelling upon the northern elevation of no.33 Dunwellan Park. The dwelling would have a maximum depth of 9.8m and a maximum width of 5.5m. The proposed two storey end of terrace would have a hipped roof with a ridge height of 7m and an eaves of 4.1m. There would be small front and rear garden with a mix of lawn and patio.

PPS 3: Access, Movement and Parking

The proposed development would not have specific assigned parking. In the Design and Access statement, the agent identified shared parking to the rear of the site.

Officers note that Dunwellan Park is served by shared parking areas to the north west and east of the site, however comment has been raised as part of an objection stating

that parking is a problem in the area and that the applicant could not obtain two spaces given the current parking shortfall. The creation of another dwelling would add further pressure on the parking arrangements. Further clarification on parking provision for this proposed dwelling has been sought from the agent on 30th August 2019 and 18th September 2019. As yet, no further information has been received.

PPS7: Quality Residential Environments

Policy QD1 of PPS7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment.

The proposed development must respect the surrounding context and should be appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance. Officers consider that the proposed addition of a further end of terrace dwelling on this row of dwellings would be inappropriate in terms of the layout, massing and appearance. The use of a lower pitched roof upon this proposed dwelling would appear out of keeping with the surrounding area and would jar with the prevailing pitched roof design of the area. Officers consider that the proposed dwelling would appear at odds with the immediately surrounding dwellings. The proposed new dwelling would appear cramped into the plot as demonstrated by the fact that the existing boundary hedge would have to be removed in order to facilitate the dwelling. The removal of this hedge would harm the visual amenity of the area and add a further sense of enclosure along the path which runs to the north of the site.

The erection of the dwelling would bring built form to within 6m of the front of no's 28 and 29 Dunwellan Park. This is considered to be too close to a front elevation and would result in an unacceptable adverse impact on the residents of no.28 and 29 by way of loss of outlook and dominating impact which is contrary to Policy QD1 (h) of PPS7. The front windows of no. 28 and no. 29 already have views dominated by the existing dwelling at no.33 and the erection of one further dwelling with an elevation only 6m away from the dwellings would be considered to result in an unacceptable dominating impact. In order to facilitate the addition of a further dwelling, the current hedge separating no.33 with the footpath to the north would need to be removed. This would further create a sense of dominating impact to the adjacent dwellings at no.28 and no.29 to the north as their view would be dominated by mostly brick, whereas before a sizeable hedge provided a visual buffer from the bricks.

The application is accompanied by a Shadow Analysis which demonstrates that the erection of the proposed dwelling would lead to increased overshadowing over the front garden of no's 28 and 29. This overshadowing would span the front garden up to the front elevation of the dwelling. Officers consider that this overshadowing would result in harm to the residential amenity of these residents.

There would furthermore be increased overshadowing to the front amenity space and front windows of these dwellings as a result of the proposed dwelling which is contrary to Policy QD1 (h).

Criterion (f) of QD1 further states that adequate and appropriate provision should be made for parking. As stated above, parking has not been specifically provided for this additional dwelling. While there are shared parking areas in Dunwellan Park, no further information has been provided by the agent to clarify whether these shared parking areas are able to accommodate an additional dwelling.

PPS12: Housing in Settlements

Planning Control Principle 2: Good Design requires all new housing developments to demonstrate a high quality of design, layout and landscaping. As discussed above, officers do not consider that the proposed design, scale and layout is appropriate to the area.

DCAN 8: Housing in Existing Urban Areas

DCAN 8 paragraph 3.22 states that distance separation, screening, window size and style, orientation and location of rooms and circulation space are some of the factors to consider in relation to ensuring adequate privacy and daylight. It further states in paragraph 3.23 that the protection of neighbouring properties from unreasonable loss of light is a well-established planning consideration, and it is also important that layouts and dwellings are planned to provide acceptable levels of daylight into interiors.

Officers consider that the proposal would fail to comply with the guidance set out in the above paragraphs in that the separation distance between the proposed dwelling and the front windows of the adjacent no.28 and 29 would be insufficient and result in insufficient daylight to the front portions of these houses.

Officers consider that the proposed extension would result in a cramped development which would be to the detriment of the area. The form of the proposed dwelling would be out of keeping with the surrounding area as it would have a pitched roof and be set down from the existing roof ridge. The built form proposed would not integrate sympathetically with the surrounding development. The proposed dwelling would result in harm to the residential amenities of no.28 and no.29 Dunwellan Park by way of overbearing impact and loss of light owing to the reduced separation distance between the proposed dwelling and their front elevations. Insufficient information has been provided to demonstrate that there would be adequate parking provision in the existing shared parking areas.

Recommendation:

Refusal is recommended

Reasons for Refusal:

1. The proposed development fails to comply with Policy QD1 (a) of PPS7 as it would not respect the surrounding context given its proposed lowered roof ridge and hipped style. The resultant development would be at odds with the character of the immediate area and appear out of place.
2. The proposed development would result in a harmful impact upon the residential amenities of no.28 and no.29 Dunwellan Park to the north, by way of overshadowing, loss of outlook and overbearing impact. This would be contrary to Policy QD1 (h) of PPS 7.
3. The proposed development would fail to comply with Policy QD1 (f) in that it has not been demonstrated that there is adequate and appropriate parking for the proposed new dwelling.

Informatives:

The drawing numbers to which this decision relates are: LA07/2019/1130/O 01 – LA07/2019/1130/O 04.

Case officer:

Authorised by:

Date:

WRITTEN SUBMISSION

Planning Committee Meeting Wed. 13th Nov. 2019.

Planning Application Details:

Application Reference: LA07/2019/1130/O
Date Received: 23rd July 2019
Proposal: New end of terrace dwelling with associated site works.
Location: Site adjacent to 33 Dunwellan Park, Newcastle.
Applicant: Mr. James Rogan
Recommendation: Refusal

We are grateful to the Planning Committee for the opportunity to present this written submission for their consideration.

The recommendation for refusal on the delegated list, week commencing 30th September 2019, is rebutted as follows:

Refusal Reasons:

1. The proposed development fails to comply with Policy QD1 (a) of PPS7 as it would not respect the surrounding context given its proposed lowered roof ridge and hipped style. The resultant development would be at odds with the character of the immediate area and appear out of place.
2. The proposed development would result in a harmful impact upon the residential amenities of no.28 and no.29 Dunwellan Park to the north, by way of overshadowing, loss of outlook and overbearing impact. This would be contrary to Policy QD1 (h) of PPS 7.
3. The proposed development would fail to comply with Policy QD1 (f) in that it has not been demonstrated that there is adequate and appropriate parking for the proposed new dwelling.

Refusal Reason 1

The proposed dwelling is not an exact replica of the adjoining or surrounding dwellings, but this does not mean that it does not respect the existing context or character of the area.

The proposed dwelling has a lower roof ridge and eaves height than the adjoining dwelling to lessen its physical mass and has a hipped end to again reduce the physical mass and minimise any loss of light to the adjacent dwellings. However, these differences in themselves would not be sufficient to consider the proposal at odds with the surrounding area. The building still presents with a pitched roof at the same pitch as the adjacent dwelling with the same roof covering and the external walls will also be of the same brickwork as the adjacent dwelling.

Given the extremely broad diversity of new buildings and extensions to existing dwellings in developed areas which have been granted planning approval and which have different ridge heights and roof profiles would suggest that having such differences alone are not grounds for refusal and fall short of non-compliance with Policy QD1 (a) of PPS7.

Refusal Reason 2

The proposed dwelling has been designed so as to minimise its effect on neighbouring properties, especially Nos. 28 and 29 opposite the gable end of the proposal. For this reason, the ridge and eaves height have been reduced (in comparison to the adjacent dwellings) and the gable end roof hipped back away from the properties opposite thus minimising any overbearing.

We also prepared a 3D model of the area so that the effects of overshadowing and loss of light could be analysed. Contrary to the statement in the planning report the shadow analysis indicates that there will be no significant alteration to the level of overshadowing when the proposed overshadowing is compared to the existing overshadowing situation.

The planning report mentions the area of brickwork visible by way of views from Nos 28 and 29 opposite and suggest that the proposal would provide for a worse situation from what already exists on the ground presenting as dominating and overbearing.

In fact the area of brickwork visible from Nos 28 and 29 opposite has been reduced by providing for a hipped roof and lowered eaves i.e. the proposed building breaks the large expanse and height of the existing brick gable by presenting a lowered gable of brickwork and a roof falling away from Nos 28 and 29 and covering the top half of the existing brick gable. Granted the proposed gable is closer to Nos 28 & 29 than the existing gable but it is much smaller in height and width than the existing.

The planning report also comments on the removal of the existing hedge along the boundary which previously broke the visual impact of the existing brick gable. We note that we have provided for a portion of planting along this boundary in front of the new gable wall, however we would be open to moving the gable wall further away from Nos. 28 & 29 and reinstating additional planting if this proved necessary.

In all we have designed the proposed dwelling in a way that does not significantly impact the properties of Nos 28 and 29 when compared to the existing situation.

Refusal Reason 3

The entire area of Dunwellan is served by communal parking and garages as was stated in our submitted Design & Access Statement. During the determination process Transport NI through the Planning Office made a request; "Please ask the applicant to submit details of car parking for this application." We responded to this request confirming that the proposal was to be served by the existing communal parking provided and that no additional parking was being proposed.

The planning report seems to give significant weight to an objection from a local resident that there is a shortage of parking in the vicinity. However, this is contrary to the applicants and my own experience (having been to the site on numerous occasions and at various times; morning, afternoon and evening) and have never experienced any problems parking in the communal area to the rear of the site.

Transport NI never gave a response to the proposed use of the communal parking being acceptable, unacceptable or requiring additional information (e.g. parking analysis) to make a recommendation. There is no record of Transport NI refusing the proposal.

Outline Planning Application

We would like to draw the Committees attention to the fact that this is an Outline rather than a Full planning application, and that the proposal drawings were submitted for information purposes only.

29, Dunwellan Park,
Newcastle, County Down
BT33 ODD

REF: LA07/2019/1130/O

Site adjacent to 33 Dunwellan Park, Newcastle, BT33 ODD

To whom it may concern,

“In my opinion the proposed new development is contrary to policy QD 1 of PPS 7, It will overshadow, my front garden, front living room, for most of the day. The overshadowing of my property will mean that I cannot enjoy my property in the same way I do now, this is garden grabbing in the extreme, the small garden is not suitable for development and will dominate the front of my property.”

In Dunwellan Park, parking provision has already surpassed capacity, there is already a problem being able to park every day as there is not enough car parking anywhere in Dunwellan for the cars already, Two additional car spaces cannot be obtained by the applicant, The development will look out of place and does not fit in with the existing character of the area.

As a professional qualified planner are you satisfied with the proposed development in the application?

Does this design provide adequate amenity space?

Will it cause any loss of amenity to neighbouring properties- loss of light, over shadowing, overlooking, or over dominance?

29, Dunwellan Park,
Newcastle, County Down
BT33 ODD

Is the development in keeping with the surrounding area?

In conclusion, I believe this planning application fails on all these questions and for these reasons the Council planning department should refuse the application.

With permission and on behalf of the residents, who also disagree with this new house application,

Mrs A Leneghan 29, Dunwellan Park

Mr Sam Massey and Pauline McKenny 28 Dunwellan Park

Mr Edward and Monica Rice 30 Dunwellan Park

Miss Pamela Leneghan, 25 Dunwellan Park

Mr Michael and Deidre Collins, 26 Dunwellan Park

Mr Joe Trainor, 34 Dunwellan Park

Mrs Noreen Rice, 38 Dunwellan Park

Mrs M Green, 40 Dunwellan Park

Miss J Rice, 41 Dunwellan Park

Mrs Karen Aspel, 49 Dunwellan Park

Mrs C Hamill, 52 Dunwellan Park

Miss Kerri Aspel, 53 Dunwellan Park

29, Dunwellan Park,
Newcastle, County Down
BT33 ODD

Ms J Dobbin, 58 Dunwellan Park

Ms Samantha Lowey, 65 Dunwellan Park

If needed I have the actual signatures and can send them in, I
just do not know how to put them onto a computer,

Yours Sincerely,

Mrs Adelaide Leneghan



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

Application Reference: LA07/2018/1801/O

Date Received: 20/11/2018

Proposal: Replacement dwelling and garage

Location: Site directly adjacent to and directly south of No. 67 Sturgan Brae Road, Camlough, Newry



Site Characteristics & Area Characteristics:

Characteristics of site: The lands outlined in red are rectangular in shape, located immediately east of the junction at Newton Road and Newtown Road. At present the site consists of agricultural land. In terms of topography the levels rise gradually as they approach the northern boundary. Upon site inspection, there is no dwelling/or ruins of a dwelling. With regards to the site boundary treatments the eastern and southern which abut the public road are defined by open boarded timber fencing. The western boundary consists of mature planting.

Characteristics of area: The application site is located outside any settlement development limits as designated with the Banbridge/Newry and Mourne Area Plan 2015. The site is within a designated Area of Outstanding Natural Beauty (AONB), and Area of Special Scientific Interest (ASSI). The site lies opposite Camlough Lake and is within the sphere of influence of an Archaeological Site and Monument.

Site History:

P/2001/1207/O - 20 metres West of 63 Newtown Road Camlough. Site for a dwelling. Permission refused.

P/2004/1895 – 20 metres south of no. 63 Newtown Road, Camlough. Site for dwelling. Permission refused.

P/2005/2346/O - Site 20m South of No 63 Newtown Road, At Junction of Old Road and Newtown Road, Camlough. Site for Reinstatement of Dwelling; Detached Dwelling with Double Garage Including Residential and Tourist Accommodation. Permission refused.

Planning Policies & Material Considerations:

Banbridge/Newry and Mourne Area Plan 2015

SPPS - Strategic Planning Policy Statement for Northern Ireland

PPS 2 - Natural Heritage

NH 6 – Area 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 3 - Replacement Dwellings

CTY 8 - Ribbon Development

CTY 13 - Integration and Design of Buildings in the Countryside; and

CTY 14 -Rural Character

Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

Consultations:

NI Water - Generic response

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

form.

Northern Ireland Environment Agency (NIEA) – Content

Rivers Agency - No objections subject to Planning Conditions

Shared Environmental Services – No objections

Objections & Representations:

4 Neighbours within close proximity of the site were notified on 17/01/2019. This application was advertised in the local press on 03/12/2019. No objections or representations have been received.

Consideration and Assessment:

The application submitted is seeking outline planning permission for a replacement dwelling and garage.

PPS 21 - Sustainable Development in the Countryside

Policy CTY1 restricts new development in the countryside but makes an exception for a replacement dwelling in accordance with Policy CTY 3. For planning permission to be granted the replacement dwelling must exhibit the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

Furthermore, proposals for a replacement dwelling will only be permitted, whereby the proposed replacement dwelling is sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

Following a site inspection, it was evident that there was no dwelling on situ or the ruins of a former dwelling. In the statement of case that accompanied the application the agent submitted an aerial shot dated mid 1970's, showing what appears to be a 2-storey dwelling on the site. The agent states that at some time around 1995 -1999 the building on situ was raised to the ground with demolition material removed. The agent states that there is a dispute regarding who demolished the house, but that the applicant had no prior knowledge of the demolition.

Policy CTY 3 states;

In cases where a dwelling has recently been destroyed, for example, through an accident or a fire, planning permission may be granted for a replacement dwelling.

Evidence about the status and previous condition of the building and the cause and extent of the damage must be provided.

After consideration of the evidence submitted and the statement of case, the Planning Department consider that the former building that was once on situ is not eligible for replacement. Reasons being, policy will make an exception for a dwelling that has been recently destroyed for example through an accident or a fire.

This building was destroyed approx. 20 years ago (may even be longer as the exact date of demolition was unknown, sometime between 1995 & 1999). The department consider that this timescale is not recent. Furthermore, it has not been established how or why the building was destroyed, thus it cannot be asserted that the building was destroyed by an accident.

As this is an application seeking outlined approval, details regarding the exact siting of the replacement have not been submitted. Case officers consider the site is quite exposed with topography rising to the north and that any dwelling on this site would be a roadside development. This site consists of an entirely agricultural field any new dwelling will struggle to integrate into the surrounding landscape and would have a visual impact significantly greater than the existing building (no building on situ).

As such, the application fails to comply with CTY 3, furthermore does not meet any of the criteria of CTY 1, thus there would be no overriding reason why this development is essential at this location.

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 pin pointed. As this is an outline application the siting and design would be determined at the Reserved Matters stage. The southern boundary if the site consists of ranch style timber fencing, when travelling north along Sturgan Brae Road, views onto the site are highly exposed, and a dwelling would rely heavily on the use of new landscaping for integration. Furthermore, it is anticipated that the scale of ancillary works required by way of cut and fill given the uneven nature of the site, would be considered to CTY 13 criterion (d).

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. When travelling along Sturgan Brae Road the proposal if approved, would create a ribbon of development, which is considered detrimental to the rural character of an area. As mentioned above, the ancillary works which would be required, and exposure of the site is considered contrary to this policy.

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

PPS 2 - Natural Heritage

As this site is located within a designated Area of Outstanding Natural Beauty (AONB) policy NH 6- requires that new development within a designated AONB must be of an appropriate design, size and scale for the locality. The potential siting of a dwelling and garage within the lands in red are considered unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

The site is located within close proximity to Area of Special Scientific Interest (ASSI). Following receipt of a Biodiversity Checklist & Preliminary Ecological Assessment (Natural Environment Division (NED) formally responded on 08/15/2019 with no objections to the proposal subject to the planning conditions and informatives that should be attached to any approval.

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

The proposal seeks to create a new access to the site located along the Sturgan Brae Road. DFI confirmed on the in a response dated 02/04/2019 that they have no objections to the proposal with regard to the above policy criteria subject to access being in accordance with the RS1 form.

PPS 15 – Planning and Flood Risk

This proposal, for a replacement dwelling, is within the inundation area of Camlough Lake which is a Controlled Reservoir. DFI Rivers requested that the applicant submit a Flood Risk Assessment before a full assessment could be carried out. Following receipt of a Flood Risk Assessment, DFI Rivers in a response dated 30/07/2019 could confirm that the proposal complies with the policy requirements of FLD 5 Development in Proximity to Reservoirs. As such the planning department are satisfied that the proposal accords to this policy.

Recommendation:

The proposal is contrary to the Strategic Planning Statement for Northern Ireland, Policy NH6 of PPS2 and Policies CTY1, CTY3, CTY 8, CTY 13 and CTY 14 of PPS 21, and is recommended for refusal.

Refusal Reasons:

1. The proposal is contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and CTY3 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling and therefore there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
3. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Sturgan Brae Road.
4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - A dwelling and garage would be a prominent feature in the landscape
 - It relies primarily on the use of new landscaping for integration
 - Ancillary works do not integrate with their surroundings
5. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - The proposal, if permitted, be unduly prominent in the landscape
 - The proposal, if permitted, add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
 - The impact of ancillary works would damage rural character.
6. The proposal is contrary to the SPPS and Policy NH6 of Planning Policy Statement 2 Natural Heritage, in that the site lies in a designated Area of Outstanding Natural Beauty and the development would, if permitted, be detrimental to the environmental quality of the area by reason the proposal fails to respect:

- The siting of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.

Case Officer Signature:
Date:
Appointed Officer Signature:
Date:

Replacement dwelling and garage to site directly adjacent to and directly south of No.67 Sturgan Brae Road, Camlough, Newry.LA07/2018/1801/F

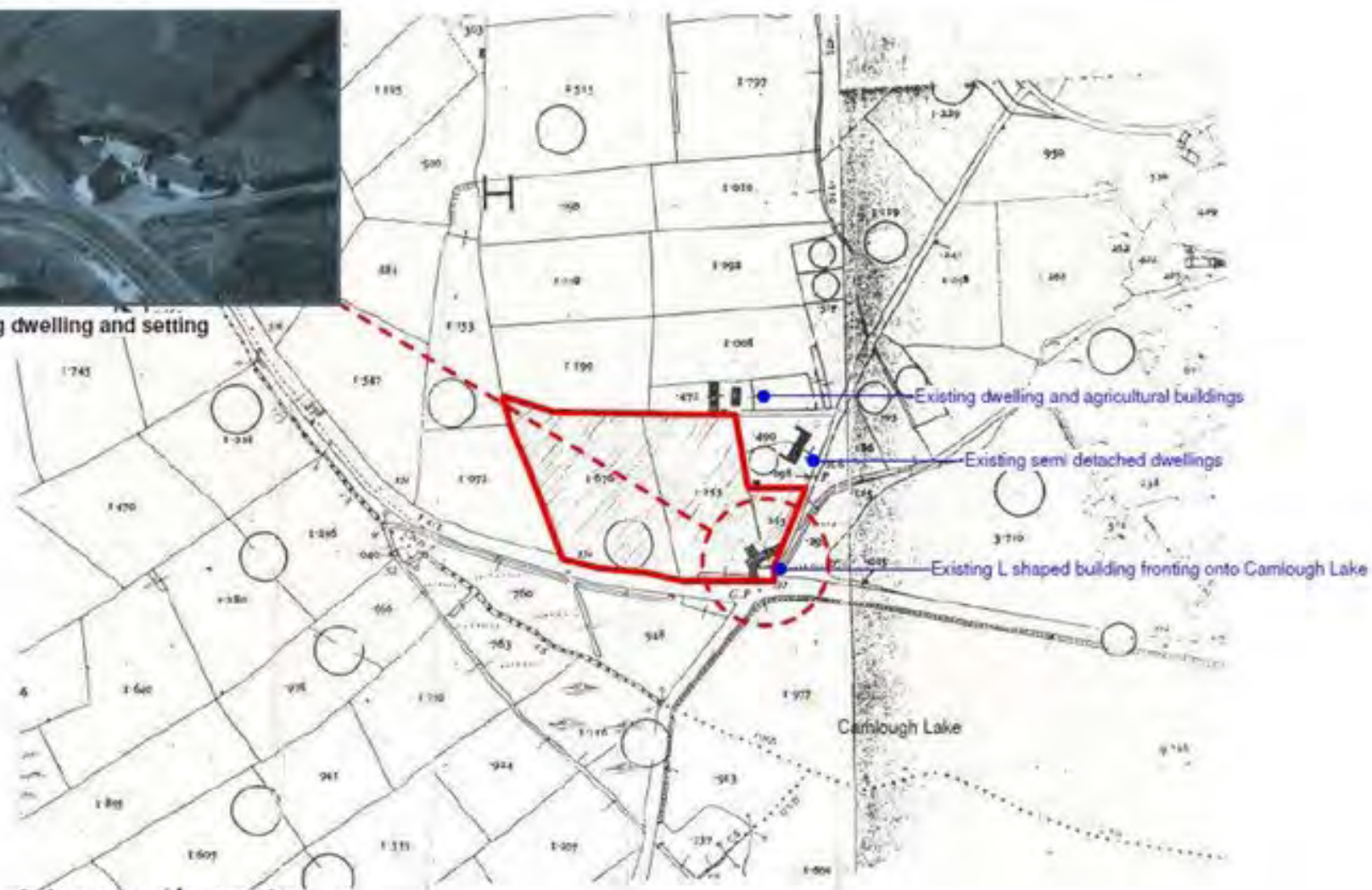


Background....





Existing dwelling and setting



P1 – Existing Map and setting

Map 1990s



Site overview showing adjoining existing dwellings and agricultural buildings



View to rear and side showing mature boundaries



View to rear showing adjoining dwelling/agricultural buildings

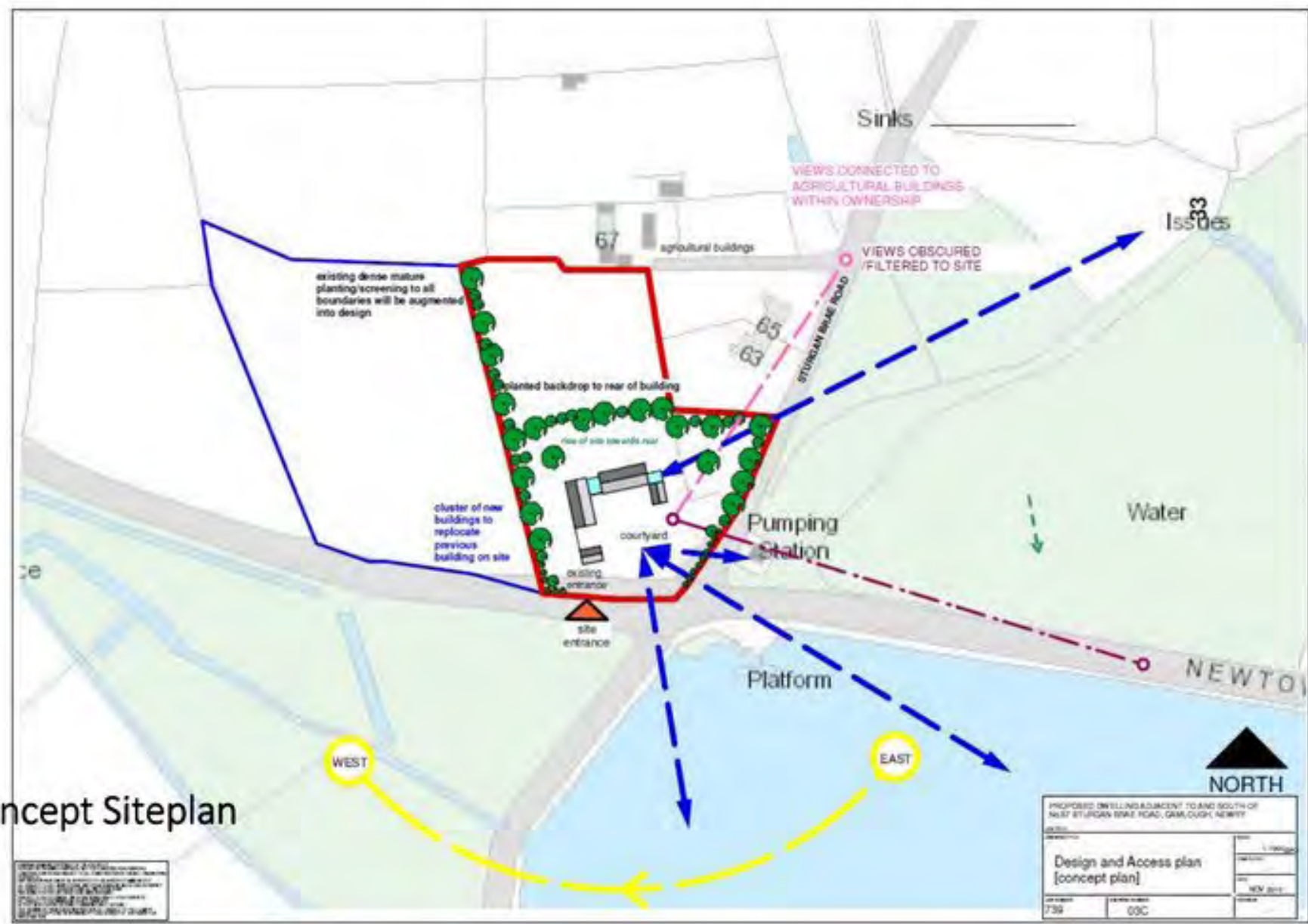


View to east side showing mature boundaries and existing mature trees



View to east side along Sturgan Brae Road

P2 – Contextual Photos



P3 – Concept Siteplan

PROPOSED DWELLING ADJACENT TO AND SOUTH OF
 PLOT 67 STURGAN BRAE ROAD, CAMLOUGH, NEWRY
 1:1000
 DATE: 11/2023
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

PROPOSED DWELLING ADJACENT TO AND SOUTH OF
 PLOT 67 STURGAN BRAE ROAD, CAMLOUGH, NEWRY
 1:1000
 DATE: 11/2023
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

Design and Access plan
 [concept plan]

734 00C

This is a unique and exceptional case....

- **CTY3 -Replacement Dwellings.**
- **The building was demolished without the prior knowledge of its owner/occupant.**
- **This action alone makes this application a unique and exceptional case.**
- **A replacement would be viable if the building was not removed in the first instance and therefore all negative policies that are referred to become null and void.**
- **With regards to 'recently been destroyed', there is indeed no reference to what actually constitutes 'recently' with regards to timescale.**

Environmentally sensitive.....

- PPS21 policies CTY1 Development in the Countryside, CTY13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character can all be acted upon through detail design and integrated site modelling.
- **The house shop and outbuildings were in existence for over 90 years, should be allowed to be re-established and thus placing the connection of the Fleming family back in its home demesne.**
- **This building was the rural character and feature of this area only 20 years ago and this should be realised.**
- **We are of course, willing to accept any of the councils conditions in terms of scale, siting and design to overcome any visual concerns**

Sustainability.....

- DFi Roads Division have no objections to a new entrance being formed off Sturgan Brae Road.
- **All consultations (Detailed Flood Risk Assessments [Policy FLD 1,2,3, 4 and 5] and Biodiversity checklist and Preliminary Ecological Assessment [SPPS PPS 2 natural Heritage])** have been returned with no objections therefore the site is a completely viable proposition.
- It seems unfathomable that a site that was so prominent and part of a community has not been allowed to be appreciated again.

Summary...

- This application is an **exceptional and unique case** and by no means are we setting a precedent as cases of this nature are few and far between.
- In basic terms this is the background to where we are:
 - We the Fleming family owned this property.
 - It was vested from us by the government. [Hydro power route]
 - It was destroyed whilst in the possession of the government [and now with the return of powers to local people, the Council can rectify what we see is a mistake by the DOE].
 - In the immediate aftermath of its destruction we did not have the opportunity to apply for a replacement dwelling because the land was still vested at that point in time.
 - Also upon the lands return, applying for a replacement dwelling was also not possible because the previous replacement dwelling policy was much more strict [**PPS 14 for instance stipulated a house had to be recently occupied**] so applying under this policy was not an option and planning powers at that time remained in the hands of the DOE and not council.

In Conclusion.....

- We therefore must emphasise that the Department have assessed this incorrectly and would request that due to the special historical nature of this case and its **“accidental”** clearance, we believe we should be granted planning permission as an **“exceptional replacement circumstance”** of a set of buildings that were removed by default.
- We also note that there have been a large volume of Public support letters from people, in the immediate vicinity, who understand the historical background to this application and the unfortunate hand dealt to our family.
- We would also refer to the review of planning by **Jim Mackinnon** which was carried out in 2016. He commented that NI planning authorities should not be **'slaves to planning policy'** and should formulate a more pragmatic and flexible approach were required. This therefore is an ideal opportunity to take a practical look at the evidence provided and formulate an open minded decision.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2018/1453/F

Date Received: 18/09/2018

Proposal: Proposed replacement dwelling

Location: 25 Lower Knockbarragh Road, Rostrevor, BT34 3DP

Site Characteristics & Area Characteristics:

The application site contains a small single storey traditional dwelling located to the north of the site. The buildings gable faces the roadside and sits at a lower level than the public road. The site steeply slopes from the roadside towards the east where it is adjoined by the Ghann River. The site is located within an Area of Outstanding Natural Beauty and a Site of Local Nature Conservation Importance (NC 03/129).



Subject building

Planning Policies & Material Considerations:

This application will be assessed under the following planning policies:

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

Site History:

- **P/2008/0792/LDP-** Single storey extension to the rear of existing dwelling. replacement septic and soakway to be installed and the driveway is to be re- hardcored up to the public road at 25 Lower Knockbarragh Road, Rostrevor, Newry. Application withdrawn 2nd July 2008.
- **P/2008/1524/O-** Proposed replacement dwelling and garage at 25 Knockbarragh Road, Rostrevor. Approved 18th June 2009.

Condition 5- The floorspace of the new dwelling shall be limited to 150 sq metres measured internally and excluding any integral garage.

Reason: To accord with the Department's Rural Strategy which requires generally the form and dimensions of the new dwelling to reflect its status as a replacement.

Condition 6- The proposed dwelling shall have a ridge height of less than 5.5 metres above finished floor level.

Reason: To ensure that the development is not prominent the landscape in accordance with the requirements of the Department's Rural Strategy.

Condition 7- The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

Condition 9- The dwelling hereby permitted shall be a single storey dwelling designed and landscaped in accordance with the Department's Design Guide, Dwellings in the Mournes.

Reason: To ensure that the proposal is in keeping with the character of this Area of Outstanding Natural Beauty.

Consultations:

- **NI Water-** Generic response provided
- **DFI Roads-** No objection, conditions provided.
- **DFI Rivers-** No objections, informatives provided.
- **DAERA-** Following several consultations and on receipt of additional information/ amendments are content subject to conditions.

- **Shared Environmental Services-** Having considered the nature, scale, timing, duration and location of the project it is concluded that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

Objections & Representations

One neighbour was notified on 11/10/2018. The application was initially advertised within three local newspapers and readvertised following receipt of amended plans. No objections or representations have been received.

Strategic Planning Policy Statement for Northern Ireland

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

PPS21- Sustainable Development in the Countryside

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

On 13th December 2018 correspondence was issued by the Planning Department advising of the following:

"Principle of Development / Proposed Siting

The building to be replaced presents a valid replacement opportunity and it is recognised its replacement was acceptable under historical planning application P/2008/1524/O, which is a material consideration in the current assessment. The proposed replacement dwelling is shown to be sited 60m south of the dwelling to be replaced. PPS21 Policy CTY3 requires the proposed replacement dwelling to be located within the established curtilage of the existing dwelling unless either a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling or b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. The Planning Department accept that the existing curtilage is highly restrictive; however we would request that any new dwelling is sited closer to the existing dwelling in line with the historical approval on this site, with the proposed curtilage reduced to meet the additional Policy CTY3 and environmental requirements of PPS21.

Design

The proposed dwelling should be reduced to 5.5m ridge height to the road side, with any two storey element to the back, working with the existing contours of the site so as to ensure the proposed dwelling does not have a visual impact significantly greater than the existing dwelling. This request is in line with the conditions attached to the historical approval on this site (P/2008/1524/O.)

Landscaping

The rear / eastern boundary of the curtilage should be augmented with new landscaping as the proposal would rely on existing trees for integration, which are beyond the extent of the site."

On 8th January 2019 the Agent issued a response to this correspondence stating that the proposal is within the same field as the existing dwelling on a very minor road and they fail to see how the proposal would be a greater visual impact than the existing dwelling as it would only be visible when passing along its frontage or from a small section of Drumreagh Road. Details of surrounding dwelling approved and constructed were also provided to justify the design of the proposal. The proposal will be assessed against the most recent plans submitted.

In order to comply with Policy CTY3, applications must meet the following criteria:

- *Dwelling to be replaced must exhibit the essential characteristics of a dwelling (as a minimum all external structural walls substantially intact)*
The building has history of a replacement dwelling, has the essential characteristics of a replacement dwelling and is fully intact.
- *Proposed dwelling must be sited within the established curtilage of the existing building (Curtilage is defined as the immediate, usually defined and enclosed area surrounding an existing or former dwelling house) unless (a) the curtilage is so restricted that it could not reasonably accommodate a modest size dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.*

The replacement dwelling is proposed to be sites c. 60m to the south of the building to be replaced. The Design and Access Statement states that the proposed access levels will provide safer access than an access position of the current dwelling, the site will allow for a dwelling to accommodate today's standard of living, the proposed location will allow for the required visibility splays and retention of the majority of hedgerow.

I am unconvinced that the dwelling could not be sited closer to the building to be replaced and the proposal would not represent demonstrable landscape, heritage, access or amenity benefits.

- *The overall size of the new dwelling must integrate into the surrounding landscape and have no significantly greater visual impact than the existing building.*
The dwelling to be replaced is a small single storey dwelling well screened by existing vegetation and orientated gable onto the road. The existing dwelling has limited visual impact on the landscape.

The replacement of a small single storey dwelling with a three storey off site replacement would undoubtedly have a significantly greater visual impact than the existing building. Despite its one and a half storey appearance from the front elevation, the three storey rear and associated retaining walls would draw the eye in a way that the existing small dwelling does not. As such the proposal would have a significantly greater visual impact than the existing dwelling which is contrary to Policy CTY3.

- *The design of the replacement dwelling should be of a high quality appropriate to its rural setting.*

The dwelling is large scale with three floors, the rear projection measures 0.9m more than the gable of the front section of the dwelling which gives poor proportions, the garage has an excessively high ridge height relative to the eaves. The inclusion of 8 roof lights is considered excessive. The balcony element is not considered suitable for this rural location within an AONB. Overall, I do not believe the dwelling to be of a high quality design appropriate to its rural setting.

- *All necessary services must be available or can be provided without significant adverse impact on the environment or character of the locality*

Necessary services could be provided without significant adverse impact on the environment or character of the locality.

- *Access to the public road must not prejudice road safety or significantly inconvenience the flow of traffic.*

DFI Roads are content with the access proposed and that it will not prejudice road safety or significantly inconvenience the flow of traffic.

The proposal is considered to be contrary with the criterion of Policy CTY3.

Policy CTY13

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

As detailed above, the proposal would represent a significantly greater visual impact than the original dwelling and would appear as prominent in the landscape on approach from Lower Knockbarragh Road and from Drumreagh Road. The proposed site forms part of a larger agricultural field and there is existing vegetation to the east which would provide some screening. As previously stated, the design is inappropriate for the site and its locality. Due to the sloping nature of the site the site requires retaining structures and significant levels of underbuild which would not integrate with the surroundings. The proposal is considered to be contrary to criterion a,d and e of Policy CTY13.

Policy CTY14

Policy CTY14 relates to rural character and states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As detailed above, it is considered that a building on the application site would be unduly prominent in the landscape and the impact of ancillary works i.e filling of land and retaining structure, would damage rural character. The proposal is contrary to criterion a and e of Policy CTY14.

Planning Policy Statement 2- Natural Heritage

Policy NH6 relates to areas of Outstanding Natural Beauty and states that planning permission will only be granted where it is of an appropriate design, size and scale for the locality. The siting, design and scale of the proposal is not considered appropriate to the special character of the AONB.

Recommendation: Refusal

Reasons for Refusal:

1. The proposal is contrary Para 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits
 - the proposal would have a visual impact significantly greater than the existing building and the overall size of the new dwelling would not allow it to integrate into the surrounding landscape.
 - The design of the replacement dwelling is not of a high quality appropriate to its rural setting
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - The proposed building would be a prominent feature in the landscape
 - Ancillary works would not integrate with their surroundings
 - The design of the building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:
 - the building would, if permitted, be unduly prominent in the landscape
 - the impact of ancillary works would damage rural characterand would therefore result in a detrimental change to the rural character of the countryside.

Case Officer Signature:

Date:

Appointed Officer Signature:

Date:

Proposed replacement dwelling at 25 Lower Knockbarragh Road Rostrevor. LA07/2018/1453/F

This application is being made on behalf of Mrs M.Byrne for a replacement dwelling at 25 Lower Knock Barragh Road Rostrevor on an incredibly steep sloping site see image 1 showing the slope of the site. Image 2 shows the road level is approx 2m above the ground level of site closest to the road.

There has been a previous approved application on this site P/2013/1524/O, which was granted at a maximum location of 50m away from existing building with a number of conditions: single storey with ridge height less than 5.5, floor space of 150m² and max under build of 0.45m. This permission was granted without the benefit of a survey of the existing ground levels. A maximum level of 0.45 under build would be impossible anywhere on this site due to the levels and a dwelling at this location with a floor space of 150m², five times the size of existing dwelling, would undoubtedly require significant under build/retaining walls at any position or orientation.

The case officer's report accepts that this proposal is a valid replacement opportunity but raises three reasons for refusal, under CTY1, 3, 13 and 14 of PPS 21:

Concerns are raised under refusal reason under policies CTY1 and CTY3 of PPS 21:

Not shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits

The position for our proposal, which is 65metres away from the existing building as to 50m in previous approval, has been chosen as it would result in less of the existing mature hedge row/landscaping having to be removed to provide the adequate visibility splays of 2.4m x 45m required by Road Service. The access to the proposal would be in a much safer position and provide more user friendly access to the proposal. The position of the proposal will also provide an adequate area of useable space for any occupants. In the report the case officer states 'I am unconvinced that the dwelling could not be sited closer to the building to be replaced and the proposal would not represent demonstrable landscape, heritage, access or amenity benefits.' See image 3 and 4 showing location of our proposal and the proposal located 30m away from existing dwelling. Our proposal shows little disturbance to existing mature landscaping to the road side of the proposal. However when dwelling is positioned closer as suggested by the case officer it results in a large section of existing mature hedge row/ landscaping having to be removed to provide required visibility splays, almost the complete bend in the road at the north of the site. A significant area of retaining wall up to 4m high would have to be constructed to provide support to existing road. The removal of hedging and land could cause serious infrastructure problems to the road at this location. In comparison very little fill will be required at the proposed location for our dwelling.

The proposal would have a visual impact significantly greater than the existing building and the overall size of the new dwelling would not allow it to integrate into the surrounding landscape

The case officer states 'the replacement of a small single storey dwelling with a three storey off site dwelling will have a significantly greater impact than existing dwelling'. This statement is slightly miss leading, at no point is the proposal three storey. The proposal is broken into two sections the front storey and a half section which has a ffl to ridge height of 7.0m, similar to approval P/2013/0021/F which is located approx 100m North of our proposal, and a two storey section to the rear which is lower than the front section due to the extreme levels. The return which cannot be seen when looking at the front of the building and has a ffl to ridge of 8.4m. When driving North and South on the Lower Knockbarragh Road the proposed dwelling will not be visible due to mature vegetation and trees which will not be removed see image 5 and 6. The dwelling will only be visible for a section of road when driving directly passed the front elevation. Existing landscape will also restrict the view of the proposal from the Drumreagh Road see image 7. Due to the existing trees and vegetation on the eastern boundary the retaining structure, which will be finished with natural stone and is over 5metres below road level will have no visual impact from the Lower Knockbarragh Road or Drumreagh Road. Planning approval P/2013/0021/F located approx 100m North of our proposal is on a raised site approx 3m above road level is on an exposed site with an approved dwelling of a ridge height of 7.0m. This approval is granted to replace a small single storey dwelling and will have a much greater visual impact on the surrounding landscape than our proposal. The Dwelling at No.28 Lower Knockbarragh Road clearly does not integrate into the surrounding landscape see image 8.

The design of the replacement dwelling is not of a high quality appropriate to its rural setting

The design of the proposal has largely been dictated by the topography of the site. Significant falls in levels from the road side through the site have left it inevitable that the proposed dwelling with two two storey sections will have to be split level to accommodate a dwelling fit for modern living standards. The front of the dwelling which is most visible to passers-by has been designed to be reflective of other approved rural storey and a half dwellings located on the lower knockbarragh road. See image 9 and 10. The proposal is more reflective of a rural dwelling than other dwellings located along the Lower Knockbarragh Road, see image 8.

Concerns are raised under refusal reason under policies CTY13:

The proposed building would be a prominent feature in the landscape

As previously stated the proposed position for the dwelling will result in significantly less mature landscaping having to be removed along the Western boundary than if the proposed dwelling was positioned closer to existing dwelling as suggested by the case officer. Existing landscaping along the Northern and Southern boundaries will remain untouched and prevent the proposal becoming a prominent feature when driving along the Lower Knockbarragh Road see image 5 and 6. Mature landscaping to the Eastern boundary will remain untouched and reduce the dwelling becoming a prominent feature in the landscape when viewed from the Drumreagh Road, see image 7. The untouched mature landscaping along these boundaries will prevent the proposal becoming a prominent feature in the landscape unlike other approved and constructed dwellings along the Lower Knockbarragh Road see images 8 and 9.

Ancillary works would not integrate with their surrounding

The case officer states 'due to levels of the site the site requires retaining structures and significant levels of underbuild which would not integrate'. The case officer accepts that retaining structures are required at this site. As previously mentioned a dwelling positioned anywhere in this site will require significant retaining structures. PPS 21 states 'Retention or reinstatement of boundaries, hedges and walls is an important element in mitigating the impact of new development' If the proposed dwelling was to be positioned closer to the existing dwelling retention of existing boundaries would not be possible, the proposed position retains much more of the existing hedge grow/ landscaping and provides a much safer access to proposal. See image 3.

The design of the building is inappropriate for the site and its locality and therefore would not visually integrate into the surrounding landscape

As previously stated the design of the proposal has largely been dictated by the topography of the site. Existing mature vegetations along boundaries will reduce any view of dwelling to passers-by travelling on Lower Knockbarragh Road and on the Drumreagh Road. The front elevation has been designed to resemble other dwelling along the road approved and under construction see image 9 and 10.

Concerns are raised under refusal reason under policies CTY14:

The building would, if permitted, be unduly prominent in the landscape

The building would not be a prominent feature in landscape due to existing mature vegetation on the Northern, Eastern and Southern boundary which will remain untouched. The proposed position will allow more existing landscape on the Western position to be retained than positioning dwelling closer to existing dwelling as suggested by the case officer see image 4. Additional landscaping in the garden will reduce any visual impact of retaining structures which will be required by any dwelling that is granted on this site.

The impact of ancillary works would damage rural character and would therefore result in a detrimental change to the rural character of the countryside

The position chosen for proposal has been done so to reduce the ancillary works required .If the dwelling is positioned closer to existing dwelling there will be a requirement for retaining walls at the road side. No.28 Lower Knockbarragh road has a 1.5m high retaining wall to the road which is prominent in the landscape and can be seen from the Lower Knockbarragh Road and the Drumreagh Road see image 11. Any ancillary works to the proposal will be reduced by existing landscape to boundaries.

The proposed location on this site is the most suitable as it will have better access and more landscape and amenity benefits than if the dwelling was positioned closer to the existing building. The design is similar to approved designs in the area. Visual impact will be minimal due to levels of existing landscaping, it will not be a prominent feature in the landscape. The proposal is appropriate for its site due to the topography of the site and will visually integrate into landscape and will not have a detrimental impact on the character of the area.

Image 1: Showing steep site



Image 2: Beginning of site 2metres below road level



Image 3: Visibility splay for our proposal showing little disturbance to road side boundary

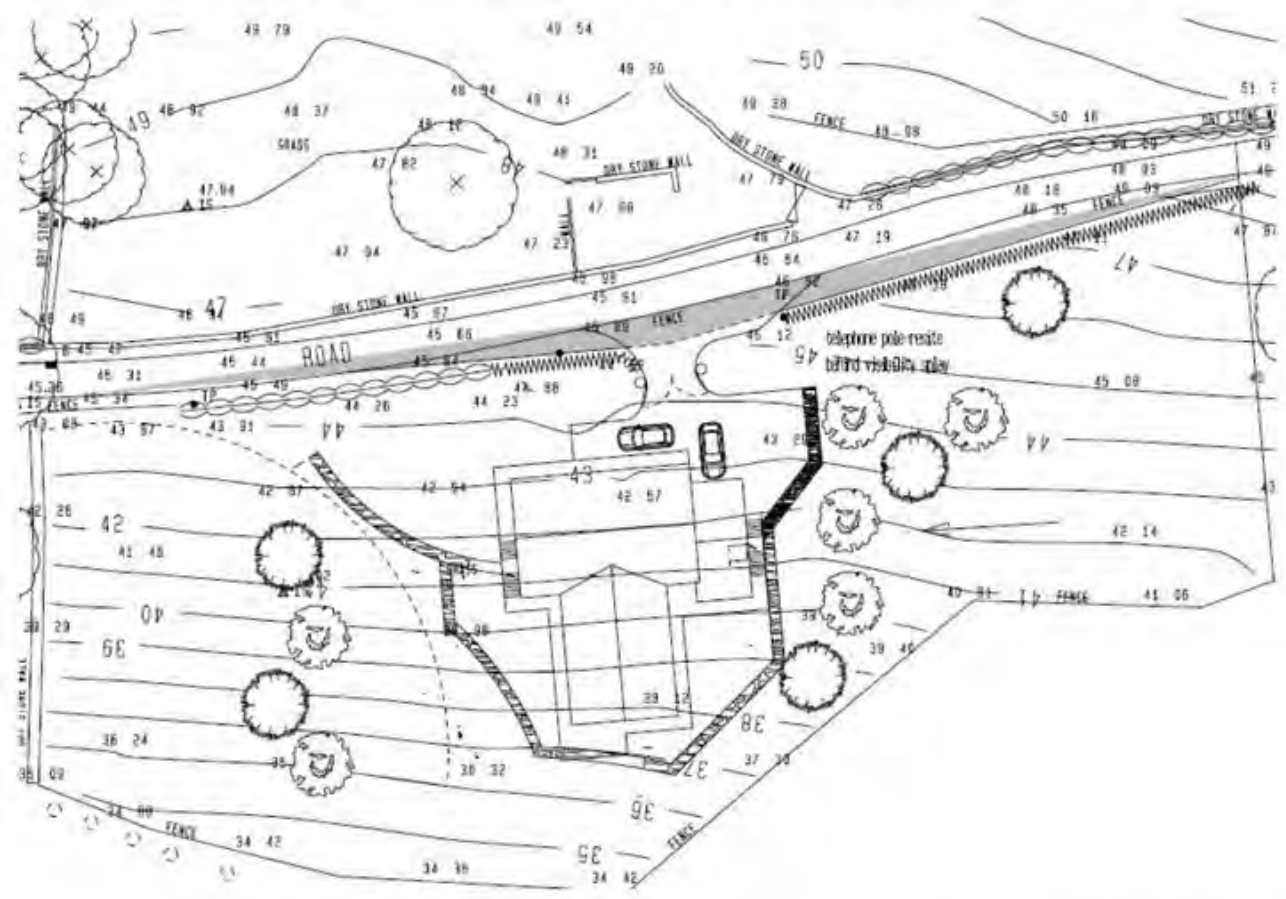


Image 4: Visibility splay if dwelling was moved closer to existing building. A large section of road side boundary will be removed, which will result in approx 4m high retaining wall to support road.

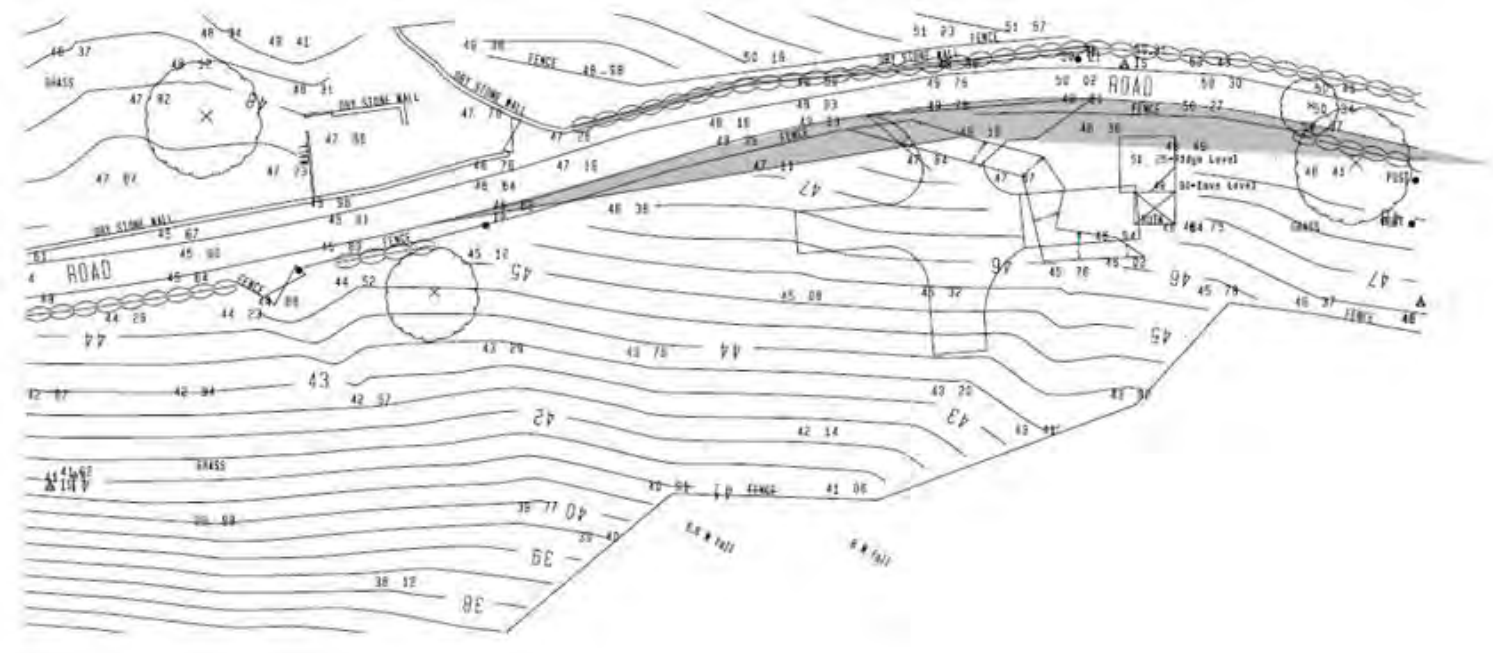


Image 5

Proposed site not visible



Image 6

Proposed site around corner and hidden by existing landscaping



Image 7



Image 8



Image 9



Image 10



Image 11





Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:	LA07/2017/0542/F
Date Received:	March 22nd 2017.
Proposal:	Retail park with ancillary coffee shop/restaurant units
Location:	Former H M Revenue & Customs Custom house and clearance station, Carnbane way, Carnbane Industrial Estate

1.0. SITE AREA AND CHARACTERISTICS:

- 1.1.** The application site, an area of 7 hectares, is the former customs clearance station and office complex and associated lands. The former offices, now demolished, were located close to the northern boundary of the site. The remainder of the site consisted of a large paved area forming part of the vehicle parking area for the former customs station.
- 1.2.** A considerable amount of development has recently been carried out on the site to include the demolition of buildings, site clearance and levelling and the erection of a boundary fence.
- 1.3.** The site is immediately adjacent to Carnbane Way on its northern boundary, which forms part of the Newry By-Pass road network, linking to the Belfast-Dublin strategic road network to the west. The site is located between the

Newry Canal, a scheduled monument on its eastern side and the Clanrye River on its western boundary.

- 1.4. The site is located just south of the Carnbane roundabout on the A28. To the north of the roundabout is Carnbane Industrial Estate.
- 1.5. The land on either side rises up significantly along the A28. To the south west of the site, across the canal is Damolly Retail Park and beyond this is the Fiveways Retail Service Station, a designated Local Centre. To the east of the site are located a number of residential properties. A pedestrian bridge provides a link between the site and these dwellings.

2.0. SITE HISTORY:

P/2009/0163/F Lands to the south and east of Carnbane Way/Shepherds Way Roundabout, incorporating Customs Clearance Clearance Station and lands to the rear of 7-14 Damolly Meadows, Newry. Comprehensive mixed use development to include: 1 No foodstore, 70 No light industrial/business units, 1 No gatehouse, 1 No coffee shop, residential use, (14 units), car parking, general landscaping and general site works.

Full Approval 19 August 2014.

The food store was restricted to 8,000 sq m with a net retail floorspace of 5200 sq m and a net convenience floorspace of 3120 sq m and 2080 sq m non-convenience floorspace. The permission requires a block of industrial units to be completed and available for occupation prior to the opening of the store. The industrial units are proposed on the current application site (See Appendix 2)

3.0. STATUTORY CONSULTATIONS:

- 3.1. Details are provided in Appendix 6 and summarised as follows:

Newry, Mourne & Down Environmental Health. No objections subject to planning conditions.

DfC. Historic Environments Division Archaeology and Built Heritage (HED: HM). No objections subject to planning conditions.

DAERA Planning Response Team. Water Management Unit (WMU), Land Soil and Air, Natural Heritage and Conservation Areas. No objections subject to conditions/mitigation.

DAERA Shared Environmental Services. No Objection. Subject to conditions.

DfI Rivers Agency. No objections.

Loughs Agency. No objections subject to informatives.

DfI Transport NI. No objections

NI Water. No Objections.

4.0. OBJECTIONS & REPRESENTATIONS

4.1. Details of the initial application and additional information received were advertised in the local press on 28 April 2017, 15 May 2019 and 30 August 2019. Nearest neighbours were notified on 2 May 2017 and 7 May 2019. One objection and one representation of support have been received.

4.2. Issues raised by the objector include:

- Proposal contrary to BNMAP 2015 as the site is zoned for proposed and existing economic development. PED 7 of PPS 4 applies.
- Cumulative impact in conjunction with P/2009/0163/F. Prematurity would be engaged as per Para 5.73 of the SPPS.
- Impact on the business incubator units previously approved under P/2009/0163/F.
- Application is speculative and amount of investment cannot be quantified.
- Irrational to place weight on the amount of economic benefits given speculative nature of proposal and lack of adequate consideration of job displacement
- Prejudice outcome of the plan process

- Does not comply with BNMAP 2015, SPPS or PPS 4 and no unique considerations to justify an approval

The issues raised were considered by the Planning Department as part of its assessment of this application.

- 4.3.** The representation, in support of the application, states that the proposal will create a high-quality shopping environment, preferable to other centres within Newry, as the infrastructure is better and there will not be the same issues of congestion and lack of car parking.

5.0. PLANNING POLICY CONTEXT.

- 5.1.** The planning policy context for this application is provided by:

- The Planning Act (Northern Ireland) 2011
- Regional Development Strategy 2023
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Banbridge, Newry & Mourne Area Plan 2015
- Planning Policy Statement 2 (PPS2): Natural Heritage
- Planning Policy Statement 3 (PPS 3): Access Movement and Parking
- Planning Policy Statement 4 (PPS4): Planning and Economic Development
- Planning Policy Statement 6, (PPS 6): Planning Archaeology and the Built Heritage
- Planning Policy 15, (PPS 15) Planning and Flood Risk
- DCAN15 – Vehicular Access Standards
- Parking Standards

Regional Development Strategy 2035 (RDS).

- 5.2.** The RDS is material to individual planning applications but does not contain operational planning policy. These are issued through Planning Policy Statements and other documents. The published document confirms that the RDS has a statutory basis. It is prepared under the Strategic Planning

(Northern Ireland) Order 1999. Under that Order Departments must “have regard to the regional development strategy” in exercising any functions in relation to development. The RDS is material to decisions on individual planning applications and appeals. The policies and proposals within the existing statutory plan for the area, Banbridge, Newry & Mourne Area Plan (BNAMAP), are in general conformity with the provisions of the RDS.

- 5.3. The Strategy designates Newry as one of the main hubs across Northern Ireland and as the South Eastern Gateway City due to its proximity with the Border and its proximity to the major port of Warrenpoint. It is noted that it has the potential to cluster with Dundalk given that both are strategically located on the Belfast-Dublin Corridor.
- 5.4. Strategic Framework Guidance 11 aims to promote economic development opportunities at Hubs. It states that in Hubs and Clusters of Hubs such as Newry/Warrenpoint, the Hub and the highest performing city/town in the cluster should be considered first in the decision process. As Newry is both the largest and the highest performing Hub in its cluster it is the location which should be considered first.

Strategic Planning Policy Statement (SPPS).

- 5.5. The Strategy provides a framework for the development of new Local Development Plans by the Councils. Paragraph 1.16 states that Planning Policy Statement 5, ('Retailing and Town Centres') has been cancelled by the introduction of the SPPS. The SPPS now provides the statutory policy on retailing until a new development plan is adopted by the Council.
- 5.6. The SPPS adopts a Town (or City) Centre first policy in relation to new retail proposals. Paragraph 6.267 states that town centres are important hubs for a range of land uses and activities and can have a positive impact on those who live, work and visit them. Paragraph 6.268 states that the RDS recognises the importance of accessible, vibrant city and town centres which offer people more choice for, amongst other things, shopping. Paragraph 6.269 states that it is important that planning supports the role of town centres, (which includes city

centres) and contributes to their success. Paragraph 6.270 states that the aim of the SPSS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions.

5.7. Paragraph 6.271 sets out 6 regional strategic objectives for policy on Town Centres and Retailing:

- 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;
- ensure LDPs and decisions are informed by robust and up to date evidence in relation to need and capacity;
- protect and enhance diversity in the range of town centre uses appropriate to their role and function, such as leisure, cultural and community facilities, housing and business;
- promote high quality design to ensure that town centres provide sustainable, attractive, accessible and safe environments; and
- maintain and improve accessibility to and within the town centre.

5.8. Paragraph 6.273 requires planning authorities to adopt a town centre first approach for retail and main town centre uses.

5.9. Paragraphs 6.280 and 6.281 establish a sequential test for applications for retail and main town centre uses. 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. Where it is established that an alternatively sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused. Applications for main town centre uses must be considered in the following order of preference (and consider all of the proposal's catchment):

- Primary Retail Core

- Town Centre
- Edge of Centre
- Out of centre locations, only where sites are accessible by a choice of good public transport modes.

5.10. Paragraph 6.283 states that all applications for retail or town centre type developments above a threshold of 1000 square metres gross external area not proposed in a town centre location and are not in accordance with the Local Development Plan should be required to undertake a full assessment of retail impact as well as need.

Banbridge, Newry and Mourne Area Plan 2015. (BNMAP)

5.11. Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the local development plan so far as is 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.

5.12. The statutory function of an Area Plan is to provide a framework for the development of the Plan Area over the statutory lifetime of the plan. The Plan remains a material consideration beyond its end date and until it is replaced with an up-to-date plan document. It was only adopted, as the statutory plan for the area, following the completion of the statutory plan process, including a public inquiry and is intended to provide certainty for those who live, work and visit the Council area.

5.13. The Plan contains a number of objectives, which are material to this proposal, including:

- to facilitate sustainable patterns of growth and development throughout the Plan area;
- to promote Banbridge and Newry as main hubs within Northern Ireland and to enhance the inter-regional gateway role of Newry;

- to facilitate appropriate development within existing urban areas that will promote urban renaissance, create ease of access to services and community facilities, and to maximise the use of existing infrastructure;
- to facilitate integration between land use and transportation in order to reduce congestion and the need for car journeys and to encourage a shift to more sustainable modes of transport, particularly walking, cycling and public transport; and
- to promote town centre vitality and viability

5.14. The Plan, (BNAMAP) has designated a settlement limit for Newry City and a town centre boundary for Newry City Centre. The Plan also designates a Primary Retail Core for Newry City Centre.

- The site is located within the settlement limit of Newry and outside the City Centre and Primary Retail Core boundary.
- The northern portion of the site, the location of the former customs clearance station and office complex, is zoned as an existing area of economic development and the southern portion is on 2.86 hectares zoned for economic development under Zoning NY 68. Key Site Requirements of NY 68 include access shall be via the existing access onto the Carnbane Estate roundabout and a 3-5 metre planning boundary on all site boundaries.
- The site is located between the Newry Canal and Newry River corridors, both of which are designated as an LLPA under Designation NY 114. These are designated for their nature conservation interest and associated vegetation and trees. Policy CNV 3 'Local Landscape Policy Areas' in Volume 1 of the Area Plan states that planning permission will not be granted to development proposals that would be liable to adversely affect their intrinsic environmental value and character. Where riverbanks are included within LLPA's, public access may be required to the river corridor as part of the development proposal. Where proposals are within or adjoining a designated LLPA, a landscape buffer may be required to protect the environmental quality of the LLPA.
- The Plan Strategy (pg 33) notes that there is a need for a cautious approach to retailing in Newry City and that retail growth in the City has already been allowed for sites at Newry Road and Tesco on Downshire Road and that

any residual capacity is anticipated to be small. As shown below, the retail need for additional floorspace in the catchment is consistent with this view, with only about £10million of growth in comparison retail expenditure between 2018 and 2021.

6.0. PLANNING ASSESSMENT & CONSIDERATION

- 6.1.** In summary the application seeks full planning permission for a retail park with ancillary coffee shop/restaurant units. The proposal does not seek any form of restriction that might mitigate its impact on town or city centres or that might distinguish it from typical town centre retailing. A supporting document submitted with the application states that the application is based on "unrestricted comparison goods retail units" (MBA Retail Impact Assessment, para 1.2). The submitted P1 form states that the total gross floorspace dedicated to sales is 16,836 square metres. The supporting Economic Impact Assessment details the floor space break down as; 15,133 square metres retail with 1,225 square metres for cafe/restaurant.
- 6.2.** The submitted layout plan shows 11 unrestricted retail units arranged in an L shape along the western and southern side of the site. Servicing will be provided to the rear of these units, which will range in size from 991sq metres to 2,830 sq metres. The proposal includes three restaurant units, each of 325 square metres, along the northern boundary of the site, as well as a cafe unit of 250 square metres in the north eastern corner of the site.
- 6.3.** Access to the site is to be provided within the existing junction at Carnbane Way Roundabout which will be upgraded to accommodate the higher traffic volumes. A roundabout is proposed adjacent to the eastern boundary at which a vehicular bridge will be provided across the Newry River to access the site of the food-store, already approved under P/2009/0163/F. A total of 875 car parking spaces, largely in the centre of the development, will be provided. The cafe unit will have 26 spaces provided immediately adjacent to it.
- 6.4.** A number of planning reports were submitted with the application, including: a Retail Impact and Supporting Planning Statement; Need Assessment;

Economic Impact Assessment; Environmental Statement; Transportation Statement; Loss of Employment Lands; Ecological Impact Assessment, and Landscape, Management and Maintenance Plan.

- 6.5. The Planning Department has carefully assessed the proposal, and all supporting material, in the context of the prevailing planning policy above, including the statutory development plan for the area. It appointed a specialised retail consultant, Inaltus Limited, to carry out a detailed appraisal of the relevant documents submitted in support of the application to inform its assessment of this proposal. Details of that appraisal are provided in reports, included in Appendix 4.

Assessment of Need for the Proposal.

- 6.6. In the context of the planning policy requirements outlined above the applicant is required to prepare an assessment of need for the proposed retail use to support the application. This should take account of the assessed needs of the local town (or city) and any committed development proposals and allocated sites.
- 6.7. The statutory plan identified an extended city centre boundary and zoned lands within the town centre to accommodate need over the Plan period. It is considered that the applicant has failed to demonstrate sufficiently robust evidence that there is a demand and need from retailers for the type of retailing and the size of units proposed. The applicant has also failed to robustly demonstrate a need in quantitative or qualitative grounds. Inaltus has set out at Appendix 4 that the turnover of the proposal is almost 6 times the quantum of spending growth in the catchment. Indeed, it would take almost 18 years of retail spending growth to support this proposal. There is no case for the proposal based on increased population levels, increased spending or any evidence that Newry needs an additional development of this scale.

The proposal does not provide a new type of retailing for the catchment. Instead it will duplicate and directly compete with the multi-national retailers

that are already in Newry City Centre and key to the vitality and viability of Newry City Centre.

The Sequential Test.

- 6.8.** The SPPS places the onus on the applicant to carry out a sequential test to demonstrate that there are no alternative sites available within the Town Centre Boundary of Newry City and to demonstrate that the proposal justifies being treated as an exception to this policy and that it is accessible by a good choice of public transport modes.
- 6.9.** The proposal is for uncontrolled and unrestricted comparison retail use outside the City Centre and Primary Retail Core. The proposal does not seek any form of restriction that might distinguish it from existing town centre uses. It is therefore sequentially un-preferred in the context of the SPPS, as referred to at Para 5.6-5.9 above.
- 6.10.** BNMAP zones 13 Development Opportunity sites in Newry City. These sites are available for a variety of single or multiple uses which might include retail. However, if this proposal were allowed it would undermine the potential of these sites coming forward as there would be no increased spare retail growth expenditure available to support them as it will have been soaked up by this proposal.
- 6.11.** The application was accompanied by an Environmental Statement (ES). The applicant included an analysis of existing retail sites within the Town Centre Boundary in the ES. Prevailing policy requires that an applicant provides a thorough and robust analysis of alternative sites, particularly, in this case, where the proposal is for unrestricted open class retailing out of centre in Newry. Whilst the applicant has considered the list of alternative sites within its ES and claims these are not capable of supporting the development, based on size, it must be remembered that the Plan's development opportunity sites were allocated based on an assessment of retail need as assessed by the Department. The applicant has not identified any need for this massive retail development, and hence it is not surprising the Plan contains few sites large enough to accommodate a development for which there is in-fact no clear

need. The applicant's approach to alternative sites is unsatisfactory as it is a self-serving and self-fulfilling exercise. Essentially, the application proposes a development so large that no town or City Centre could accommodate it and therefore argues that it must be allowed outside the town centre. This approach pays no attention to whether the development is in fact needed or not.

It is also considered that there has been insufficient analysis of the opportunity sites identified in the Plan, in particular a site at Warrenpoint Road (Zoning NY 90). This site has been granted planning permission for a retail led, mixed use regeneration scheme incorporating retail. Only the most limited evidence has been presented as to the suitability or availability of these lands. In order to demonstrate that this site is unavailable the applicant has twice been asked to provide more robust evidence why the proposal cannot be accommodated on this site. Moreover, it is also considered that the proposal, based as it is on unrestricted retailing, will make the delivery of this site more difficult.

- 6.12.** Reference is made, within the Environmental Impact Assessment, to existing bus stops on Tandragee Road and Downshire Road and in existing housing areas. These are a considerable distance from the site. While the site is designed and located to be accessible by car and the applicant states that the proposal has integrated bus and pedestrian linkages, (with a planned bus shelter at the entrance to the site), there is no current public transport serving the site. While the applicant indicated during the processing of the application that discussions had taken place with Translink, the proposal does not include any details of future planned or agreed public transport arrangements dedicated to the site. In this respect the site is not accessible by a good choice of public transport modes. Any future approval would require to be accompanied by committed public transport arrangements agreed with Translink, the public transport provider, to include dedicated bus links and agreed bus stops within the overall scheme.

Retail Impact of the Proposal

- 6.13.** A full assessment of retail impact of the application is required to include:
- impact of proposal on trade and turnover for both convenience and comparison goods retailers and the impact on town centre turnover overall for all centres within the catchment of the proposal;
 - impact of proposal on existing committed and planned public and private sector investment and investor confidence in the town centre(s);
 - impact on the delivery of planned/allocated sites and the LDP strategy;
 - impact on the vitality and viability of existing centres including consideration of local context. This should take account of existing retail mix and the diversity of other facilities and activities;
 - cumulative impact taking account of committed and planned development including plan commitments within the town centre and wider area; and
 - a review of local economic impacts.
- 6.14.** The SPPS states that proposal should be refused where impact on one or more of these centres is considered significantly adverse or where in balancing the overall impacts of each of the criteria the proposed development is judged to be harmful.
- 6.15.** The applicant submitted a Retail Impact Assessment (RIA) of the proposal. This was partially superseded by an additional Supporting Planning Statement by Gravis Planning that includes a Retail Impact Assessment as part of the application. A detail appraisal of the information provided in both documents was carried out by Inaltus, the specialist retail consultant appointed by the Council to assist it with the assessment of the application. It has been concluded that the information provided by the applicant does not allow the Council to make a fully informed and up-to date assessment of the proposal, which is a policy requirement. The Gravis Planning RIA is fundamentally flawed and is internally inconsistent. Figures in the Gravis Planning report are in conflict and a legally robust decision is not capable of being made based on the applicant's own figures. Details of the concerns are set out in detail in the

Inaltus Report. Below provides a sample of concerns, albeit it should be noted that this is not an exhaustive:

- the estimated extent of the catchment of the proposal has not been justified, in particular the inclusion of an area north of Banbridge given the proximity of Sprucefield and Craigavon;
- the estimated catchment population has not been robustly justified. The Council considers the catchment population will be about 27,400 people fewer than the Gravis Planning estimates;
- the background survey material used to justify some of the findings in the RIA, is out-dated. In particular, the Gravis Planning report relies on survey data from Louth County Retail Strategy dated 2007, Gravis Planning bases its population on the 2011 Republic of Ireland Census rather than 2016 Census figures, and details in the consumer survey by Lucid Talk provides population, spend and turnover figures that directly conflict with the Gravis Planning retail impact figures;
- the Gravis Planning report provides two competing methodologies (of which there is a lack of correlation between the two), to estimate the available spend per head and the total comparison turnover of centres in the catchment;
- Gravis Planning fail to make any assessment of the lack of correlation between available spend and turnover of centres in the catchment. The level of difference between available consumer spending in the catchment (£283 million) and turnover of centres in the catchment (£415 million) is markedly different and Gravis Planning provides no robust rational explanation for the difference between the two;
- a more detailed analysis of existing retail provision and the health of existing centres is required;
- the estimated turnover of the proposal has not been set out by reference to its likely tenants;
- the methodology provided to estimate the amount of trade diverted from city centre and outlying centres is not robustly justified; and
- Gravis Planning fails to undertake an analysis of cumulative impact of the proposal, in particular the possible impact of the extant approved store on the site and the extant Bridgewater Park approval at Banbridge.

6.16. In this context the Planning Department has considered the information and supporting statements against the factors to be addressed in a retail impact assessment, as identified in Para 6.290 of the SPPS.

- **impact of proposal on trade and turnover for both convenience and comparison goods retailers and the impact on town centre turnover overall for all centres within the catchment of the proposal;**

It is considered that the impact of the proposal cannot be fully assessed. The applicant should review the Retail Impact Assessment with a view to substantiating the retail impact case to address the conflicting figures and data presented to support his findings.

A sensitivity assessment of the proposal based on current information is likely to find the proposal unacceptable. The proposal involves 12,106 sq m of unrestricted net retail floorspace which amounts to 31% of the total City existing floorspace of 39,300 sq m. It is clear that the approval of this level of unrestricted floorspace would have a significantly adverse effect on the existing city centre in terms of trade and turnover and other existing centres. At Appendix 4 Inaltus provide a variety of scenarios of retail impact and cumulative retail impact. The levels of retail impact on Newry City Centre range from best case scenario of 17% to a more likely and very significant impact of 24%-28%. These levels would be unacceptable in the opinion of the Planning Department.

- **impact of proposal on existing committed and planned public and private sector investment and investor confidence in the town centre(s);**

There has been one objection to the proposal, from Retail NI and one letter of support from a resident in Bangor, Co Down.

Investors to Newry will be unlikely to continue to invest in the city centre when there is a directly competing centre that is unrestricted

and has free car parking and easily accessible from Carnbane Way. This proposal will directly compete with the City Centre for existing trade as well as future retailers. The applicant as failed to identify any tenant for this development and in such circumstances the Planning Department expects future retailers to this development would be retailers already located in the City Centre (who may leave) or would otherwise be seeking to locate in the City Centre. This proposal has clear potential to undermine investor confidence in the City Centre.

- **impact on the delivery of planned/allocated sites and the LDP strategy;**

It is considered that there has been insufficient analysis of alternative Development Sites identified in the Plan, in particular a site at Warrenpoint Road (Zoning NY 90). The proposal, based as it is on unrestricted retailing, will make the delivery of this site more difficult. This large out of town retail park could absorb all available retail growth in the coming years.

- **impact on the vitality and viability of existing centres including consideration of local context. This should take account of existing retail mix and the diversity of other facilities and activities;**

The proposal is unlikely to harm the diversity of Newry as it seeks to introduce more multi-national traders.

- **cumulative impact taking account of committed and planned development including plan commitments within the town centre and wider area;**

It is considered that the cumulative impact of the proposal has not been properly assessed with existing or planned development. These include the Bridgewater Park development and the adjacent extant approval for the mixed-use development that includes a 8000 sq metre gross floor space food store. It is important that cumulative impact is properly assessed as these are likely to reduce the catchment, reduce

potential available retail growth for the proposal and will increase impacts.

The applicant states that the food store will not be built unless the requirement to build the business units, which forms part of that planning permission, is removed (see Para 2.0 above). This is not certain and has not been formally established. This application is on the lands approved for the business units and any future approval and implementation of this application would mean that the business units, which are a necessary pre-requisite to the development of the food-store, could not be built. The applicant could then submit a planning condition seeking to remove the relevant planning condition attached to the food-store approval. It would not be reasonable to withhold approval for such an application and the development of the food-store could be finalised in the absence of the industrial units. In these circumstances it is necessary to consider the cumulative impact of the food-store, which could have a turnover of over £12 million, as part of this application and not at some time in the future.

The permission at Bridgewater Park remains a live permission that can be built out at any time. It would be appropriate to model it. However as shown above the proposal both alone and taking account of the food store comparison floorspace would show the proposal to be unacceptable.

- **a review of local economic impacts.**

An Economic Impact Statement was submitted with the application and the reference to economic benefits, in terms of increase in job years during construction and operational years have been noted.

The estimated benefits are based on certain assumptions on related issues, for example, levels of leakage, displacement and levels of occupancy. It is estimated that the proposal has the potential to contribute 840 job years during construction 737 job years and £28.6m

annually to the local economy and contribute 15,579 job years and 619.13m over the entire project lifetime.

The development can be expected to provide economic benefits, both in the construction industry and to the local population. The issue to be considered, however, is how many of these jobs would be additional employment or opportunities displaced from elsewhere, including the City Centre or outlying centres. This is a major issue for this application in view of the open retail nature of the proposal and the future impact on existing centres. This issue has not been properly assessed or quantified by the applicant, so it is difficult to comment on the economic benefits highlighted in the Economic Statement.

It is considered that the information provided in the EIA does not provide sufficient grounds to set aside the valid planning issues highlighted elsewhere in this report.

GENERAL PLANNING POLICY CONTEXT

- 6.17.** In addition to an assessment of need and impact on existing centres, all applications for this type of retail proposal must be assessed in accordance with normal planning criteria, including transportation and access arrangements, design and environmental and amenity impacts.

Planning Policy Statement 2 (PPS 2) Natural Heritage

- 6.18.** The Department of Agricultural, Environment and Rural Affairs, (DAERA), Natural Environment Division (NED) has confirmed no objections in relation to potential impacts on designated sites and other natural heritage interests, subject to the implementation of measures to prevent excess surface water runoff and other pollution affecting the Carlingford Lough Ramsar site. No reference was made to any protected species on the site, with the exception of bats adjacent to the river corridor. Any negative impact could be mitigated through the sensitive siting and use of appropriate bat sensitive lighting (see Para 6.31 below). Shared Environmental Services carried out a Habitats Regulation Assessment on behalf of the Council and concluded, in view of the

nature, scale, timing, duration of the project that, providing specified mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on the site integrity of any European site. These issues can be dealt with through the use of appropriate planning conditions, as suggested.

Planning Policy Statement 3 (PPS3) Access, Movement and Parking

- 6.19.** The site links on to the A27 Carnbane Way, a single carriageway protected route located inside the settlement limit. The proposal will use an existing junction, via a roundabout, to access the protected route. Policy AMP 3 which deals with access onto Protected Traffic Routes, states that planning permission will only be granted for a development proposal involving direct access or intensification of the use of an existing access in exceptional circumstances or where the proposal is of regional significance. In this case the proposal; follows a recent previous approval for a significant mixed-use proposal on the site, using the same access arrangements, to include: a food store, 70 No light industrial/business units, a gatehouse, a coffee shop. The principle of the intensified use of the existing access has already been established and is therefore acceptable. It is also noted that the existing access is identified, in the Area Plan, as the future means of access to serve an existing and proposed area of economic development. Transport NI has confirmed no objections to the proposes access arrangements.

It is considered that sufficient car parking, (875 spaces) has been provided to meet the existing published car parking standards.

Planning Policy Statement 4 PPS 4'Planning and Economic Development'

- 6.20.** The northern portion of the site is zoned as an existing area of economic development and the southern portion is zoned for economic development under Zoning NY 68 in the statutory Plan. The site was also the subject of a recent extant approval for 70 light industrial units as part of a larger mixed-use development, including a food store, under P/2009/0163/F. Under the terms of this approval, a block of these units, (Phase 1) must be constructed and available for occupation before the food-store becomes operational. The

remainder must be commenced no later than 18 months after the disposal of the Phase 1 units. The development of these lands for a retail park would mean that these light industrial units could not be constructed.

- 6.21.** Policy PED 7 of PPS 4 states that development that would result in the loss of land or buildings zoned for economic use in a development plan (either existing or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses. The policy also states that an exception will be permitted for the development of a sui generis employment use where it can be demonstrated that the proposal is compatible with the predominant industrial use; is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally. It states that retailing or commercial development will not be permitted except where justified as acceptable ancillary development.
- 6.22.** The applicant is seeking to overcome the terms of this policy by stating that the economic and other benefits of the proposal are significant and outweigh the impact of the loss of economic development land. The economic benefits are dealt with elsewhere in this report, at Paras 6.16.
- 6.23.** In a supporting document, the applicant also puts forward two additional material considerations which it is considered outweigh the zoning. It is claimed that the zoning is "*a relatively small employment site,*" and that the applicant is bringing forward a 2.2 hectare site, the subject of a concurrent application LA07/2017/0464/F, as an alternative site for employment use, which was not allocated in the BNMAP process. It is claimed that if this site is developed in parallel with the retail proposal then the net loss of economic development land will be 2.4 hectares.
- 6.24.** The total size of the site according to the P1 form is 7 hectares. This includes both the 2.86 hectares zoned as proposed economic development under Zoning NY68 and the remainder identified as an Existing Area of Economic Development. The concurrent development of both the application site for a

retail park and the nearby site as alternative employment lands would result in a net loss of 4.8 hectares of economic development land, as opposed to 2.86 hectares, as stated by the applicant.

- 6.25.** The applicant also states that there is a surplus of undeveloped economic development land in Newry and, under the current rate of take up, there is still a remaining supply for over 67 years. If the 2.86 hectare employment zoning on the application site is discounted then there is still a remaining supply for over 65 years, and therefore according to the EIS there will not be a significant diminution of employment land either in the locality or in the plan area generally.
- 6.26.** There is a significant amount of remaining undeveloped employment lands in Newry (see Appendix 5). In this context it is accepted that this proposal, if approved in conjunction with the associated application for 2.2 hectares of additional employment lands, would not lead to a significant diminution of the employment resource.
- 6.27.** This policy contains a clear presumption against land zoned for economic development being utilised for other purposes. The listed exemption refers to *sui generis* uses as defined in the Use Classes Order, and this would exclude retailing. The listed exemptions also include a development of a scale, nature and form appropriate to the location. The Planning Department considers, having completed its assessment of the application and all supporting material, that the proposed level of unrestricted retailing would have a significant adverse impact on existing centres and is not acceptable at this location, in planning policy terms.
- 6.28.** In the light of the above, the proposal is therefore contrary to PED 7 of PPS 4 on the basis that it would result in the loss of both land zoned for existing and

proposed economic development use, including lands recently approved on such zoned lands for light industrial business units.

Planning Policy Statement 6 (PPS 6) Planning Archaeology and the Built Heritage.

- 6.29.** The proposal adjoins the Newry Canal and Newry River corridors, both designated as a Local Landscape Area (LLPA). A portion of the development encroaches into the LLAP on the north eastern point adjacent to the Carnbane Roundabout and to the south eastern point adjacent to the Newry River.
- 6.30.** A LLPA designation does not preclude development provided it does not adversely affect its intrinsic environmental value and character, as specified in the Area Plan, in this case the 'nature conservation interest and associated vegetation and trees' associated with the canal and river.
- 6.31.** The proposal includes a Landscape Management and Maintenance Plan and a Landscape Masterplan. The proposed site plan and the Landscape Masterplan Plan includes provision for 10 metre buffer to the Newry Canal, adjacent with an internal pathway, and the retention of indigenous species and additional planting to peripheral areas beside the canal and river.
- 6.32.** Natural Environment Division has advised, in its consultation response, that additional planting (to reflect an earlier approval P/2009/0163/F0 should be provided around the watercourse. It also recommends no lighting is directed towards the watercourse and the use of low sodium bat sensitive lighting.
- 6.33.** Overall it is considered that the proposal will not be detrimental to the character of the designated LLPA's. A buffer zone with public access is being provided, as required.
- 6.34.** The Newry Canal is also a scheduled monument. Historic Environment Division has stated that it is satisfied with the proposal subject to the implementation of measures to protect the Canal and that a written

programme of archaeological works is submitted before the commencement of development, and that an archaeologist is afforded access to the site at all times during its development to identify any archaeological remains that may be uncovered. These can be addressed through appropriate planning conditions.

Planning Policy Statement 15

- 6.35.** DfI Rivers Agency is content with the contents of the Drainage Assessment in relation to policies FLD1, 2, 3 and 4 of PPS15. The site is within the catchment of a reservoir, Camlough Lake, in relation to Policy FLD5. Rivers Agency is satisfied that the applicant has applied the correct methodologies in its assessment.

7.0. Objections and Representations.

- 7.1.** The majority of the issues raised have been considered as part of the assessment of the application, as outlined above. It has also been stated that any approval would be premature in the context of the SPPS Para 5.73. It is acknowledged that a new Local Development Plan is under preparation for the Council District and that this is a substantial proposal with a significant individual and cumulative impact that must be considered. The LDP process still in its early stages, (the Plan Strategy is due to be published) and it is considered, on balance, it would not be appropriate to, refuse this application on the grounds of prematurity, in view of the plan timetable.

The Planning Department is also satisfied that the previous applications were properly assessed in the context of prevailing policy.

8.0. CONCLUSION AND RECOMMENDATION.

- 8.1.** It is concluded that insufficient information has been submitted to enable the Planning Department to properly assess the proposal against the relevant policies, (fuller details on this are provided in the Inaltus Reports in Appendix 4). In particular it is considered that the supporting information needs to be updated and that:

- The applicant must provide clarity as to the case being made. The retail data presented is internally conflicted. The Retail Impact Assessment is not robust;
- the Catchment should be justified properly using survey information. This has not been clearly set out;
- the Need case needs to be made explicit. The conflicting retail impact methodologies makes the need case unclear;
- the Sequential Assessment should reflect the proposal that is needed and rigorously assess the key alternatives in the City;
- the Retail Impact should present a clear transparent methodology that can be tested and demonstrate a correlation between the demand and supply of retail floorspace or a credible explanation and evidence for lack of correlation; and
- other aspects of the Retail Impact Assessment highlighted in this report should be addressed, in particular more robust assumptions on trade diversions and cumulative impact.

8.2. In assessing any application for this level of unrestricted retailing of comparison goods of a major scale on an out of centre location the Council must be fully informed on the level of need for such a development and if this is the most suitable sequentially preferable site. The Council is also required to ensure that it has sufficient evidence to be satisfied that applicant has sought to apply the town centre first approach. It must also be clear on the potential harm it may cause to the City Centre and if that impact can be mitigated. It is considered that the Council is not in a position to make that judgement and to make a fully informed and up -to -date assessment of these issues. It is considered that the evidence at present does not provide a robust analysis on which to reach a recommendation.

8.3. The applicant was made aware of the Planning Department's view during its assessment of the application and was invited to address the issues raised in the retail consultant's reports. The applicant declined and requested that the Planning Department conclude its assessment of the application.

9.0. RECOMMENDATION:

9.1. On this basis the Planning Department considers that the application is contrary to prevailing planning policy, as outlined below and is recommended as a refusal for the following reasons.

- The proposal is contrary to Paragraph 3.8 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the proposal conflicts with an up to date development plan.
- The application is contrary to the Banbridge, Newry and Mourne Area Plan 2015 Plan objectives in that the proposal lies outside the City Centre Boundary as identified by Designation NY 75 and Primary Retail Core of Newry as identified by Designation NY 76.
- The application is contrary to Paragraph 6.270 and 6.271, (bullet point 1 and 2) of the Strategic Planning Policy Statement (SPPS) in that the proposal lies outside the City Centre Boundary and Primary Retail Core of Newry as designated in the Banbridge/Newry and Mourne Area Plan 2015.
- The proposal is contrary to The Strategic Planning Policy Statement (SPPS) 'Planning for Sustainable Development' Paragraph 6.273 in that it does not adopt a 'town centre first approach'.
- The proposal is contrary to The Strategic Planning Policy Statement (SPPS) 'Planning for Sustainable Development', Paragraph 6.291, in that it has not been demonstrated that the proposal will not have a significant adverse impact:
 - on trade and turnover for both convenience and comparison goods traders and on town centre turnover overall for all centres within the catchment of the proposal;
 - on existing committed and planned public and private sector investment and investor confidence in the town centres;
 - on the delivery of the planned/allocated sites and the Local Development Plan Strategy;
 - on the vitality and viability of existing centres; and
 - when taken cumulatively in conjunction with committed and planned development within the city centre and wider area.

- The proposal is contrary to Policy PED 7 of Planning Policy Statement 4 (PPS 4) 'Planning and Economic Development' in that it would result in the loss of land zoned for existing and proposed economic development use in the Banbridge, Newry & Mourne Area Plan 2015.
- The proposal is contrary to the Banbridge, Newry & Mourne Area Plan 2015, Zoning NY 68 and Allocation ECD 1 (Plan Strategy and Framework), in that it would lead to the loss of existing and proposed economic development lands.

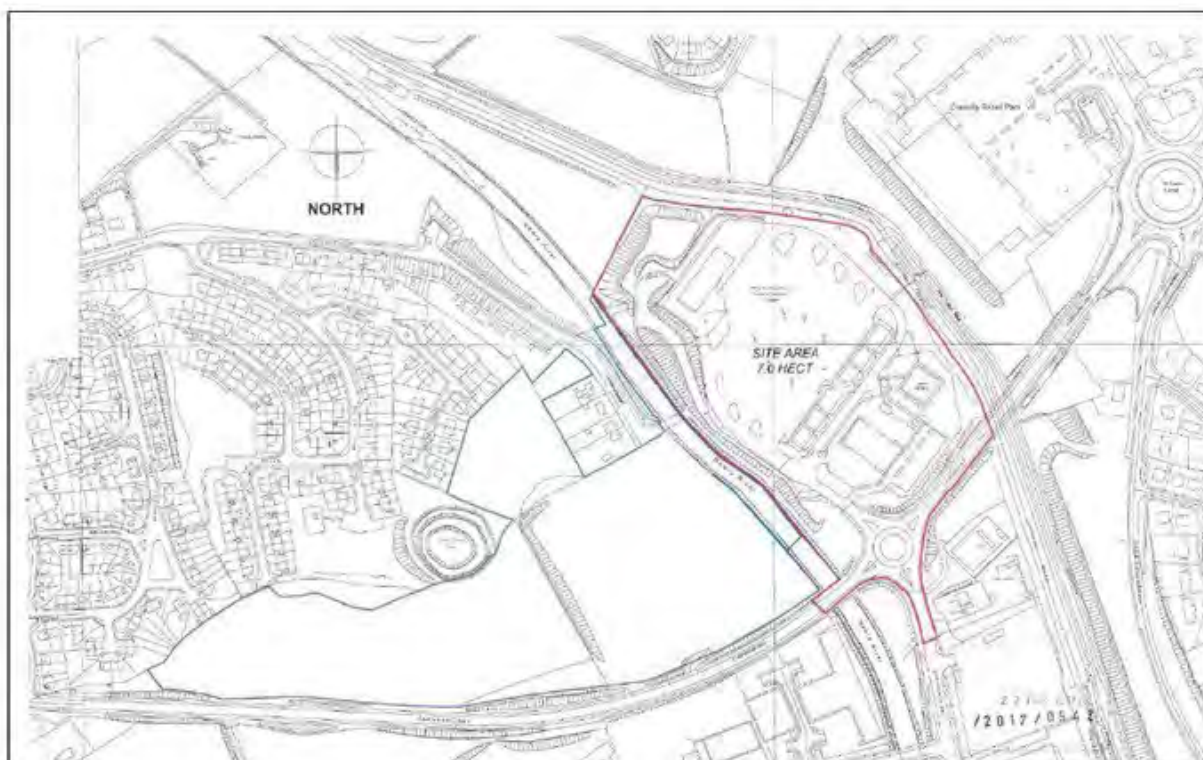
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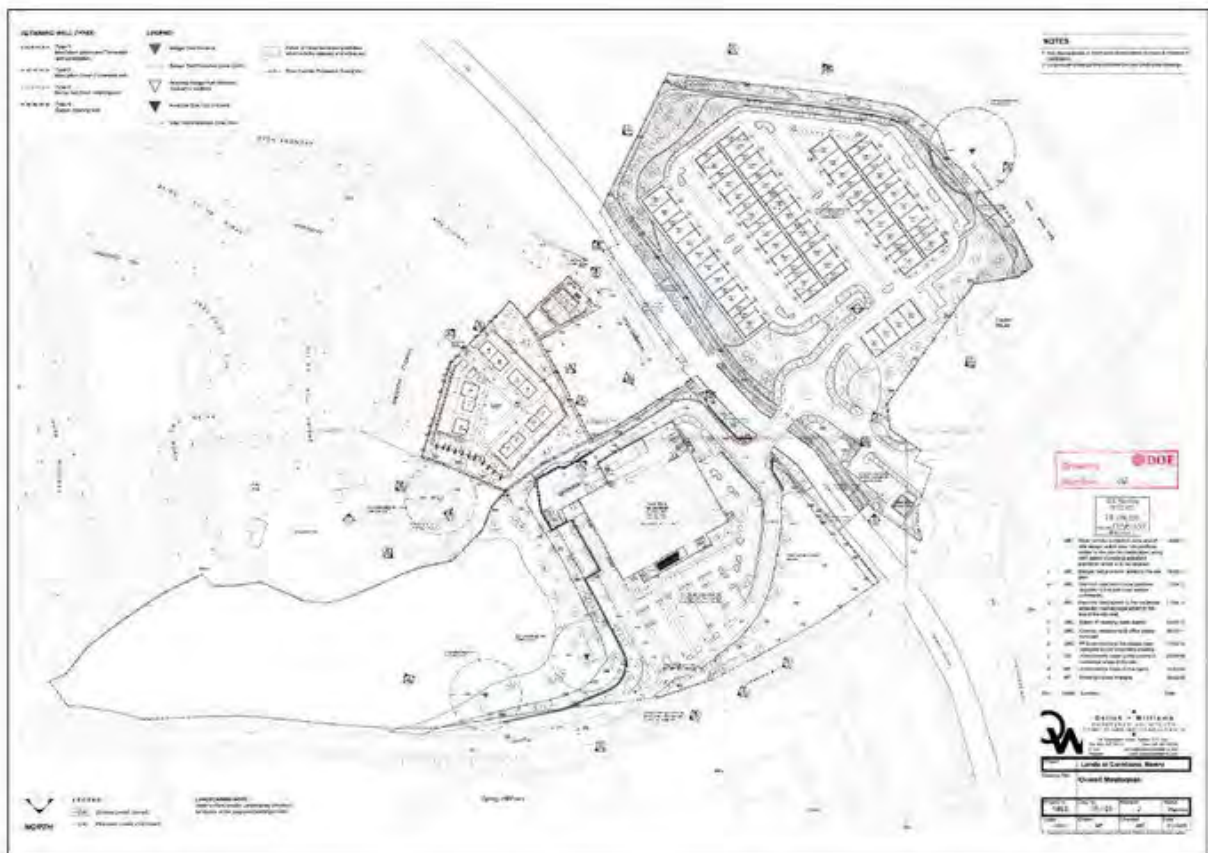
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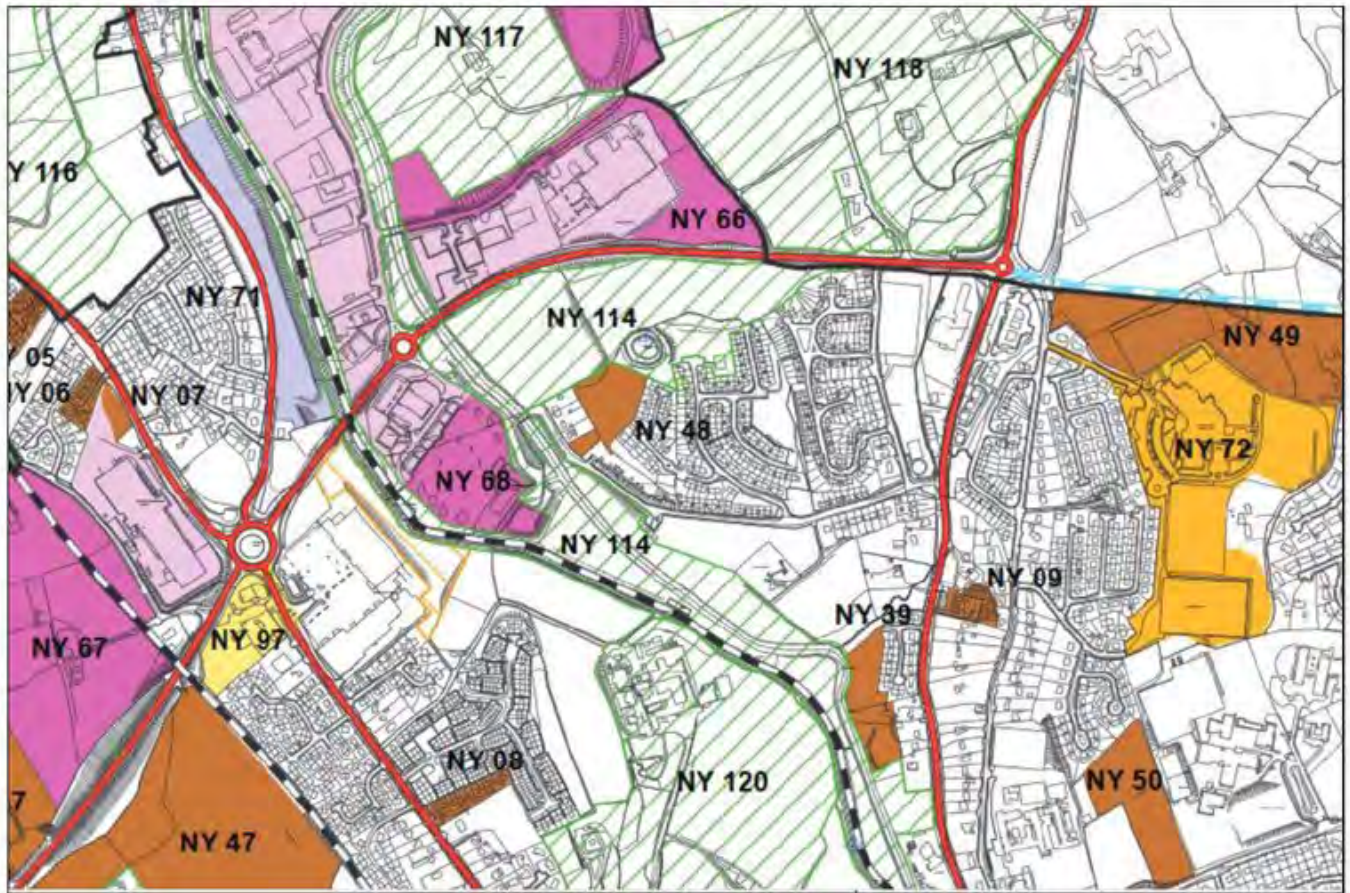
APPENDIX 1: Application Site.



APPENDIX 2: P/2009/0163/F PREVIOUS PLANNING APPROVAL (showing position of proosed food store and light industrial units).



APPENDIX 3: AREA PLAN CONTEXT



APPENDIX 4: INALTAS REPORTS

Retail Impact Technical Note

This technical note addresses the Gravis Planning Retail Impact Assessment.

It deals with the Gravis Planning figures. It does not respond to the Lucid Talk figures which do not follow a typical retail impact methodology.

Catchment

The Gravis Planning catchment estimate of the proposal is not agreed.

A reduced catchment area would exclude zones NE3 and NW3. While there is a case that SW3 zone could also be excluded it has been retained.

Catchment Population, Available Spend and Growth

The effect of this on population levels and the available spend in the catchment is set out below.

Population, Spend, Total Spend and Growth in Spend

Drivetime	2018	Spend per Head (£)	Total Spend (£Mill)	2021	Spend per Head (£)	Total Spend (£Mill)	Growth (£Mill)
0-5 Minutes	18741	1833	34.35	19041	1888	35.95	1.6
5-10 Minutes	26934	1833	49.37	27728	1888	52.35	3.0
10-15 Minutes	32973	1833	60.44	34014	1888	64.22	3.8
ROI	2417	1447	3.50	2461	1461	3.60	0.1
15-20 Minutes	15947	1833	29.23	16438	1888	31.03	1.8
ROI	4826	1447	6.98	4913	1461	7.18	0.2
Total	101838		183.87	104595		194.33	10.5

It can be seen that the catchment is 104,595 in 2021. This is 27,433 fewer people than the Gravis Planning catchment estimates.

The effect of this is that the growth in available spending over the study period is £10.5million. This is about £3million less than the Gravis Planning estimates.

Relationship between the Proposal, Spend and Growth

The relationship between Gravis Planning estimate of the proposal's turnover and available spend and growth is set out below.

It can be seen that the proposal’s turnover equates to 32% of the entire available comparison spend in the catchment. The proposal will therefore be a dominant shopping location in the catchment.

It can be seen that the proposal’s turnover is almost 6 times the amount of spending growth that will occur in the next 3 years.

Based on the spending estimates it will take almost 18 years of spending growth to support the proposal. This means that in order for the proposal to trade successfully, it must divert significant levels of trade from existing centres – the principal ‘like for like’ centre is Newry City Centre.

Relationship Between Spending, Growth and Turnover

Turnover (£Mill)	Available Spend (£Mill)	% of Spend	Growth (£Mill)	Percentage of Growth
62.61	194.33	32%	10.5	599%
Total Growth (£Mill)	Annual Growth (£Mill)	Turnover (£Mill)	No Years Growth to Support Proposal	
10.5	3.48	62.613	18.0	

Retail Impact

Gravis Planning estimate an impact on Newry City Centre of 12%.

We do not consider this to be a robust figure as it assumes only 30% of the proposal’s trade will come from Newry City Centre. Given Newry City Centre is the only unrestricted comparison trading location in Newry and most of the principal catchment, it is unrealistic to expect 70% of the proposal’s trade to come from ‘restricted’ retailing locations. This would be contrary to the principle of ‘like competes with like’.

In order to test the potential level of impacts that Newry might face a range of scenarios have been set out below. For each scenario the impact on Newry City Centre is the key policy consideration.

There is a policy requirement to assess the cumulative impact of the proposal with other consents in the area. In this case, given there is a live permission for a foodstore with comparison retailing located beside this site, it has been considered prudent and robust to provide the cumulative impact should the two proposal’s come forward together. Hence each scenario is classed as scenario a) being the solus impact of the proposal and scenario b) being the cumulative impact of the proposal and the comparison floorspace of the approved foodstore.

The scenarios are below.

Scenario 1a reflects the approach in the Inaltus Report, which weights 70% of the proposal's trade draw from Newry as a whole and 44% diversion from the City Centre. This creates an impact of 17% on the City Centre. This is a baseline impact diversion level.

Scenario 1b allows for the proposal and the committed foodstore comparison development and shows that the impacts could rise to 21% if both permissions were implemented.

Scenario 1a Weighted 70% Diversion from Catchment As Per Inaltus Report

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	44%	27.65	17%
Damolly	52.97	15%	9.19	17%
Other Newry	44.71	11%	6.99	16%
	257.47	70%	43.83	

Scenario 1b Weighted 70% Diversion from Catchment Plus Foodstore Comparison Allowance

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	44%	34.08	21%
Damolly	52.97	15%	11.32	21%
Other Newry	44.71	11%	8.62	19%
	257.47	70%	54.03	

*Comparison Floorspace of Foodstore Assumed to be £14,5million.

Scenario 2a shows the impact if the proposal draws 50% of its trade from Newry City Centre. This is a more likely scenario than 1a given the proposal and Newry City Centre will compete on a like for like basis. It shows Newry losing 20% of its trade to the proposal.

Scenario 2b again builds in the diversion of the proposal and the committed foodstore comparison development and shows that the impacts could raise to 24% if both permissions were implemented.

Scenario 2a 50% Diversion from Newry

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	50%	31.31	20%
Damolly	52.97	15%	9.19	17%
Other Newry	44.71	11%	6.99	16%
	257.47	76%	47.49	

Scenario 2b 50% Diversion from Newry Plus Foodstore Comparison Allowance

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	50%	38.59	24%
Damolly	52.97	15%	11.32	21%
Other Newry	44.71	11%	8.62	19%
	257.47	76%	58.54	

*Comparison Floorspace of Foodstore Assumed to be £14.5million.

Scenario 3a shows the impact if the proposal draws 60% of its trade from Newry City Centre. This is the most likely given the proposal and Newry City Centre will compete on a like for like basis. It shows Newry City Centre losing 24% of its trade to the proposal.

Scenario 3b again builds in the diversion of the proposal and the committed foodstore comparison development and shows that the impacts could rise to 29% if both permissions were implemented.

Scenario 3a 60% Diversion from Newry

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	60%	37.57	24%
Damolly	52.97	15%	9.19	17%
Other Newry	44.71	11%	6.99	16%
	257.47	86%	53.75	

Scenario 3b 60% Diversion from Newry Plus Foodstore Comparison Allowance

Location	Turnover 2021 £	% Diversion	£ Diversion	% Impact
Newry City Centre	159.79	60%	46.31	29%
Damolly	52.97	15%	11.32	21%
Other Newry	44.71	11%	8.62	19%
	257.47	86%	66.25	

*Comparison Floorspace of Foodstore Assumed to be £14.5million.

It can also be noted that if the foodstore is built it would require the applicant to set out the cumulative impact of the entire foodstore plus the proposal on Newry City Centre. This has not been done and no data has been provided to allow an analysis of this nature to be carried out.

Conclusion

An impact of 17% would be a concern for the vitality and viability of Newry City Centre. Impacts of 24%-29% would be of a very significant concern and would reduce the turnover of Newry City Centre by a quarter.

Newry, Mourne and Down District Council

**SECOND DETAILED APPRAISAL OF RETAIL IMPACT
ASSESSMENT**

**PROPOSED RETAIL PARK WITH ANCILLARY COFFEE SHOP AND
RESTAURANT UNITS
FORMER HM REVENUE AND CUSTOMS HOUSE AND CLEARANCE STATION,
CARNBANE WAY, CARNBANE INDUSTRIAL ESTATE, NEWRY BT35 6QG
REF:LA07/2017/0542/F**

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1) Introduction to the Brief

- 1) Inaltus have been appointed by Newry, Mourne and Down District Council to carry out a detailed Appraisal of the Supporting Planning Statement submitted for a proposed Retail Park with ancillary Coffee Shop and Restaurant Units at the Former HM Revenue and Customers House and Clearance Station, Carnbane Way, Carnbane Industrial Estate, Newry BT35 6QG (Ref: LA07/2017/0542/F). The Appraisal will be used to support the Council's consideration of the planning application in line with prevailing planning policy as contained in the statutory plan for the area, the Banbridge/Newry and Mourne Area Plan 2015 and the Strategic Planning Policy Statement (SPPS).
- 2) This Appraisal considers the Supporting Planning Statement of Gravis Planning (GP) dated April 2019.
- 3) This is the second review prepared by Inaltus. The first Statement (our 2018 Report) reviewed the work of MBA Planning. In cross referencing to our 2018 Report, this will be identified as "IN2018".
- 4) GP are now the new agents for this application and have presented new information to support the proposal.
- 5) It can be noted that having regard to our IN2018 Report, the proposal, the policy context, the background information and planning history has not changed. We do not therefore repeat the comments made albeit they remain valid.

2) Sequential Test

- 6) Our original commentary (IN2018 paragraph 53-54) on the sequential test was that the presentation of one-off small shop units would clearly not satisfy the need for a large retail development, and that more detailed consideration should be given to two sites that had been identified by MBA as having potential.
- 7) Our concern remains that the applicant has not provided sufficient justification as to why this proposal could not be located on the alternative sites particularly site NY90.
- 8) GP paragraph 3.5 has again stated that this site is not available and provided an aerial map of a variety of buildings and suggests that the ABP Food Group own the entire site.
- 9) This site is a large zoning and it appears that there are areas of land that are not occupied by any buildings. No evidence has been presented as to the suitability or availability of these lands.
- 10) GPs assessment and dismissal of the various sites comprises a single paragraph on each. For an application that seeks to provide unrestricted open class retailing out of centre in Newry, it is important that the applicant provides a thorough and robust analysis of alternative sites. That has not been provided.

Accessibility of the Application Site

- 11) GP paragraph 3.8 note our concerns about the accessibility of the site to public transport and suggest that public transport can be improved to the site. When making our comments we were aware of the potential of a public transport provision under the previous planning consent.
- 12) SPPS policy states '*out of centre locations, where sites are accessible by a choice of good transport modes*'. The policy does not provide scope for improved transport modes. The location of the proposal is off an inner ring road and not in any close proximity to housing. The accessibility of the site has been assessed at paragraph 50 of our IN2018 Report. It is a matter for the Council as to whether the site is accessible by public transport, given the comments in the Transport Assessment.
- 13) The Council are required to ensure that it has sufficient evidence to be satisfied that applicants have sought to apply the town centre first approach. The evidence at present does not provide a robust analysis on which to reach a recommendation.

3) Quantitative Issues and Retail Impact

Catchment

- 14) We indicated in our IN2018 Report (paragraph 69-70) that a 15 minute catchment should be utilised and that a 20 minute catchment should be supported by a household survey to inform whether the outer parts of the 20 minute catchment are appropriate. Having reviewed the GP report we disagree with the inclusion of the area north of Banbridge in the catchment area given the proximity of Sprucefield and Craigavon.
- 15) GP relies on the Catchment Area and surveys of the Roger Tym Retail Technical Supplement of the Banbridge Newry and Mourne Area Plan 2015 as a justification for their catchment. The catchment considered in the Technical Supplement sought to understand the shopping patterns of Banbridge and Newry as district towns. This is not justification to support a catchment of a Newry only location. The surveys used in the Technical Report are dated 2005 and so pre-date a large amount of retail development at the Boulevard and the opening of the large Tesco store and Home Bargains at this site. The applicant has been asked to justify their estimated catchment based on up to date evidence and shopping patterns but the information included by GP does not do this.
- 16) GP present data from 2009 (10 years old) from the Louth County Retail Strategy, which includes shopper surveys from 2007. Such surveys were taken before the 2008 financial crash and before a number of economic changes that have occurred in the last decade. Reliance on a 2007 survey is not consistent with the SPPS requirements for up to date evidence. Notwithstanding, the tables reproduced by GP paragraph 4.9 shows that in the Dundalk catchment 7% of people identified Newry as a shopping destination for clothing and footwear goods and 5% of people identified Newry as a shopping destination for bulky goods. This data implies a "tertiary" retail attraction and is not at a level that would support a 20 minute catchment.
- 17) GP Appendix 12 appends a survey undertaken by Lucid Talk. This provides information on catchment spend. Page 20 of the survey shows that £36million (64%) of available spend in zone NE3 is spent "outside the complete catchment area". Similar proportions is being spent outside the catchment area in zone NW3 (60%), SE3 (60%) and SW 3 (63.4%). The survey does not support a case for a 20 minute catchment.
- 18) GP has not fully addressed our comments about the catchment. There could be a case that 20 minutes is appropriate towards Dundalk and Armagh, but that needs to be properly

supported. The 20 minute catchment to the north is not justified. The Catchment Area should be a matter capable of agreement, but the information does not yet allow this.

Methodology

- 19) GP paragraph 4.29 is incorrect in implying that Inaltus recommends the market share approach to calculate existing retail turnovers rather than sales densities. The case presented by MBA original was based on an outflow case. In order to be helpful it was suggested (IN2018 paragraph 86) that to support the outflow argument surveys would be required to inform the RIA. Each applicant is entitled to apply a methodology appropriate to their case. GP applies the sales density approach.
- 20) Design and base years of 2018 and 2022 are acceptable. However GP paragraph 4.31 states *'we have projected this forward to 2021 and 2022, the latter being what we consider to be more appropriate and reasonable design year for the proposed development'*. All tables however apply 2021 as the design year. This is confused.

Catchment Population

- 21) The source of catchment population for Northern Ireland is accepted. We have carried out sample checks on the population sources for the NI wards using the 2017 Mid Year estimates and agree with the figures. The Republic of Ireland information states that it uses the 2011 Census. The most recent Census information is the 2016 Census and it would have been preferable that this was used.
- 22) The survey (Appendix 12 page 17 last column) indicates that there are 55,440 households in the catchment. Appendix 12 (Page 3 column 5) applies an average household size of 3. This suggests that the catchment population is 166,320 people. Alternatively, taking the total spend in the catchment in the survey (page 20 column 4) of £319,713,823 and dividing it by the survey spend per head of £2002.61 (page 1 Column 6) gives the catchment a population of 159,648 people. As a result the survey provides two different population estimates, both of which are about 30,000 greater than the published data and GP estimates. This is clearly contradictory. It leaves the Council in an invidious position of making an assessment and decision that is plainly open to challenge and we are obliged to caution against this.
- 23) The Table below reproduces the GP population estimates. It can be seen that the 15-20minute drive time has by far the greatest population and contributes 37% of the population to the applicant's catchment. It grows the population from a population of about 83,000 to 132,000 (+60%). This is a significant jump in catchment population which should be robustly justified.

GP Population Breakdown

Drive Time	2021 Population	% Population
0-5 minutes	19041	14%
5-10 minutes	27728	21%
10-15 minutes	36474	28%
15-20 minutes	48785	37%
Total	132028	100%

Zone Population

- 24) GP paragraph 4.33 again implies that Inaltus requested the applicants provide a zonal catchment. It is for the applicant's consultants to present the assessment. Inaltus have made comments on methodology. The Map produced at Appendix 7 is helpful, but again, the 20 minute catchment is not justified based on the evidence.

Available Spend

- 25) GP paragraph 4.37 advises that the spend per head has been updated with reference to published figure and also figures derived from the household survey. It is unclear how the published data and the household survey figures correlate. If anything the two data sources are inconsistent.
- 26) GP paragraph 4.41 states that the household survey found spend per head to be £2002.61 and states that '*it seems appropriate to use the spend per head from the household survey*'. No justification is provided.
- 27) GP paragraph 4.42 sets out estimates applied of spend per head. However GP fails to give consideration to SFT when concluding on a final spend per head figure to employ. The figures quoted seek to again draw comparisons with Inaltus figures, however again the figures are not applying the data consistently.
- 28) GP quotes spend per head for Inaltus in 2017 as £2030. This was based on a total spend per head of £2349 and SFT of 13.6% in 2014. If the current SFT allowance of 20% was applied to £2349, the spend per head would be £1879. This would be in close comparison with the GP

estimates of £1833 in 2018. The GP estimates from the survey of £2002.61 do not appear to be adjusted for SFT. Applying a 20% allowance for SFT would bring this estimate to £1601.

- 29) The more robust data is to use the LCFS data.
- 30) GP paragraph 4.39 does not appear to make any allowance for SFT spending in the ROI. This should be confirmed and/or addressed.
- 31) GP Appendix 8 Tables 4 and 5 set out competing available comparison spend scenarios. Table 4 applies the published available spend data and shows an available spend of £246 million in 2021 and a growth of £13.6 million in the 20 minute catchment. Again it can be noted that £90million (a third) of available spend relied upon by the applicant is from the 15-20 minute catchment area.
- 32) Table 4 also shows that £5.2 million (38%) of growth occurs in the 15-20 minute catchment. This is important because the large towns of Banbridge, Armagh and Dundalk will have a strong claim on this available spend and available growth.
- 33) Growth in the 0-15 minute catchment area equates to £8.4 million.
- 34) Table 5's estimates of available spend and growth are reliant on the household survey. However as indicate above, there is no way to verify the spend per head figures and it is unclear how these figures deal with SFT.
- 35) The same pattern of available spend is shown in Table 5 as in Table 4. About 103 million (35%) of the catchment spend is in the 15-20 minute catchment and £11million (36%) of spending growth is in the 15-20 minute catchment.

Turnover of Existing Comparison Retail Sector

- 36) GP paragraph 4.44 refers to Table 6 and states that the total comparison turnover in the catchment is currently estimated at around £391million rising to an estimated £415m by the design year.
- 37) There is no correlation between the estimated available spend and the turnover of shops. This is shown below where regardless of which spend per head is used, the estimated available spend in the 20 minute catchment is still £130-£169million less than that being spent in the catchment. No explanation is given for this substantial difference between the available spend and the estimated turnover of the centres in the catchment.

Comparison between Spend and Turnover Estimates

Year	Available Spend £	GP Turnover of shops in Catchment £ (Table 6)	Difference	% Difference
2021 (as per table 4)	£ 246,060,957	£ 415,380,452	£ 169,319,495	69%
2021 As per Table 5)	£ 283,142,526	£ 415,380,452	£ 132,237,926	47%

38) Centres will experience a degree of inflow, and often this is allowed for at 10%, but again this would be a 10% inflow from outside the 15 minute catchment. GPs analysis suggests there is an inflow of between 47% and 69% from beyond 20 minutes drive time. In other words for every £100 spent in the Catchment Area, about £40 comes from people living more than 20 minutes drive away. That is simply not realistic.

Turnover of the Proposal

39) GP paragraph 4.45 has not reflected on our original comments. The application is for a major open class retail development, and it is the applicant's case that it will attract shoppers from a 20 minute catchment and many from well beyond. For a development to attract customers in this manner means shoppers will turn their backs on available shopping opportunities in Dundalk, Armagh, Banbridge and Sprucefield. To attract people to this development, the proposal will need to offer shops that are above average. Sports shops such as DW Sports, household shops such as Harry Corry, toy shops such as Smyths Toys etc will not attract new people into this catchment because they are already located in Newry and already located in competing centres.

40) Moreover, the proposal is not for a mixture of bulky and non bulky retailers. The application seeks to provide wholly unrestricted retail floorspace and as such the applicant should apply sales density figures of premium retailers such as Next, M&S, The Perfume Shop, River Island, H Samuel to this proposal. An indicative tenant line up was requested (IN2018 paragraph 84), which has not been provided.

41) The letter from Mike Prentice Consulting Ltd (GP Appendix 13) provides no information of the tenants that would take up the space, other than to state that some of the retailers are not represented in Newry City Centre and some would be new to Northern Ireland.

Household Survey

- 42) GP (paragraph 4.49) relies upon the household survey to 'inform the assessment of retail impact'. The survey provides information that conflicts with the GP data in terms of retail impact. The survey (page 20) provides patterns of spending. It shows the following, which compares to GP estimates.

Turnover Estimates in the Catchment Comparison between GP and Survey

Location	Survey (page 20)	GP Table 9	Difference
Newry City Centre	£ 82,415,722	£ 159,792,267	£ 77,376,545
Other Catchment Area	£ 62,714,134	£ 255,588,185	£ 192,874,051
Outside Catchment Area	£ 174,583,967	£ -	£ (174,583,967)
Total	£ 319,713,823	£ 415,380,452	£ 95,666,629

- 43) This shows that despite the survey identifying a higher spend per head (excluding SFT) it has lower centre turnovers in the catchment than GP. Significantly the estimates of the turnover of Newry City Centre are about half that estimated by GP. Given the significant inconsistency between the figures the applicant should be required to clarify which evidence is to be relied upon. GP prefer to adopt the survey for its higher spend per head figures, but do not use it for the lower centre turnover figures.

Trade Diversion Assumptions

- 44) GP paragraph 4.49 states that the results of the survey have been used to inform the analysis of spending power in the catchment and to assess likely trade diversions by the proposal, but given the difference shown above it is not clear exactly how the survey informed the trade diversions.
- 45) GP Table C (page 19) sets out figures it says supports an understanding of shopping patterns of people living in Newry City. It is unclear where in the survey this data is derived from. GP relies on Table C to determine the patterns for trade diversion however, in order to test this the background information should be clearly set out.
- 46) The methodology employed by GP differs from the MBA report. The MBA report sought to justify the proposal based on claw back of outflow. GPs retail impact methodology applies a sale density approach and seeks to divert trade from existing shops in the centre, principally in Newry City Centre and elsewhere in Newry. The GP approach is similar to the Departments

approach in determining the comparison floorspace associated with the foodstore application at Carnbane Way (Ref: P/2009/0163/F).

47) The Department assumed the following trade diversion:

Newry City Centre	48%
Damolly Retail Park	11%
Newry City Other	28%
Other in 15 Minute Catchment	0.3%
Outside 15 Minutes	12.7%
Total	100%

48) GP diversions (Appendix 8 Table 9) are summarised below:

Newry City Centre	30%
Damolly Retail Park	20%
Newry City Other	20%
Other in 15 Minute Catchment	12%
Outside 15 Minutes	18%
Total	100%

49) GP trade diversions do not follow any realistic trading patterns. In turnover and floorspace terms it can be noted that Newry City Centre has considerably more floorspace and turnover when compared to the other shopping locations in Newry.

50) Even applying only the diversion level of 70% of the proposal's turnover from Newry (which we would not accept but which is what GP suggest) on a pro rata basis this would indicate that over 44% of trade should be diverted from Newry City Centre. This is shown below. It would mean that £27.55 million should be diverted from the City Centre and would result in an impact of over 17%. This would be more in-line with the Department's trade diversions for the comparison floorspace of the foodstore application.

Analysis of Floorspace and Turnover of Newry Locations

Location	Floorspace	% Floorspace	Turnover 2021 £	% Turnover	Average % between Floorspace and Turnover	Weighted % of 70%
Newry City Centre	39300	64%	159792267	62%	63%	44.16%
Damolly	13093	21%	52965672	21%	21%	14.67%
Other Newry	8922	15%	44707192	17%	16%	11.17%
	61315	100%	257465131	100%	100%	70.00%

- 51) There is a requirement to consider whether there would be alternatives to the pro-rata diversion set out above. However, as the proposal is for unrestricted open class retailing, and there is only restricted retailing found outside the City Centre, there would be grounds to weight the diversion more heavily on the City Centre, increasing potential impact. This would be consistent with the principle of "like competes with like".
- 52) GP paragraph 4.55 states rightly that the City Centre is the nearby competitor of the proposal, but the estimated diversions have been "*tempered*" by the findings of the household survey. Again it is unclear what link there is between the household survey to the decision to temper potential diversions. The same paragraph notes that the City Centre is found to be congested in the survey. This would increase the potential diversion of trade to an unrestricted retail park with good access to Carnbane Way and free car parking. As such the potential diversion levels should be more, not less than what GP suggest.
- 53) It can also be noted that the shops in Damolly are restricted retail shops and as such there would be less chance of like for like trade diversions and impacts. The other Newry locations is clearly dominated by Tesco. This appears to have a very high comparison turnover of £24 million, when it is more likely to be around £10million. The MBA Retail Impact Assessment submitted with the Tesco application estimated that the comparison turnover of this store would be £9.86 million in 2012. As such the comparison turnover for Tesco seems to be an over estimate.
- 54) We acknowledge GP has reduced diversion from the Boulevard to 12%, which seems appropriate.
- 55) In terms of loss of trade from Dundalk, Sprucefield, Armagh Craigavon and Boucher, GP draw trade from these Centres of 13%, which whilst above a normal 10% allowance for inflow, would be inconsequential overall.

Cumulative Impacts

- 56) We are unclear as to GP's case regarding the approved foodstore on this site. GP paragraph 4.63 states that the foodstore will not be built unless the requirement to build business units is removed. However this application is located on the business unit lands and approval of this application would mean the business units could not be built and the applicant could seek to remove the condition requiring the business units on grounds that the condition is no

longer reasonable. This permission P/2009/0163/F is valid until August 2019 and thus unless the Council are satisfied the permission has lapsed at the time of making a decision, it would be necessary to have regard to the potential impact of the comparison element of the foodstore. The comparison floorspace of this store could have a turnover of over £12million and it would be appropriate to model it.

- 57) The permission at Bridgewater Park remains a live permission that can be built out at any time. We note the comments made by GP paragraph 4.64, but this is a consent that has already been highlighted and there is scope for some aspects of the permission to divert trade from Newry. It would be appropriate to model it.

Summary on Quantitative Issues and Retail Impact

- 58) As it stands there are a number of concerns regarding the retail impact assessment. The methodology has changed and while our IN2018 Report made some comments, the fact that the applicant has appointed new consultants that have employed a different methodology to that which was previously discussed, means this is the first opportunity we have had to comment on the approach.
- 59) The approach in this case is confused and presents within it two competing sets of figures for the population, spend per head, total available spend and the turnover of existing centres. GP cherry-pick the spend per head figures from the survey, but ignore the other figures provided in the survey.
- 60) There is no correlation between the available spend and the turnover of centres in the catchment. The difference in the figures are very wide and there is no acknowledgement or explanation for this.
- 61) It is unclear the basis for the trade diversion assumptions, which despite GP implying they are based on survey data, it is not set out where in the survey data the assumptions are sourced.
- 62) Applying the historical Department levels of trade diversion the impacts of the proposal would be circa 17%. If like-for-like diversion were applied impacts could be higher. The applicant's criticism of Newry City Centre as a trading location could also encourage even greater than 44% trade diversion from the City Centre and higher impacts as a result.

4) Need

- 63) GP paragraph 5.2 indicates that there will be a growth of £30mill between 2018 and 2021, however, this is based on the survey spend per head figures and not the LCFS. Applying the LCFS the growth is £13million. Allowing for the potential for the comparison turnover of the foodstore alone at Carnbane Way would soak up all of this growth.
- 64) GP paragraph 5.3 illustrates the inconsistencies in the approach. It recognises that the household survey is indicating a reduced level of turnover in the Catchment Area to the GP sales density approach, with the survey showing an outflow of expenditure of £174.5 million and the sales density approach showing an inflow of expenditure of £132.2million. While there will be some inflow and outflow in any catchment, the levels of figures in this case are simply not credible in either case.
- 65) GP paragraph 5.3 implies that even though their figures show a massive inflow of £132 million, the proposal should be allowed because £174 million is being spend by people that live in the catchment outside the catchment area. In percentage terms:-
- The GP analysis shows an inflow of 47%; and
 - The Survey analysis shows an outflow of 54.5%.
- 66) Given the trading levels of Newry and the distances to competing centres, neither of these figures can be right. These figures do not imply a need for the proposal, instead they highlight that there is no correlation between the demand and supply in the GP report or in the survey.
- 67) GP paragraph 5.4 sets out the employment generated by this proposal. It is a matter for the Council as to the weight to be given the jobs created by this proposal.
- 68) The LucidTalk qualitative survey presents the replies of 504 people surveyed, however, despite the survey stating that the results are provided by each individual segment in the 20 minute catchment the results are only presented for the whole 20minute catchment. As such it is not possible to determine if people responding to these questions live in Newry or perhaps 20minutes away in Banbridge.
- 69) GP paragraph 5.5 presents the findings of the survey without specific reference to page or question number, which is unhelpful. There is no way of knowing where those that are dissatisfied in the survey live.

- 70) As such the arguments presented by GP in paragraph 5.6 are not directly supported by the survey or their own analysis. For example, given GP find a massive 47% inflow of spending to the catchment it is inconsistent to argue that the proposal will retain shoppers in Newry and help make Newry a stronger retailing destination. There is nothing in the applicant's statement to suggest that Newry City Centre will be a stronger destination if this out of centre development is allowed.
- 71) GP paragraph 5.7 suggests that the proposal will balance the city retail offer, as a large part of the City Centre's comparison retail offer is located in the two shopping centres. This argument is inconsistent with the town centre first approach and the sequential test. There is no case being made that there will be any linkage or connection between the application site and the City Centre. The fact the application site is about 1.2 miles from the City Centre and will provide directly competing goods of a major scale from unrestricted shops indicates there is little to entice customers to make linked trips between the two locations.
- 72) Whilst there may be a benefit from a reduction in congestion, it is a matter for the Council as to the weight that is applied to this factor, bearing in mind the scale, nature and location of the proposal. It is notable that proposals are progressing for the Newry Southern Relief Road which is currently out to consultation.
- 73) GP paragraph 5.10 makes the case for cross border trade. There is a clear and obvious case that shoppers cross the border, however the scale of this is unclear other than the suggestion that it equates to 25% of zones SW2 and SW3.
- 74) GP paragraph 5.11 states that the Mike Prentice letter is '*evidence of a strong need for the proposed retail space*'. The letter provides no evidence, no names of specific retailers and no market research showing a demand from additional retail units of the scale proposed seeking to locate in Newry and which cannot be accommodated in the City Centre.

Assessment Against SPPS Para 6.290

- 75) Turning to the key test of the RIA, which is whether the proposal satisfies the criterion of SPPS para 6.290 the following can be noted:
- **the impact of the proposal on trade and turnover for both convenience and comparison goods traders, and the impact on town centre turnover overall for all centres within the catchment of the proposal;**

76) The impact of the proposal cannot be fully assessed. A sensitivity assessment of the proposal based on current information is likely to find the proposal unacceptable. The Council should invite the applicant to review the GP RIA with a view to substantiating the retail impact case to address the conflicting figures and data presented.

- **the impact of the proposal on existing committed and planned public and private sector investment and investor confidence in the town centre/s;**

77) There has been one objection to the proposal – from Retail NI and one letter of support from a resident in Bangor, County Down.

- **the impact of the proposals on the delivery of the planned/allocated sites and the LDP strategy;**

78) The proposal will make delivery of the NY90 site more difficult. The large out of town retail park could soak up all available retail growth over the coming years.

- **the impact on the vitality and viability of existing centres including consideration of the local context. This should take into account existing retail mix and the diversity of other facilities and activities.**

79) The proposal is unlikely to harm the diversity of Newry as it seeks to introduce more multi-national retailers.

- **Cumulative impact taking account of committed and planned development, including plan commitments within the town centre and wider area;**

80) The cumulative impact of the proposal has not been assessed with the Bridgewater Park development or the comparison element of the approved foodstore. It should be as these are likely to squeeze the catchment, reduce potential available retail growth for the proposal and will potentially increase impacts.

- **a review of local economic impacts.**

81) The local economic impacts have been noted.

5) Conclusion

82) To put the Council in a position to assess this application in detail it would require the applicant to update the supporting information. It is a matter for the applicant, but it would be our view that:

- a. The applicant must provide clarity as to the case being made. The retail data presented is internally conflicted. The RIA is not robust;
- b. The Catchment should be justified properly using survey information. This has not been clearly set out;
- c. The Need case needs to be made explicit. The conflicting retail impact methodologies makes the need case unclear;
- d. The Sequential Assessment should reflect the proposal that is needed and rigorously assess the key alternatives in the City;
- e. The Retail Impact should present a clear transparent methodology that can be tested and demonstrate a correlation between the demand and supply of retail floorspace or a credible explanation and evidence for lack of correlation.
- f. Other aspects of the Retail Impact Assessment highlighted in this report should be addressed, in particular more robust assumptions on trade diversions and cumulative impact.

Newry, Mourne and Down District Council

DETAILED APPRAISAL OF RETAIL IMPACT ASSESSMENT

**PROPOSED RETAIL PARK WITH ANCILLARY COFFEE SHOP AND
RESTAURANT UNITS**

**FORMER HM REVENUE AND CUSTOMS HOUSE AND CLEARANCE
STATION, CARNBANE WAY, CARNBANE INDUSTRIAL ESTATE,
NEWRY BT35 6QG REF:LA07/2017/0542/F**

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6) Introduction to the Brief

- 1) Inaltus have been appointed by Newry, Mourne and Down District Council to carry out a detailed Appraisal of the Retail Impact Assessment submitted for a proposed Retail Park with ancillary Coffee Shop and Restaurant Units at the Former HM Revenue and Customers House and Clearance Station, Carnbane Way, Carnbane Industrial Estate, Newry BT35 6QG (Ref: LA07/2017/0542/F). The Appraisal will be used to support the Council's consideration of the planning application in line with prevailing planning policy as contained in the statutory plan for the area, the Banbridge/Newry and Mourne Area Plan 2015 and the Strategic Planning Policy Statement (SPPS).
- 2) This Appraisal considers the following:
 - The Proposal;
 - Policy Context;
 - Background Information and Planning History; and
 - Assessment of the Proposal.
- 3) The Retail Impact Assessment has been prepared and submitted by MBA Planning dated April 2017 (MBA RIA). The application raises matters of policy compliance in terms of a variety of issues such as loss of industrial land, flooding and traffic impact. An Environmental Statement has been submitted with the application. This Appraisal does not comment on these planning issues as they are beyond the scope of the appointment.
- 4) In addition, the applicant has submitted an Economic Impact Assessment. Detailed appraisal of this is beyond the scope of the appointment, however, some comments are provided in respect of this Assessment during the appraisal of the RIA. We would recommend the Council obtain independent advice on the Economic Impact Assessment submitted.

7) The Proposal

- 5) The proposal is for an **unrestricted open comparison retail** development providing 11 shop units (MB RIA para 1.2) as follows:
 - Unit 1 provides 2830 sq m (30,462 sq ft);
 - Unit 2 provides 1880 sq m (20,236 sq ft)
 - Unit 3 provides 1885 sq m (20,290 sq ft)
 - Units 4-9 each provide 911 sq m (10,667 sq ft)
 - Unit 10 provides 993 sq m (10,688 sq ft);
 - Unit 11 provides 1599 sq m (17,211 sq ft);
 - Restaurant Units 1-3 each provide 325 sq m (3,498 sq ft); and
 - Café Unit provides 250 sq m (2691 sq ft).
- 6) The P1 form confirms the gross floorspace is 16,836 sq m (181,223 sq ft). Total gross retail floorspace is about 14,653 sq m (157,725 sq ft) and net retail floorspace is about 12,106 sq m (130,309 sq ft). It is a major application and indeed one of the largest retail proposals being promoted in Northern Ireland.
- 7) Access to the site is provided from Carnbane Way via a new roundabout, and 875 surface level parking spaces are to be provided. The site will have high visibility and easy access from the Carnbane Way and relatively quick access from the A1 dual carriageway.
- 8) The use of the development is unusual in that it seeks to provide uncontrolled and unrestricted comparison retail use in an out of town centre location. Planning policy has typically distinguished between large scale retail units that are too large for town centres to be located on edge and out of centre locations, where the case has been presented that the type of retailing is for the sale of bulky goods comparison retailing or superstore retailing. The proposal does not seek any form of restriction that might mitigate its impact on town centres or that might distinguish it from typical town centre retailing.
- 9) The proposal suggests it will be a substantially different format and composition to any existing retail location currently available in Newry City (MBA RIA para 1.3). That is technically correct (as there is no out of town open class retail parks in Newry), but the reason for that is because policy has long directed open class retail development to the town centres and would oppose development of unrestricted retail development in out of centre locations.

10) The application implies the proposal will be comparable to Boucher Road in Belfast, Sprucefield in Lisburn, the Outlet Banbridge and Rushmere in Craigavon (MBA RIA para 1.3). However, it is important to note that:

- The Outlet (now branded as the Boulevard) is restricted to retailing of discounted fashion goods. It is a factory outlet village where end of season goods are sold. It is controlled retail use.
- Sprucefield is designated under policy as a regional out of town shopping centre (Regional Development Strategy para 3.41). Its uses are controlled by condition, and it does not have unrestricted retail use.
- Rushmere Retail Park is a town centre location.

11) The only out of centre retail park that is unrestricted is Boucher Shopping Park. This is confined to the area within the Shopping Park and would exclude much of the Boucher area such as Shane Retail Park and Lesley Retail Park which are controlled and restricted to retail warehouse style development.

12) The application is predicated on a case that it will attract car-borne trade that is currently bypassing Newry and leaving the Newry area to travel to other competing locations (MBA RIA para 1.3). This is an outflow or clawback case. We comment on the rational of this argument later.

Summary

13) This is a unique proposal, not because it will provide something that is novel and new, but simply because planning policy has long controlled and restricted retail development such as this when located in out of centre locations. Policy has directed unrestricted retail shops to town centres. It now directs all retail regardless of type to town centres first.

8) Policy Context

- 14) The MBA RIA does not provide any comments of the policy approach other than brief references to the SPPS. It is agreed that the key test for the proposal is its compliance with the SPPS, however, it is also important to have regard to the Local Development Plan.
- 15) The Planning Act (Northern Ireland) 2011 sets out the approach to assessing this application. Section 6 (4) states that *"Where, making any determination under this Act, regard is to be had to the local development plan, the determination must be in accordance with the plan, unless material considerations indicate otherwise"* and Section 45 (1) states that *"the Council or, as the case may be, the Department, in dealing with the application must have regard to the local development plan, so far as material to the application, and to any other material considerations"*.

The Banbridge/Newry and Mourne Area Plan 2015

- 16) The Banbridge/Newry and Mourne Area Plan 2015 (the Plan) is the Local Development Plan for assessment of this application. Volume 1 Strategic Plan Framework (pages 32-35) deal with Retailing. The Plan refers to the Roger Tym Partners (2006 Study updated in 2009) and the findings that Newry City could accommodate between 17,000 and 28,000 sq m (net) of additional comparison floorspace of which up to 20% (i.e. 5,600 sq m) could be accommodated through the redevelopment, extension and more efficient use of existing retail units. It states *"Since the study was prepared there have been a number of changes in circumstances which indicate that these estimates have been over optimistic including the impact on consumer spending of the economic climate post 2008. More importantly population growth has been substantially lower than anticipated by the 2006 projections used in the report, as demonstrated by the 2008 projections and 2011 census results. It is therefore prudent to adopt a more cautious approach for Newry City. Retail growth can be accommodated in the city centre by the existing commitment at Newry Road for mixed use, comprising 8,946 sq m (net) of comparison and 4,764 sq m (net) of convenience shopping. This is also complemented by a commitment for a superstore comprising 4831 sq m (net) of mixed retailing of which up to 1,960 sq m may be devoted to comparison goods. Thus, any residual capacity is anticipated to be small."*
- 17) The Plan (page 34) states *"Other locations – Retail parks, retail warehousing and other forms of shopping are part of the retail landscape and are often found outside of town centres. Any*

new or further expansion of these facilities may be considered within the context of prevailing regional policy... most retail growth within Newry City can be accommodated by existing commitments and more efficient/expansion of existing retail units, the priority must be on regeneration and increasing the attractiveness and convenience of town centres for shoppers".

- 18) The Plan (page 35) notes that *"Within the designated city and town centres, development opportunity sites are identified to encourage redevelopment and to accommodate town centre uses"*.
- 19) Volume 3 of the Plan deals with Newry. Pages 21-29 deals with the City Centre. Page 22 designation NY75 designates the City Centre boundary. The Plan notes that *"The boundary has been extended in recognition of the growth that has occurred over the previous plan period and to make ample provision for the future growth to 2015. It is extended to include the largely office area of Downshire Road, the Quays shopping complex, the West campus of Newry Institute and neighbouring businesses and the largely commercial/industrial area north of Upper Edward Street and Cecil Street. It also encompasses major brownfield Development Opportunity Sites including existing and former industrial/commercial land at Warrenpoint Road, Albert Basin, former residential flats at North Street and land to be vacated by the proposed relocation of Abbey Primary and Grammar schools"*.
- 20) The Plan identifies 13 Development Opportunity Sites. MBA RIA does not deal with these sites. It does provide comment on them in the Environmental Statement Section 5 dealing with Alternatives. We comment further on this below.
- 21) Given the foregoing, it is clear there is likely to be some retail need in Newry, however the quantum of it is not defined.

Strategic Planning Policy Statement

- 22) The Strategic Planning Policy Statement (SPPS) is the prevailing regional policy for considering new retail development. Its retail policies are set out at pages 101-105.
- 23) The SPPS makes the following points:
- 24) Para 6.269 *"It is important that planning supports the role of town centres and contributes to their success. The SPPS seeks to encourage development at an appropriate scale in order to enhance the attractiveness of town centres, helping to reduce travel demand"*.
- 25) Para 6.270 *"The aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the RDS."*

- 26) Para 6.271 sets out the regional strategic objectives for town centres and retailing which includes securing a town centres first approach for the location of future retailing; adopting a sequential approach when decision taking; and ensuring decisions are informed by robust and up to date evidence in relation to need and capacity.
- 27) Para 6.273 restates that *"Planning authorities must adopt a town centre first approach for retail and main town centre uses"*.
- 28) Para 6.280 states *"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. Where it is established that an alternative sequentially preferable site or sites exist within a proposal's whole catchment, an application which proposes development on a less sequentially preferred site should be refused"*.
- 29) Para 6.281 states *"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 transport modes"*. (Emphasis added)
- 30) Para 6.282 states *"In the absence of a current 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 into account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites"*. (Emphasis Added) The need for this proposal is discussed below. However, it is notable that need case for the proposal as presented by MBA is limited to 3 paragraphs in Section 7 of the MBA RIA. Some reliance may be placed upon the RSM Economic Impact Statement, but the need case presented is not proportionate to the scale and significance of this development. It is not objective, it is limited and fails to take account of committed development and allocated sites.
- 31) Para 6.283 sets out the requirement to provide a retail impact assessment.

32) Para 6.289 requires flexibility in seeking to accommodate developments in sites that have a constrained footprint. It confirms that applicants will be expected to identify and fully demonstrate why alternative sites are not suitable, available and viable.

33) Para 6.290 sets out the 6 factors to be addressed in the RIA and assessment of Need. Para 6.291 notes that *"where an impact on one or more of these criteria is considered significantly adverse or where in balancing the overall impacts of each of the criteria the proposed development is judged to be harmful, then it should be refused"*.

Summary

34) There are clear criteria to be applied when considering the acceptability of a proposal including, whether it is needed, whether alternative sites are available or whether impacts will be acceptable.

35) However, there is a fundamental question that the Council must consider which is, given the clear town centre first approach to retail development, is the Council willing to accept unrestricted retailing of comparison goods of a major scale on an out of centre location?

36) If it is, the questions that must follow are:-

- What level of need is there, and can that be objectively demonstrated?
- If there is an agreed objectively defined need which is the most sequentially preferable site that it can be accommodated on?
- If that site is out of centre will the proposal cause harm to the City Centre and if so can that harm be mitigated?

37) In answering these questions, the Council should reach a balanced and robust decision. However, as shown later, the information currently provided by the applicant does not allow a fully informed and up to date assessment to be made or for these questions to be answered.

9) Background Information and Planning History

- 38) The planning history of this area includes the following relevant considerations;
- 39) **Application Permission P/2009/0163/F** was approved in August 2014 and remains an extant permission. This permitted a mixed-use development to include a foodstore, 70 light industrial/business units, 1 gatehouse, 1 coffee shop, 14 residential units, car parking and landscaping and site works.
- 40) The store approved in this case was restricted to 8,000 sq m, with a net retail floorspace of 5,200 sq m and a net convenience floorspace of 3120 sq m and 2080 sq m non-convenience floorspace.
- 41) The permission requires a block of industrial units to be constructed and available for occupation prior to the opening of the store.
- 42) Under the current application, MBA RIA para 5.2 notes that *"the proposal and the superstore therefore cannot co-exist and a separate planning application for a reduced format superstore is intended to be submitted by the applicant on that site in the future"*.
- 43) We are unaware that any other applications have been submitted. We would also observe that there is no requirement to reduce the foodstore size, and instead the applicant could seek to vary the permission to reduce the amount of industrial floorspace use and remove the negative condition. That would allow the full superstore to be developed on the site.
- 44) In terms of background information, it is instructive to note the following documents:
- 45) **Braniff Associates RIA** (page 38) for the superstore undertook a shopper survey and found high proportions of shoppers that visit Newry City Centre for comparisons goods. For example, 72% of shoppers normally visit Newry City Centre to buy clothes and footwear. The survey was undertaken in the traditional way using a household telephone survey based on zones defined within the catchment.
- 46) **DoE Development Management Report** for the application found the following:
- Page 16 spend per head in comparison goods after SFT was £2188 in 2017;
 - Page 16 the comparison turnover of the superstore would be £10.78 million in 2017;
 - Page 18 sets out the Department approach on comparison trade diversion and retail impact. It found a diversion of 87.10% from the 0-5 minute isochrone, comprising

48% from Newry City Centre and 39.1% from the remainder of the town. Only 12.7% trade will be drawn from outside the 15 minute catchment.

- Page 19 the Department identified committed developments of Tesco at Bridgewater Park (Q/2010/0119/F) and P/2009/1490/F at Greenbank Industrial Estate as commitments. It assessed the Bridgewater Park, but did not assess the Greenbank permission as it is now located inside the town centre boundary.
- Page 20 the Department considered that 14% impact (convenience goods) would be beyond the margins of what would normally be considered acceptable.
- Page 21 in terms of alternative sites, the Department considered Development Opportunity Sites NY89 and NY90. The Department in relation to NY90 found that *"it is clear from the extant planning permission on the site that the potential exists for the development of the site. I consider this to be a potentially viable alternative"*.
- Page 21 the Department were provided with a detailed Economic Impact Assessment.
- Pages 31-32 the Department accepted that the limited potential for retail impact on Newry City Centre, the potential viable alternative sites (among other points of objection), where outweighed by the economic benefits of the development.

Other Background Information Submitted

- 47) The applicant has submitted in support of their case a copy of the Inaltus Retail Study Research that considered population and expenditure for the Newry P/2009/0163/F proposal. This sets out the extend of the 15 minute catchment, population estimates and available spend per head within the catchment of the superstore. It is helpful as it is the same location as the proposal. However, as is shown below, MBA RIA appears to diverge from the findings without any explanation.
- 48) The applicant has also submitted the TSA Retail Floorspace Study and the Louth Retail Strategy March 2009. Again, no comments are made by the applicant on these Reports. It is assumed that the applicant has used these reports for baseline data that has been updated. However, the MBA RIA does not explain where and why it adopts the data and where and why it diverges from the data. If that information was provided it would facilitate agreement on aspects of the MBA RIA.

10) Assessment of the Proposal

Alternative Sites

- 49) The town centre first approach places a clear emphasis on the need for a robust and detailed assessment of alternative sites. MBA RIA provides no comment on alternative sites, and leaves this to be detailed in the consideration of alternatives in the Environmental Statement. The requirement to consider alternatives in an Environmental Statement are different to the requirement to consider alternatives in retail policy terms.
- 50) The Alternatives assessment (ES Section 5 para 5.6) suggests that the proposal's location is the fourth preference location because the site will be served by an integrated bus service and a dedicated bus stop is provided. The Traffic Assessment acknowledges (EIA Appendix 4 Section 2.3) that the site is served by existing public transport with stops on the A27 Tandragee Road and Armagh Road and Downshire Road, but these regional services are beyond normal walking distances. Newry City Service 338 can be accessed by via pedestrian routes to bus stops in Shandon Park. It is a matter for the Council as to whether the stops for Service 338a and the provision of a new bus stop would support the suggestion that the site is accessible in policy terms. The TA section 3.3 indicates that the provision of the bus shelter will 'if demand dictates' allow the potential re-routing of an existing service to the site. The discussions on this are to be undertaken should the scheme receive planning permission. That does not suggest the site is accessible by a choice of good public transport modes.
- 51) MBA correctly identifies the case law and the approach to be used to assess alternative sites. The Tesco Dundee case referred to the EIA Chapter 5 para 5.8 is the principal judgement. It is important that the assessment of alternatives matches the general requirements of the proposal. However, it cannot be the case that a developer simply finds a large out of town site, fills it with retail and as a consequence demonstrates that it is so large that it cannot fit into any location except an out of town location.
- 52) The need for such a large development must be a key balancing point, otherwise Council's would be obliged to approve all large retail developments.
- 53) The list of alternative single locations supplied by MBA EIA Appendix 3 are clearly not capable of supporting the development. It is impractical to require the development, if there is a demonstrable need for it and no harmful impact, to consider relocating to any of the small sites and single shop units. Most are too small to accommodate any of the units proposed.
- 54) However, the two sites that are worthy of detailed consideration, but lack any more detail than the others are the development opportunity sites of NY89 and NY90. The Department previously considered NY90 a possibility and again the applicant should explore each further

to demonstrate why they cannot be used in this case. In addition, there are opportunities for retail uses in the Buttercrane where M&S has vacated and a number of units at the Quays Shopping Centre beside the new M&S store.

Summary

- 55) We have our doubts that the site is accessible by a choice of good public transport. The site is designed and located to be car orientated. There is no current public transport serving the site. Existing bus routes are too far away or are in the middle of housing developments that future shoppers would most likely be completely unaware of.
- 56) The two key alternative sites that should be assessed have not be addressed in any detail and the applicant should consider it further. The other large anchor at Buttercrane and new units at the Quays should be considered also.
- 57) Moreover, the scope of the development and the scale of floorspace would need to be justified (in quantitative or qualitative terms) to demonstrate that the size of development purported is in fact needed and only on that basis should the alternative sites be identified and then discounted as being too small or not viable.

Need

- 58) Policy requires a need assessment to be carried out that is proportionate to the scale of development being proposed and *"may incorporate a quantitative and qualitative assessment of need taking into account of the sustainably and objectively assessed needs of the local town and take account of committed development proposals and allocated sites"*.
- 59) It is clear from the Plan that the Department's position at the time the Plan was adopted was that there were adequate lands zoned within the town centre to accommodate any demand. MBA RIAs (para 7.1-7.3) case on need is based on the fact 'need' is not defined in the SPPS, it can mean anything, the threshold can be very low, and that the proposal is needed to curtail outflow of trade, reuse a vacant brownfield site and to redress the low employment levels in Newry.
- 60) This is a missed opportunity on behalf of the applicant and the Council should require more compelling evidence on need that gives comfort that there is a demand and need from retailers for the type of retailing and the size of units proposed.
- 61) It requires evidence that the critical mass of 11 units is the appropriate number and fewer units are not more appropriate. In order to obtain planning permission for a unrestricted out of town retail park, of the scale proposed, the applicant would be expected to provide

significant evidence that supports the case, rather than suggesting the need can be supported because the developer desires it. That is not a proportionate response – in policy terms – to support such a proposal.

- 62) The applicant's case on need in quantitative terms is undermined by the fact that the growth in the catchment as shown below is £19.4 million. That contrasts to the envisaged turnover of the proposal of £53 million. The quantitative need in floorspace terms on this basis would be £19.4 million divided by 4539 sq m = 4274 sq m. So, on the applicant's case there is a need for a development about one third the size. It would also imply a site requirement of 2ha. That may bring alternative sites or parts of sites into play.
- 63) In terms of the qualitative case for the proposal, it does not provide a new type of retailing. Open class comparison retailing is available in Newry City Centre at the Quays and Buttercrane. The locations MBA RIA suggest it will compete with are either designated town and out of town regional centre and a factory outlet centre. The only close comparable is the Boucher Shopping Park. However, it is unlikely that people shopping in Next, Matalan, TK Maxx, Cotswolds, Boots or any of the retail shops at Boucher Shopping Park are visiting it normally instead of Newry. The qualitative case is not sufficiently robust to support the proposal.
- 64) Furthermore, the case that people are leaving the catchment to visit these alternative locations is not properly supported by the MBA RIA or the LucidTalk survey. This is discussed further below.

Summary

- 65) The need for the proposal must be made out in more robust terms. The current case for need is not convincing. There is scope to make a stronger case, but it is likely that the need will be for a significantly smaller development, which may be better located closer to the City Centre.

Retail Impact

- 66) MBA RIA deals with retail impact in Section 4. It follows a step by step sales density approach. This is unusual for an application that is based fundamentally on an argument of outflow and claw back. A market share approach is the normal methodology used to support an outflow case
- 67) Taking the individual steps, the following can be noted.

- 68) The base and design years of 2017 and 2019 (MBA para 4.3-4.4) were perhaps appropriate at the time of writing, however given the passage of time the design year would need to be rolled forward to 2020.

Catchment

- 69) MBA RIA (para 4.2) applies a 20 minute drive time catchment. As a starting point 15 minutes might have been utilised. Certainly a 20 minute catchment implies a significant draw for the development. It would be unusual for a shopper that is resident in Dromore to choose Newry ahead of Lisburn or Banbridge. There is a need for a more refined approach to the catchment. A proper household survey would inform whether the outer edges of the 20 minute catchment are appropriate to be in the catchment or not. The case for the 20 minute catchment may be appropriate towards Dundalk and Armagh, but it is questionably towards the north.
- 70) The location of competing facilities and intervening facilities curtails a catchment. More information would be needed to justify the full 20 minute catchment. This is a matter that should be capable of agreement between the parties.

Population

- 71) The population in MBA RIA Appendix 3.2 Table 1 sets out a catchment of about 120,000. There is an error in the table as it excludes the ROI population in the 10-15 minute drive time around Omeath.
- 72) The information used in the ROI is taken from the 2011 Census, however the 2016 Census data may be more appropriate to use. The baseline population figures for NI wards seems appropriate. The growth rates for the population are not clear and it would be appropriate to state these rather than simply include a website address as the actual data from the websites references are not immediately apparent. The growth rates do appear reasonable but need to be clearer.
- 73) The actual population that is derived from the exercise appears to be higher than we would have expected particularly in the 10-15 minute catchment. Even allowing for growth rates and year difference between the Inaltus Report and the MBA RIA the estimates seem high. Further adding in the ROI figures pushes this isochrone population higher again. This should be reconsidered. Again, this is a matter that should eventually be capable of agreement between the parties.

Spend per Head

74) MBA RIA Appendix 3.3 Table 2 utilises the Pitney Bowes UK average spend per head data. It has long been recognised that Northern Ireland has a lower spend per head, and historically the Department utilised the results of the Living Costs and Food Survey. In contrast to the information supplied by MBA the following can be noted:

- Department Estimates 2017 in P/2009/016/F £2188
- Inaltus Estimates 2017 £2030
- MBA RIA 2017 £3041

(figures are after SFT has been deducted)

75) Despite different assumptions in respect of base year, growth rates and SFT deductions, there is a clearly significant difference in spend per head. That difference can inflate the available spend in the catchment and the available quantitative need. The fact that MBA RIA and the Economic Impact Assessment make the case that the Newry and Mourne area has high unemployment must point towards a lower spend per head.

76) SFT assumptions and growth rates for spend per head taken from Pitney Bowes is reasonable. However, there is an error in MBA RIA Appendix 3.3 Table 3 where 2019 is stated, when it should be 2018. 2019 SFT assumption is a deduction of between 22.4% and 15.4%, a mean average of 18.9% to be deducted. The 2019 post SFT spend per head on the MBA RIA figures would be £3141 and not £3158. The consequence is that MBA RIA Appendix 3.3 Table 5 would show available spend in 2019 as £383.55 million and not £385.5 million.

77) It is also surprising that no information is provided for the available spend in the ROI. We would have expected the NI/ROI spend to be distinguished in the MBA RIA.

Growth by Drive Time Band

78) MBA RIA para 4.10 indicates that the growth in the catchment equates to £21.5 million.

79) This is not correct because of the error in MBA Appendix 3.3 Table 3 and Table 4. The growth is £19.4 million as shown below.

Drive Time	2017	Spend Per Head (£)	Total Spend (£mill)	2019	Spend Per Head (£)	Total Spend (£mill)	Growth (£mill)
0-5	18568	3041	56.46	18851	3141	59.22	£ 2.76
5-10	26771		81.41	27181		85.39	£ 3.98
10-15	31202		94.88	31734		99.69	£ 4.81
15-20	43210		131.40	44327		139.25	£ 7.85
Total	121768		364.15	124112		383.55	£ 19.40

80) The growth is greater in the more peripheral drive time areas. This is shown in the above table which re-works the MBA RIA Appendix 3.3 Table 5. It can be seen that the growth in the

0-5 minute drive time is £2.76million, 5-10 minutes drive time is £3.98 million, the 10-15 minute drive time is £4.81 million and the 15-20 minute drive time is £7.85million. It should be noted that these figures adopt the MBA RIA spend per head figures, and if adjusted to the NI based figures the growth would be less.

Existing Retail Provision

- 81) MBA RIA provide limited information on the health of centres in the catchment. Some detail is provided for Newry (MBA RIA para 4.13-4.20), but this could be augmented with detailed information on vacancy rates and investment information. Banbridge is the other main town in the catchment but is assessed in two paragraphs (MBA RIA para 4.21-4.22). More detail is provided for towns that will not be affected such as Newtownhamilton. No information is provided about the nature of retailing at the Outlet/the Boulevard, presumably because it is unprotected, however, it clearly is a location that warrants discussion in terms of its health and occupancy rate, to ground the scale of turnover at the location in later sections of the MBA RIA.
- 82) In terms of the turnovers of the centres set out in MBA RIA Appendix 3.4 Table 6, MBA applies average sales density figures to the Outlet/the Boulevard, giving it a turnover of over £70 million. This is a factory outlet village where goods are sold at discounted prices. It would be appropriate to apply a lower turnover for this Centre.

Turnover of Proposal

- 83) The proposal applies average sales density to what is suggested to be a unique retail offer that will claw back trade from as far away as Belfast. Applying average sales density implies that the development will perform at an average level. The scale of investment and the suggestion of its attraction would point to above average turnovers. The applicant should reconsider the case about whether the proposal is going to perform at average rates or whether it will perform above average.
- 84) In order to support the contention that the proposal will attract trade from Belfast and Sprucefield, it would be helpful to have an indicative tenant line up and some letters of interest from prospective retailers that have a demand for such a presence in Newry. There is a potential that allowing this application will invite similar proposals elsewhere and the Council would be prudent to test thoroughly the demands of the market that will use the proposal.

Outflow and the Lucidtalk Survey

- 85) The MBA RIA Appendix 3.4 Table 6 shows that the 2019 turnover of the catchment is £397.68 million, and that available spend is £385 million. The Table indicates that there is a £12million inflow to the catchment. That implies that the catchment does not leak any trade.
- 86) As mentioned above, it is surprising that the suggestion that the proposal will draw trade from outflow is not supported by any empirical survey data that informs a market share approach.
- 87) The Lucidtalk Survey dated 12 April 2018 does not support the case that there is an outflow of comparison spending. It simply asks a preliminary question about whether people undertake non food shopping outside Newry. It categorises people within a 20mile distance of Newry City Centre. It clearly has not based the survey on the MBA RIA catchment which is based on a 20 minute drive time.
- 88) The survey question significantly missed the word 'normally'. There will always be times when people will shop outside a catchment, Christmas for example. The question should have been framed to understand the normal shopping patterns for people, and sub divided into categories of goods. The survey does not support the outflow argument to ground this application. There is no link between the MBA RIA and the survey. There is no understanding which areas of the catchment are leaking trade, to where and for what type of shopping. Given the different shopping offers at Banbridge and Belfast City Centre, a more fine-grained analysis would be required to support this application.
- 89) The question on whether people would use the proposal only achieved a positive response from 56% of people. These people understand the proposal to have 'good public transport'. As discussed there is no public transport at the proposal and the commitment is only to have discussions about diverting a bus to the site. There is no suggestion that buses will be brought to the site from Banbridge, Dromore or Dundalk.
- 90) The survey responses should have been analysed by drive time. Those 56% of people in support might be Newry residents, and the 13% that said no and 31% that said not sure, may be people that live in the periphery of the catchment and may not change their shopping patterns. If that was the case, the likely impacts of the proposal would be greater than predicted.

Summary

- 91) The case that there is an outflow of trade is not supported by the MBA RIA figures and the survey is of very limited help in assessing this proposal.

Trade Diversion & Retail Impact

- 92) Given the absence of any evidence of loss of trade or outflow, it is not credible to suggest that, as MBA RIA Appendix 3.6 Table 8 suggests 27% of trade will be drawn from outside the 20 minute drivetime catchment. Similarly, to suggest that 21% of the proposal's trade will be drawn to an unrestricted retail park from a factory outlet centre where discount end of line and end of season items are sold is not comparing like with like.
- 93) Unless the outflow case can more credibly be made, the likelihood is that greater trade diversion will occur from the Newry City Centre, because it is the closest like with like competitor. The Department diverted over 80% of the superstores comparison trade from the 5 minute drive time, 48% from the City Centre. If a similar level was diverted in this case (e.g. £28million from £152.98 million = 18.3%) it would push the impacts into the region of unacceptable harm.
- 94) However, there is significant work needed to justify any amount of retail impact. The alterations needed to the population and available spend, the changes needed to turnover of the Outlet/the Boulevard and the changes needed to the turnover of the proposal will all have an effect on the impact exercise.
- 95) The Council would be prudent to seek an updated RIA that addresses these concerns which could be agreed with the applicant before engaging in Retail Impact exercise.

Cumulative Impact

- 96) The applicant has failed to identify that the comparison element of the superstore could be built out without the industrial units if an application was allowed, and also the extant permission for the Bridgewater Park (Ref: Q/2006/1074/F) has been implemented and can be built out at any time. The cumulative impact of this development would need to be built into the retail impact exercise.

Economic Impacts

- 97) The economic benefits of the proposal will be an important consideration. However, more detailed analysis is required to be satisfied that the economic impacts are positive. The RSM Report (para 5.2 page 19) relies upon the MBA RIA findings and assumed a low displacement. Economic Impacts of the proposal are unreliable if the MBA RIA is found to need updating.

Assessment Against SPPS Para 6.290

- 98) Turning to the key test of the RIA, which is whether the proposal satisfies the criterion of SPPS para 6.290 the following can be noted:

- **the impact of the proposal on trade and turnover for both convenience and comparison goods traders, and the impact on town centre turnover overall for all centres within the catchment of the proposal;**

99) The impact of the proposal cannot be fully assessed. A sensitivity assessment of the proposal based on current information is likely to find the proposal unacceptable. The Council should invite the applicant to review the MBA RIA with a view to substantiating the outflow case.

- **the impact of the proposal on existing committed and planned public and private sector investment and investor confidence in the town centre/s;**

100) There has been one objection to the proposal – from Retail NI and one letter of support from a resident in Bangor, County Down.

- **the impact of the proposals on the delivery of the planned/allocated sites and the LDP strategy;**

101) The proposal will make delivery of either the NY89 and NY90 sites more difficult. The large out of town retail park could soak up all available retail growth over the coming years and for perhaps the next 5 years.

- **the impact on the vitality and viability of existing centres including consideration of the local context. This should take into account existing retail mix and the diversity of other facilities and activities.**

102) The proposal is unlikely to harm the diversity of Newry as it seeks to introduce more multi-national retailers.

- **Cumulative impact taking account of committed and planned development, including plan commitments within the town centre and wider area;**

103) The cumulative impact of the proposal has not been assessed with the Bridgewater Park development. It should be as it is likely to squeeze the catchment, reduce potential available retail growth for the proposal and will potentially increase impacts.

- **a review of local economic impacts.**

104) The local impacts have been noted but need to be reviewed in light of the changes to the MBA RIA.

11) Conclusion

105) To put the Council in a position to assess this application in detail it would require the applicant to update the supporting information. It is a matter for the applicant, but it would be our view that:

1. If the outflow case is to be promoted, there is a need for a detailed household survey to inform the RIA. That must be linked to the catchment and must be transparent in its methodology and results;
2. The catchment should be justified properly using survey information;
3. The Need case needs to be updated to be proportionate to the proposal and should address the requirements of policy;
4. The Sequential Assessment should reflect the proposal that is needed and rigorously assess the key alternatives in the City;
5. The Retail Impact should:-
 - a. be up dated in design year;
 - b. the spend per head should be tailored towards the catchment affluence;
 - c. spend per head and available spend distinguished between NI and ROI spend;
 - d. available spend should be provided based on zones and isochrones;
 - e. turnover of proposal should be reviewed in light of above;
 - f. turnover of the Outlet/Boulevard should be reviewed;
 - g. centres where impact occurs should be health checked and predicted impacts reviewed based on likelihood given distance and travel routes;
 - h. cumulative impact should be addressed.

APPENDIX 5. Employment Lands Newry City

Settlement	Location (Zoning Ref)	Area zoned for industry (Ha)	Area developed for industry (Ha)	Area lost/developed for non-industry (Ha)	Area Vacant (Ha)	Area remaining undeveloped (Ha)
Newry City	Carnbane North (NY62)	2.28	0	0		2.28
	Carnbane/Cloughanramer Road (NY63)	52.38	0.67	0		51.71
	Carnbane Road/Tandragee Road (NY64)	2.89	0	0		2.89
	Carnbane Business Park (NY65)	21.65	19.02	0.34		2.29
	Carnbane South (NY66)	3.95	2.98	0		0.97
	Craigmore Road (NY67)	11.3	0.63	0.36		10.31
	Damolly (NY68)	2.86	0	0		2.86
	Chancellors Road (NY69)	19.46	0.61	0.47		18.38
	Loughway (NY70)	7.28	4.04	0.12		3.12
Total						94.81

APPENDIX 6. Statutory Consultee Responses.

- **Newry, Mourne & Down Environmental Health.** No objections subject to planning conditions.
the following conditions;
 1. Deliveries and collection by commercial vehicles shall only be made to and from the site between the hours of 0700 hours and 2300 hours.
 2. No development shall take place until a Construction Management Plan for Noise Impact and Dust from Earthworks has been submitted and agreed with the Department. The Construction Management Plan should include methods to minimise the risk of noise and dust nuisance during the construction phase.
 3. No construction activities shall be undertaken within the development hereby permitted, until a Generic Quantitative Risk Assessment (GQRA) and if necessary a Detailed Quantitative Risk Assessment (DQRA) have been undertaken to ascertain the potential risks to future site users. The development hereby permitted shall not be occupied until the mitigation measures as presented within a detailed remediation strategy and implementation plan have been fully implemented and verified to the satisfaction of Newry Mourne and Down District Council.

- **DfC. Historic Environments Division Archaeology and Built Heritage (HED: HM).** HED HM is satisfied with the contents of the Cultural Heritage Section of the ES and has no objections in terms of the impact on Newry Canal, a protected monument subject to the following conditions being implemented.

1. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

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

2. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.

Reason: to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

3. A fence is erected on a line to be agreed with HED: HM, at least 5m from the edge of the scheduled area of the Newry Canal. No ground works, dumping or storage is to be carried out within the fenced areas.

Reason: to ensure the protection of the scheduled area

- **DAERA Planning Response Team. Water Management Unit (WMU), Land Soil and Air, Natural Heritage and Conservation Areas**

Water Management Unit has no objections subject to mitigation.

Land, Soil & Air has no objections subject to the following conditions being imposed;

1. No development shall commence until the applicant has submitted a detailed waste management plan for the development. The

management of on-site materials, temporary on-site storage arrangements, waste classification, reuse criteria (where appropriate) and off-site disposal should be included in the waste management plan.

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

2. All fuel storage tanks and boilers (and associated infra-structure) must be fully decommissioned and removed in line with current Pollution Prevention Guidance (PPG2, PPG27) and the quality of surrounding soils and groundwater has been verified. Should contamination be identified during this process, Conditions 3 and 4 will apply.

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

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

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

4. After completing the remediation works under Conditions 3 and 4; and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and

monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

5. No development or piling work should commence on this site until a piling risk assessment has been submitted in writing and agreed with the Planning Authority. Piling risk assessments should be undertaken in accordance with the methodology contained within the Environment Agency document on "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention". available at <http://publications.environment-agency.gov.uk/PDF/SCHO0501BITT-E-E.pdf>.

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

Natural Heritage has no objections subject to the following conditions

1. A final Construction Environmental Management Plan and finalised layout design should be submitted for agreement to the Planning Authority prior to works commencing. This should include a finalised storm water and drainage plan and reflect all the mitigation, and avoidance measures to be employed as outlined in the Environmental Impact Assessment; Chapters 7 (Flooding and Drainage), Chapter 8 (Contamination) Chapter 9 (Ecology), Appendix A (Flood Risk and Drainage Assessment), Appendix 6 (Preliminary Risk Assessment), Addendum 1; Appendix 1 (Shadow HRA), 2 (GQRA), 3 (Construction Management Plan), 4 (Stormwater Management Plan) and all additional submitted information.
Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.
2. A suitable buffer of at least 10m must be maintained between the location of machinery refuelling, storage of oil/fuel, concrete mixing and washing

areas, storage of machinery/material/spoil etc. and the Newry River to the east and the Newry Canal to the west of the proposed application site.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

No development shall commence until the applicant has submitted a detailed Waste Management Plan for the development. The management of on-site materials, temporary onsite storage arrangements, waste classification, reuse criteria (where appropriate) and off-site disposal should be included in the waste management plan.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

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

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

5. After completing the remediation works and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

- 6 No development or piling work should commence on this site until a piling risk assessment has been submitted in writing and agreed with the Planning Authority. Piling risk assessments should be undertaken in accordance with the methodology contained within the Environment Agency document on "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

- **DAERA Shared Environmental Services.** No Objection. Subject to conditions. The proposal will not have an adverse effect on the integrity of any European site.
- **DfI Rivers Agency.** No objections. It is content with the contents of the Drainage Assessment in relation to policies FLD1, 2, 3 and 4 of PPS15. The site is within the catchment of a reservoir, Camlough Lake, in relation to Policy FLD5. Rivers Agency is satisfied that the applicant has applied the correct methodologies in its assessment.
- **Loughs Agency.** No objections subject to informatives on the implementation of measures to protect the aquatic environment.
- **DfI Transport NI.** No objections
- **NI Water.** No Objections.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference:	LA07/2017/0542/F
Date Received:	March 22 nd 2017.
Proposal:	Retail park with ancillary coffee shop/restaurant units
Location:	Former H M Revenue & Customs Custom house and clearance station, Carnbane way, Carnbane Industrial Estate

Addendum to Case Officer Report

1.0. This application was brought to the Planning Committee on Wednesday 16 October 2019 with an opinion to refuse on the following grounds:

- The proposal is contrary to Paragraph 3.8 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) in that the proposal conflicts with an up to date development plan.
- The application is contrary to the Banbridge, Newry and Mourne Area Plan 2015 Plan objectives in that the proposal lies outside the City Centre Boundary as identified by Designation NY 75 and Primary Retail Core of Newry as identified by Designation NY 76.
- The application is contrary to Paragraph 6.270 and 6.271, (bullet point 1 and 2) of the Strategic Planning Policy Statement (SPPS) in that the proposal lies outside the City Centre Boundary and Primary Retail Core of Newry as designated in the Banbridge/Newry and Mourne Area Plan 2015.
- The proposal is contrary to The Strategic Planning Policy Statement (SPPS) 'Planning for Sustainable Development' Paragraph 6.273 in that it does not adopt a 'town centre first approach'.

- The proposal is contrary to The Strategic Planning Policy Statement (SPPS) 'Planning for Sustainable Development", Paragraph 6.291, in that it has not been demonstrated that the proposal will not have a significant adverse impact:
 - on trade and turnover for both convenience and comparison goods traders and on town centre turnover overall for all centres within the catchment of the proposal;
 - on existing committed and planned public and private sector investment and investor confidence in the town centres;
 - on the delivery of the planned/allocated sites and the Local Development Plan Strategy;
 - on the vitality and viability of existing centres; and
 - when taken cumulatively in conjunction with committed and planned development within the city centre and wider area.
- The proposal is contrary to Policy PED 7 of Planning Policy Statement 4 (PPS 4) 'Planning and Economic Development' in that it would result in the loss of land zoned for existing and proposed economic development use in the Banbridge, Newry & Mourne Area Plan 2015.
- The proposal is contrary to the Banbridge, Newry & Mourne Area Plan 2015, Zoning NY 68 and Allocation ECD 1 (Plan Strategy and Framework), in that it would lead to the loss of existing and proposed economic development lands.

2.0. The application was deferred at the request of the Council to enable consideration of late objections dated 10 October 2019 (on the foot of a holding objection dated 30 September 2019) and 11 October 2019 (on the foot of a holding objection dated 9 October 2019). The Planning Department had not been in a position to consider the issues raised ahead of the previous Planning Committee meeting. These objections have now been considered.

2.1. Objection No 1: Clyde Shanks Planning Development, 10 October 2019.

The issues raised in the holding objection were considered in the case officers report as acknowledged by the objector at Para 3.

P/2009/0163/F. The Planning Department notes the reference to the previous planning permission on the site and the subsequent applications to vary or discharge associated planning conditions.

P1 Form. The description of development: As referred to in the case officer's report, the P1 description of development reflects the general nature of the proposal as proposed by the applicant and considered by the Planning Department as part of its assessment of the application. It is clear from the description that the applicant does not seek any limitation on the type of retailing proposed, as acknowledged at Para 6.1 and 6.9 of the case officer's report. In this context it is considered that the proposal description is accurate and reflects the broad based nature of the application. The description of development on the P1 form would have been sufficient to alert any interested parties to the nature of the proposal and its implications. It would not lead to prejudice on any party.

Certificate A. Form P2: It is stated that the application site includes land under control of DfI Roads and therefore Certificate A is therefore not correct and notice should have been served on DFI Roads. This is a reference to the fact that the red line includes a portion of the Cambane Way and the roundabout.

The Planning Department has considered this issue in consultation with DfI Roads. DfI Roads has confirmed that it was aware of the details of the application and the implications for the surrounding road network. This formed part of its assessment of the application and its formal response to the Council. As a statutory consultee it is by default informed by the provision of a red line plan which included its land and legally it would not have been prejudiced in the consideration of the application as it would have been aware of the land aspect.

Section 26 (&S29)/LDP Departures/Failure to Comply with Policy: The Planning Department notes the comments made, including those at a), b), c) and d). These issues have been addressed in the case officer's report. The Planning Department considered the issue of the Department of Infrastructure

(DfI) jurisdiction in relation to 'Development's of Regional Significance' and whether this application should be referred to DfI.

It is considered that no formal notification is required in this instance under the prevailing regulations.

Replacement of Economic Land: The Planning Department is currently considering a planning application for light industry, business and storage and distribution units on adjacent lands. The basis for this application is that it is linked to this retail application under consideration and is submitted on the basis that any approval for industrial units will compensate for any future loss of zoned economic lands within this application site. The applicant has expressed a willingness to accept a negative planning condition requiring the construction of the economic units prior to the commencement of the retail units. It is normal practice to link related applications in this way, if both are judged acceptable in planning terms.

Consultee Responses. The Planning Department is satisfied that all consultation responses received and on file remain valid. DAERA Strategic Environmental Services has confirmed that it has carried out a full Stage 2 Appropriate Assessment under the relevant regulations. DfI Rivers Agency has confirmed no objection.

2.2. Objection No 2: TLT NI, 11 October 2019.

The issues raised in the holding objection were considered in the case officers report as acknowledged by the objector at Page 2, Para 1.

Lack of Habitats Regulation Assessment.

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland)1995 (as amended) in consultation with Shared Environmental Services on behalf of Newry, Mourne and Down District Council. SES has confirmed, having considered the letters of objection, that it carried out a full HRA Stage 2 Appropriate Assessment for the proposal on 2

October 2017, The Planning Department considered the content and is in agreement with the outcome.

SES has also subsequently confirmed to the Planning Department that, in terms of the Sweetman ruling and others mentioned in the letter, that it has reviewed their HRA template and processes, in 2018, to reflect the conclusions of the ruling. It stated that this proposal has not been through this updated SES template and process and members of the Planning Committee may wish SES to update the 2017 HRA through SES's current processes. Members should be aware that, in the absence of any new environmental information it is clear SES would still take the case to HRA Stage 2 Appropriate Assessment and append the conditions recommended in the 02/10/2017 document. SES is content if requested by Planning to carry out an updated review on the HRA.

Decision-making by the Planning Committee.

The comments here are noted.

3.0. Recommendation

- 3.1.** The application site remains unacceptable and should be refused for the stated reasons above.

Case Officer Signature:
Date: 29 October 2019
Appointed Officer Signature:
Date: 29 October 2019

Speaking Rights Submission – LA07/2017/0542/F - Retail Park with ancillary coffee/shop restaurant units

Former H M Revenue & Customs Custom house and clearance station Carnbane way Carnbane Industrial Estate Newry BT35 6QG

I write with significant concern that the above application has been included to be presented to Planning Committee, given that it is incomplete and that there are notable omissions in the applicant's information, as highlighted in the Development Management Report (DMR).

The Planning Officers have requested this additional information under Article 3 (6) of the Planning (General Development Procedure) Order (NI) 2015, but it had not been supplied by the applicants, as they know they cannot overcome the reasons for refusal.

I would state that Retail NI fully support the Planning Officers position to refuse the application, as the only sound, logical and lawful decision that can be reached.

Any other decision will result in well-founded concerns regarding pre-determination, as there is nothing on the other side of the scales to support the application.

This proposal is completely unrealistic, illogical and highly speculative in nature. You will note our previous holding objection on behalf of Retail NI and the points raised therein.

Given the significant and fundamental flaws with the application, it was decided to wait to see how these deficiencies were addressed by the applicant, before wasting further time and resources on the "Carnbane White Elephant".

Connection with the Superstore Proposal – P/2009/0163/F

The superstore proposal was granted permission for an 8,000sqm net food superstore (Circa £40m turnover) the 70 industrial/business units were a significant deciding factor in the Ministers decision to grant permission and off-set the acknowledged harm to Newry City Centre.

The importance of these units is confirmed by Condition 2 & 3 attached to this permission, in other words they came immediately after the Time Condition, such was their importance they went to the heart of P/2009/0163/F.

We now have a proposal that wants to "double up" and have both superstore and unrestricted comparison retailing amounting to an eye watering 24,836sqm of retail floorspace at an out of town location, within an LLPA and on zoned industrial land. In the absence of any robust and supporting evidence there is only one outcome.

There is no commentary on the status of the superstore proposal nor am I aware of any CLOPUD, as to whether it has lawfully commenced.

However, I note that in the earlier MBA document at paragraph 5.2 stated "*The proposal and the superstore therefore cannot co-exist and a separate planning application for a reduced format superstore is intended to be submitted by the applicant on that site in the future*".

Previously it was identified that there was not enough expenditure to support the food superstore proposal, let alone the cumulative expenditure required to prop up the two proposals in-combination.

I note and agree with the Inaltus assessment highlighting that it will take 18 years for spending growth to support this proposal. It is simply a ludicrous situation.

Local Development Plan

The first document for any consideration is BNMAP 2015, as we are now in a plan led system.

The proposal does not comply with Section 6 (4) of the Planning Act (Northern Ireland) 2011, which states that determination under this Act must be made in accordance with the local development plan (LDP), unless material considerations dictate otherwise.

The proposal does not comply with Economic Zoning NY68, Retail Zonings NY75 and NY76 and DOS Zoning NY90 and the applicant has not presented any material considerations to outweigh the non-compliance with the plan or potential for widespread precedent this decision would set by running contrary to numerous zonings in the absence of any robust evidence.

Given the non-compliance with the LDP and when considering the size and scale of the application (16,836sqm) and the cumulative effects with the superstore (8000sqm) proposal, along with the significant shortfall in expenditure to support either proposal.

This proposal will have significant implications for Newry City Centre and the emerging LDP, as in effect no other retail floorspace could be permitted anywhere within the catchment beyond the life of the new Plan (2030), as there would be no available capacity given the expenditure levels both now and in the future. Irrespective of the timetabling of the new LDP there is a prematurity issue, as per the direction of paragraph 5.73 of the SPPS and any decision to support this application, will render the emerging Plan as a completely pointless exercise on retail matters.

SPPS & Retail Impact Assessment

We fully agree with the comments of Inaltus Planning, who are recognised retail planning experts in Northern Ireland, with Mr Loughery having been involved with several proposals in Newry.

The applicants have not demonstrated a quantitative or qualitative need for the proposal. Indeed, no operator is interested in the superstore proposal or the retail units. There is simply no need for either proposal.

The proposal has always sought to intercept or divert trade from Newry City Centre given its proximity to the Strategic Road Network and clearly if there is not sufficient expenditure to support the proposal then this will clearly be diverted from existing stores in closest proximity e.g. Newry.

The sequential assessment is not a test of perfection. This is reinforced by paragraph 6.289 of the SPPS where it states that;

"Flexibility may be adopted in seeking to accommodate developments onto sites with a constrained development footprint.....Applicants will be expected to identify and fully

demonstrate why alternative sites are not suitable, available and viable"

Taking account of the lack of retailer requirements as the proposal is completely speculative. The size of the proposal is a deliberate and pathetic attempt to "drive a coach and horses" through the sequential test. Unfortunately, such an approach to alternative sites is self-serving and fails to connect with the lack of need for the proposal.

The Solis retail impacts are well above those considered to be reasonable to withstand on protected centres (12%) the cumulative (in-combination) impacts are some of the largest I have witnessed in 12 years of retail planning. In, short, Newry City is finished if this proposal proceeds and there are no tangible benefit to any public interest that could be argued or demonstrated. Any claims of new jobs are a fallacy none have been produced since the superstore approval in 2014. Any employment will be displaced from Newry City Centre or protected centres and there is a total lack of detail or any degree of realism in the proposition.

I would conclude by stating the following;

- The previous Council did not support the granting of permission P/2009/0163/F.
- The applicant needs to be clear as to whether they are going to permit revocation of P/2009/0163/F in exchange for this new proposal;
- If the applicant is indeed pursuing both applications, then taking account of the significant failings of the application - lack of robust data/evidence, impact on the LDP and new LDP as well as regional policy contained within the SPPS, the Department for Infrastructure should be informed of any contrary decision.

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Speaking Note in Favour of LA07/2017/0542/F

LAURENCE BREEN:

- Thank you for the opportunity to present to the Committee.
- My name is Laurence Breen. I'm a local developer, active in Newry and the wider area for a number of years now and we've delivered a number of successful projects during that time.
- I'm joined by some members of the project team for the proposal, who are here to answer any questions. Martin Kelly from Gravis Planning, our planning consultant; David Forsdick QC, Senior Counsel; and Mike Prentice, our property consultant.
- A private investment of £100 million
- Generate in the region of £1.5 million a year in rates for this Council and
- Creation of up to 700 construction jobs and up to 1000 operational jobs.
- Newry's strategic location is attractive, but only if the right facilities are in place,

MARTIN KELLY:

Thanks, Laurence. I'd like to quickly take the Committee through a few of the key planning considerations on this application – I'll try to be brief while covering all the main points.

In short, we believe that the reasons for refusal brought forward by the planning officer are unsustainable and have all been addressed in our planning submission.

The officer states that the proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland saying it is contrary to the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) as it is outside the Primary Retail Core and the City Centre boundaries. However, on this point, the Development Plan states that *"Retail parks, retail warehousing and other forms of shopping are part of the retail landscape and are often found outside of town centres. Any new facilities maybe be considered in the context of prevailing regional policy"*. BNMAP does not prohibit retail development outside Primary Retail Cores or City Centre boundaries. Such development can be approved if it meets the relevant policy tests in regional policy. We submit that the proposal meets the relevant policy tests.

The planning officer claims that we haven't adopted a *"town centre first approach"* as required by the SPPS. I would draw members' attention to the extensive supporting information submitted with the application, which shows that a total of 60 (six zero) town centre sites were considered throughout the proposal's entire catchment area. None of these sites are available as suitable and viable sites for this proposal. Therefore, it is clear we have adopted a thorough town centre first approach in accordance with all relevant policy.

The officer's report states that we haven't demonstrated that the proposal will not have a significant adverse impact on a number of issues, including; retail traders and town centres within the catchment, on existing committed and planned investment and investor confidence in town centres, on planned or allocated sites and the Local Development Plan strategy and the vitality and viability of existing centres including when taken cumulatively with committed and planned development within the city centre and wider area.

All these matters have been addressed in our submissions. The retail impact of the proposal has been assessed on all town centres in the catchment area and the impacts are considered to be within acceptable levels. We recognize that there will be some diversion from Newry City Centre – that is an inevitable consequence of providing for the needs of the population through investment in a high-quality retail environment.

There is no evidence to suggest that the proposal will have any adverse impact on existing and planned public and private sector investment, nor that it will impact investor confidence in the town centres. This proposal cannot stop or undermine something for which there is no evidence that it will happen in the future for comparison retail.

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The officer states that the proposal is contrary to planning policy due to the loss of land zoned for existing and proposed economic development use and lands in the development plan. When considering this application, I would remind members that planning procedure clearly allows flexibility when considering a firm proposal for an alternative use on economic development land that outweighs the option of retaining economic development land. In this case, you have a firm proposal for an alternative use which will bring substantial economic benefits on lands which will otherwise remain undeveloped. Therefore, the Committee is well within its rights to support this application, in line with planning policy.

Finally, the officer's report clearly states that there is a significant amount of remaining undeveloped employment lands in Newry. The report accepts that this proposal, if approved in conjunction with the associated planning application for employment use, would not lead to an unacceptable reduction in employment lands. Even without the separate planning application for employment use, it is clear the development of the Newry City Retail Park will not result in a significant reduction in employment lands. This is a firm proposal bringing substantial economic benefits and resulting in no significant diminution of the economic land resource, which should outweigh the retention of the land solely for economic development use. This proposal in itself is a major employment generator and therefore is a major economic use for the site, making sensible use of land that is aimed at generating employment – precisely what this proposal will do.

We have also assessed the letters of objection that have been submitted in relation to the proposal. We consider that that issues raised are without foundation and are not therefore matters for concern.

I will now pass you on to David, our Senior Counsel.

DAVID FORSDICK QC

Will cover the below three points:

PPS4 - incompatibility of uses. It is clear that this site would not be suitable for industrial use given the proximity to existing pharmaceutical and residential development.

The points set out at 6.15 of the officer's report relate to differences of professional judgement. Not a matter of legality but a matter of planning judgment.

The development plan policies are to be understood and applied as a whole – and adopting that approach shows that far from being in breach of the development plan as a whole there are multiple factors that point the other way.

It is not possible in the time allowed here, to get into the detail of the diversion figures – there is no dispute that there will be some diversion and there is a range. But the issue is whether unacceptable diversion in all the circumstances. The planning analysis attempts to show why that is not the case here.

LAURENCE BREEN:

- In summary, significant level of investment, job creation, and rates returns associated with the scheme - £100 million investment, up to 700 construction jobs & up to 1000 operational jobs and the region of £1.5 million annual rates return.
- Economic benefits of this proposal far outweigh any of the concerns raised by the officer, and I would respectfully request that the Committee approves the planning application on that basis.
- This development will provide a huge economic boost to Newry and the surrounding area – especially at a time of significant uncertainty with Brexit and the absence of the Executive.
- A vote of confidence in the city that shows it's open for business.
- Happy to answer any questions from the Committee or provide any clarity required.

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Appendix 1 - Draft 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. No development shall take place until a Construction Management Plan for Noise Impact and Dust from Earthworks has been submitted and agreed with the Department. The Construction Management Plan should include methods to minimise the risk of noise and dust nuisance during the construction phase.

Reason: In order to protect nearby amenity.

3. No construction activities shall be undertaken within the development hereby permitted, until a Generic Quantitative Risk Assessment (GQRA) and if necessary a Detailed Quantitative Risk Assessment (DQRA) have been undertaken to ascertain the potential risks to future site users. The development hereby permitted shall not be occupied until the mitigation measures as presented within a detailed remediation strategy and implementation plan have been fully implemented and verified to the satisfaction of Newry Mourne and Down District Council.

Reason: In order to protect nearby amenity.

4. No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by the Department. The programme should provide for the identification and evaluation of archaeological remains within the site, for mitigation of the impacts of development, through excavation recording or by preservation of remains, and for preparation of an archaeological report.

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

5. No development shall commence until the applicant has submitted a detailed waste management plan for the development. The management of on-site materials, temporary on-site storage arrangements, waste classification, reuse criteria (where appropriate) and off-site disposal should be included in the waste management plan.

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

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

6. No development or piling work should commence on this site until a piling risk assessment has been submitted in writing and agreed with the Planning Authority. Piling risk assessments should be undertaken in accordance with the methodology contained within the Environment Agency document on "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention" available at <http://publications.environment-agency.gov.uk/PDF/SCHO0501BITT-E-E.pdf>.

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

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

7. A final Construction Environmental Management Plan and finalised layout design should be submitted for agreement to the Planning Authority prior to works commencing. This should include a finalised storm water and drainage plan and reflect all the mitigation, and avoidance measures to be employed as outlined in the Environmental Impact Assessment; Chapters 7 (Flooding and Drainage), Chapter 8 (Contamination) Chapter 9 (Ecology), Appendix A (Flood Risk and Drainage Assessment), Appendix 6 (Preliminary Risk Assessment), Addendum 1; Appendix 1 (Shadow HRA), 2 (GQRA), 3 (Construction Management Plan), 4 (Stormwater Management Plan) and all additional submitted information.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

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

Reason: In the interest of public health.

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

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

10. After completing the remediation works under Conditions 3 and 4; and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

11. Deliveries and collection by commercial vehicles shall only be made to and from the site between the hours of 0700 hours and 2300 hours.

Reason: In order to protect nearby amenity.

12. A fence is erected on a line to be agreed with HED: HM, at least 5m from the edge of the scheduled area of the Newry Canal. No ground works, dumping or storage is to be carried out within the fenced areas.

Reason: to ensure the protection of the scheduled area.

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13. Access shall be afforded to the site at all reasonable times to any archaeologist nominated by the Department to observe the operations and to monitor the implementation of archaeological requirements.

Reason: to monitor programmed works in order to ensure that identification, evaluation and appropriate recording of any archaeological remains, or any other specific work required by condition, or agreement is satisfactorily completed.

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

Land, Soil & Air Reason: Protection of environmental receptors to ensure the site is suitable for use.

Environmental Health Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

15. All fuel storage tanks and boilers (and associated infra-structure) must be fully decommissioned and removed in line with current Pollution Prevention Guidance (PPG2, PPG27) and the quality of surrounding soils and groundwater has been verified. Should contamination be identified during this process, Conditions 3 and 4 will apply.

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

16. A suitable buffer of at least 10m must be maintained between the location of machinery refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the Newry River to the east and the Newry Canal to the west of the proposed application site.

Reason: To prevent any adverse impacts on the site features and conservation objectives of Carlingford Lough SPA/Ramsar.

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

Reason: In the interests of visual amenity.

18. The development shall be constructed in accordance with the stamped approved drawings.

Reason: To ensure a satisfactory form of development.

19. The floorspace comprised in the retail units shall only be for the sale of comparison goods and for no other purpose in Class A1: Shops of the Schedule to the Planning (Use Classes) Order Northern Ireland 2015.

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

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Appendix 2 - Rebuttal to objectors

Objection by Matrix

- Loss of economic development land
Other uses can be approved on economic development lands taking account of material considerations, in this case, economic benefits and that there is no significant diminution of economic development lands as a result of our proposal.
- Prematurity
New LDP only a POP stage.
Council does not refer to prematurity as a reason for refusal.
- Investment speculative
Applicant to confirm that it is not speculative.
- Consistency with refusals LA07/2016/0952/F and LA07/2016/0978/F:-

LA07/2016/0952/F :-

- Sub-division of part of existing bulky goods retail warehouse (No 115) to provide 3 No. ground floor class A1 retail units with new shopfronts (the 3 No. units to operate without compliance with the bulky goods condition on approval P/1993/0605); and western extension of site area to facilitate additional parking and improved servicing provision for all units on this site. Access arrangements to be as already approved under application P/2011/0556/F (Additional Information submitted), at 113-117 Dublin Road Newry.
 - Within the city but outside the city centre.
 - Part zoned housing. Marginal flooding.
 - Involves 296 sqm retail floorspace.
 - Reasons for refusal:
 - Loss of housing land (no link or access between the proposed site and zoned housing land the the proposed retailing does not complement the zoned housing.
 - Fails sequential test.
 - Conflicts with development plan.

LA07/2016/0978/F

- Proposed food retail and off-sales building including associated site works
- Within the city but outside the city centre, within area of archaeological potential and access onto a Protected Route.
- 392 sqm
- Reasons for refusal
 - Lack of information (impact on listed building, bats, land, soil, air, environmental health).
 - Design.
 - Loss of existing industrial land (case not demonstrated)
 - Residential amenity.
 - Outside town centre.
 - Town centres first not adequately addressed.

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Applicant Response

The above two applications are distinguishable from the retail park proposal in terms of scale, nature and scope of reasons for refusal.

In terms of retail and loss of economic development land, the above applications failed to make the case regarding the sequential test and loss of economic development land. We say our proposal does make the case on these grounds.

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OBJECTION BY CLYDE SHANKS DATED 10 OCTOBER 2019.

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Ambiguous Description of Development

We consider that all parties were adequately informed and made aware of the details of the proposed development.

Details of the application were advertised on 15 May 2019 and neighbour notification was carried out on 19 September 2019.

Pre-Application Community Consultation also took place towards the end of 2016 and into 2017 involving extensive engagement allowing for interested parties to be fully informed on the details of the application.

Query Regarding Ownership.

It is claimed that DFI Roads should have been notified of the application as only Certificate A was completed on the application.

However DFI Roads have been consulted on this application and would have been fully aware of the proposed development.

Substantial departure from the Development Plan due to loss of Zoned industrial land

Planning procedure allows alternative uses on employment lands by taking into account other material considerations (see **Annex 1** to this submission, "*Planning Advice Note: Implementation of Planning Policy for the retention of Zoned Land for Economic Development Uses*", November 2015). In this case, there are important material considerations; the Council has actually stated in its report that the proposal will **not** lead to a significant diminution of the employment resource. Also, the proposal will bring a substantial number of jobs and investment so overall, the loss of a small amount of economic development land will clearly not be harmful in this case.

Demise of the City Centre and local neighbourhood facilities.

There is no evidence presented whatsoever in relation to the potential demise of the city centre or local neighbourhood facilities.

SPPS prevents permitting retail development in an out of town location.

The proposal is not out of town, it's within the Settlement Development Limit for the City of Newry.

The SPPS does permit retail development outside town centres subject to policy tests. These involve a sequential assessment and an assessment of need and retail impact which have all been addressed in the application.

Regional Significance

The objector considers that the application is of regional significance and should be Considered by the Department for Infrastructure.

However, there are no thresholds for retail development in terms of regional significance as provided by the Schedule to the Planning (Development management) Regulations (Northern Ireland) 2015.

Significantly contrary to development plan

The objector considers that the proposal is significantly contrary to development plan and should therefore be referred to the Department under Section 29 of the Planning Act (Northern Ireland 2011).

The proposal is not considered to be contrary to the development plan, significant or otherwise since the operational policies relevant to this proposal are contained in regional policy.

Replacement of Economic Development Land.

In response, we do not rely on the industry/business application LA07/2017/0464/F as a means of mitigating the loss of economic development land. Even without this application, the retail park only

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results in a 5% loss of economic development land with almost 90 hectares (or 67 years) of economic development land remaining.

Schedule 6 permission

The objector considers that there is a lack of proof that a Schedule 6 permission has been granted for the proposed development. However, approval for this has been confirmed by DFI Rivers in its response on the application dated 11 September 2017 (see **Annex 2**).

Flood Risk Assessment

The objector considers that there is a lack of assessment in the Flood Risk Assessment however DAERA (Water Management Unit), Rivers Agency and Shared Environmental Services all responded on the application with no objections.

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OBJECTION BY TLT DATED 11 OCTOBER 2019.

Lack of Habitats Regulation Assessment

The applicant submitted an Environmental Impact Assessment Addendum (Addendum 1) in June 2017. Appendix 1 of that Addendum included a shadow Habitats Regulation Assessment (sHRA).

The sHRA was prepared by Corvus Consulting and is dated May 2017.

As part of the sHRA Stage 1 Screening (ToLS) demonstrated that the project was associated with broad mechanisms for which significant adverse impacts on the integrity of the identified Natura 2000 could not be excluded and that an examination of potential cumulative impact and proposed mitigation measures was required. These matters were then referred for formal assessment within Stage 2 (Appropriate Assessment).

The AA has demonstrated that measures to avoid, mitigate and otherwise reduce the significance of adverse impacts on the integrity of the Natura 2000 sites were technically practical and feasible; likely to succeed (i.e. could be implemented with a high degree of confidence in likely success).

No significant cumulative ecological impacts were expected to arise as a result of the proposed development either individually or in-combination.

The sHRA has demonstrated that, provided construction, development and operation are implemented and controlled as is detailed within the ES and sHRA the development proposed at Carnbane Way (Retail Park), Newry will not interfere with any key relationships or elements within the environment which define and control the structure and function of any Natura 2000 sites and will not result in significant adverse impacts on the integrity of the Natura 2000 network or any underpinning designations (ASSI, NHA).

The Council and Shared Environmental Services (SES) received the sHRA. Both parties were fully entitled to have regard to the sHRA and need not necessarily have had to prepare their own HRA. Rather, the Council and SES were both entitled to consider the content of the sHRA and all other relevant information submitted with the planning application in order to consider the proposal against the assessment requirements laid down in regulation 43 of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995.

It is clear that the sHRA submitted in June 2017 followed the approach later advocated by the European Court (People Over Wind, Peter Sweetman v Coillte Teoranta(C-323/17)) in that it did not take mitigation intended to avoid adverse impacts on European protected sites into account at the screening stage, but instead rightly advanced to Appropriate Assessment stage before doing so.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Ref: LA07/2015/0244/F

Date Received: 8 May 2015.

Proposal: This application is for the change of use from the current zoning as 'Employment Land' to 'Port Operational Land' to bring it in line with the rest of the Harbour Estate. All activity on the site will be for the carrying out the statutory function of the port under the Warrenpoint Harbour Authority Order 2002.

Location: Lands adjacent to No 62 Newry Road Warrenpoint and the Gilbert Ash Complex Newry Road Warrenpoint incorporating the Narrowwater Business Park

1.0. Site Characteristics & Area Characteristics:

- 1.1. This site is located adjacent to the existing industrial enterprise units north west of Warrenpoint Harbour.
- 1.2. The site has been subject to engineering works, some infilling of inert material, levelling, the erection of boundary fencing and planting along the roadside and to the north western boundary.
- 1.3. This site is primarily situated within land zoned for existing and proposed economic development within the Banbridge/ Newry and Mourne Area Plan 2015. There is also a protected disused transport route which runs parallel to the roadside. Within the immediate area there are several industrial uses

together with the recreational use of the golf club on the opposite side of the road. Narrow Water Castle and Keep is situated further to the north west of the site.

2.0. Site History:

2.1. LA07/2015/0056/F - 25 metres northwest of 62 Newry Road, Warrenpoint, Construction of pipelines (2no) and 7 horizontal storage tanks for the supply by ship of liquid Carbon Dioxide, with a total storage capacity of 3,200 tonnes and venting by silencer at jetty. The storage tanks will have plant access steelwork and a new hard standing area, and new access road. A loading bay with weighbridge to include containerised weighbridge station for 2 road tankers. A containerised Motor Control Centre will supply power and a containerised refrigeration centre of 20 sq m to keep Carbon dioxide at normal operating temperature. A containerized Quality Assurance Lab of 20sq m. Permission Granted 30.10.2015.

2.2. P/2008/0926/O - 62 Newry Road, Warrenpoint. Site for mixed use development Permission Granted 24.06.2010

3.0. Planning Policies & Material Considerations:

Strategic Planning Policy Statement (SPPS)

Regional Development Strategy 2035 (RDS)

Banbridge, Newry and Mourne Area Plan 2015 (BNAMAP)

Planning Policy Statement 2 (PPS 2) Natural Heritage

Planning Policy Statement 3 (PPS 3) Access Movement and Parking

Planning Policy Statement 4 (PPS 4) Economic Development

Planning Policy Statement 15 (PPS 15) Flooding

4.0. Consultations:

NIEA (Natural and Historic Environment Division NED, HED), Historic Buildings Unit, Historic Monuments Unit, Marine Environment Division, Water Management Unit, Natural Heritage and Conservation Areas.

DAERA Shared Environmental Services (SES)

DfI Transport NI (TNI)
Newry Mourne & Down (Environmental Health Department)
DAERA Rivers Agency
Louth County Council

5.0. Objections & Representations

- 5.1.** The application was advertised in May 2015 and Feb 2019 (amended plans) and nearest neighbours notified in March 2017 and February 2019. No Objections were received.

6.0. Consideration and Assessment:

- 6.1.** Sustainable development is central to the Strategic Planning Policy Statement and the planning system. This requires the integration and balancing of a number of factors, including economic and environmental, in planning decision-taking.
- 6.2.** Section 45 of The Planning (Northern Ireland) Act 2011, requires the council to have regard to the Local Development Plan as far as material to the application and to any other material considerations. Section 6 (4) of the Planning Act (Northern Ireland) 2011 requires that the determination of proposals must be in accordance with the development plan unless material considerations indicate otherwise.
- 6.3.** This site is located within the settlement limit of Warrenpoint, as defined by the Banbridge, Newry and Mourne Area Plan 2015 (BNAMAP 2015). The site is zoned for economic development under zoning WB 25 in Volume 3 of the Area Plan. This zoning has three key site requirements, (discussed below). The remainder of the land is allocated for existing economic development under Allocation ECD 1 in Volume 1 of the Plan. Volume 1 of the Plan 'Plan Strategy and Framework', Page 31, states that Class B2 (Light Industrial) and Class B4 (Storage and Distribution) Use Classes, (as defined within The Planning Use Classes Order) will normally be acceptable on land zoned for economic development.

- 6.4.** The proposal, to expand port lands, is based on the growth in port activity in recent years. The Port provides a significant economic role within the Newry, Mourne and Down District. An Economic Statement has been submitted to demonstrate the port's economic role. Warrenpoint Harbour is recognised as the second largest harbour in Northern Ireland after the Belfast Harbour Authority, with an annual turnover in 2016 of 5.35million. The land will be utilised for the carrying out the statutory function of the port under the Warrenpoint Harbour Authority Order 2002. It will be used to store products, both taken from the port for transport to other countries and from boats for transfer to other parts of the country. In effect the port lands acts as a storage and distribution centre for several businesses. In this way the proposal is, in principle, compliant with the Area Plan provisions and the associated Use Classes, Class B4 (Storage and Distribution), as outlined in Para 6.2 above.
- 6.5.** Zoning WB 25 also specifies a number of key site requirements and the site also contains a protected disused railway route running alongside the Newry Road. The first of these key site requirements requires that the layout and siting of buildings shall ensure that buildings do not back onto the Newry Road; the second requirement is that any open storage shall be located so as to be screened from view from the public road; and the third requirement is for a belt of trees of native species to help screen development on the site. These were all considered as part of the assessment of this application.
- 6.6** Planning Policy Statement 4 (PPS 4) 'Economic Development' provides the policy framework for economic development of the type proposed. The relevant proposals are PED 1, PED 7 and PED 9.
- 6.7.** PED 1 considers proposals within settlement limits. It states that proposals for a *Class B4 Storage or Distribution Use* will be permitted in an area specifically allocated for such purposes in a development plan. In addition a Class B4 development will also be permitted in an existing or proposed industrial/employment area where it can be demonstrated that: the proposal is compatible with the predominant industrial/employment use; is of a scale, nature and form appropriate to the location; and provided approval will not

lead to a significant diminution in the industrial/employment resource both in the locality and the plan area generally.

- 6.8.** PED 7 of PPS 4 which deals with the 'retention of zoned lands and economic development uses' states that development that would result in the loss of land or buildings zoned for economic development use in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses. An exception will be permitted for the development of a *sui generis* employment use within an existing or proposed industrial/employment area where it can be demonstrated that: the proposal is compatible with the predominant industrial use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally.
- 6.9.** PED 9 of PPS 4 which sets out the 'general criteria for economic development' states that a proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all the following criteria:
- (a) it is compatible with surrounding land uses;
 - (b) it does not harm the amenities of nearby residents;
 - (c) it does not adversely affect features of the natural or built heritage;
 - (d) it is not located in an area at flood risk and will not cause or exacerbate flooding;
 - (e) it does not create a noise nuisance;
 - (f) it is capable of dealing satisfactorily with any emission or effluent;
 - (g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;
 - (h) adequate access arrangements, parking and manoeuvring areas are provided;
 - (i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects

existing public rights of way and provides adequate and convenient access to public transport;

(j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;

(k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;

(l) is designed to deter crime and promote personal safety; and

(m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.

6.10. It is considered that the proposal is compatible with the zoned economic use. The adjacent lands are in use as existing industrial employment lands. The provision of storage facilities on the site, in line with the existing harbour use, would be acceptable and in accordance with the terms of the statutory area plan, as outlined above at Para 6.2 and 6.3. In this respect the proposed use of the site for storage and distribution is also considered to comply with the requirements of PED 1 and PED 7 of PPS 4.

6.11. The Planning Department has assessed the scale nature and form of the proposal as part of its assessment of the application and its potential impact, in terms of scale, nature and form, on the immediate area. Warrenpoint is not only a Port Town but it is also a key tourist gateway to the Mourne. One of the Council's Key Corporate Business Objectives is to promote and deliver the district as a tourist area within the island of Ireland. It is also the function of Planning to balance the need for development of this nature against the impact on the landscape and natural and built heritage, all of which contribute to the district's key environment and tourism asset.

6.12. The site is immediately adjacent to the A2 dual carriageway, the 'Gateway' to Warrenpoint and the Mourne AONB and is quite open when viewed from approaches to the town. It is also adjacent to Carlingford Lough and a number of listed structures, in particular Narrow Water Castle and Keep.

- 6.13.** Planning Policy Statement 6 (PPS 6) 'Planning Archaeology and Built Heritage', in particular Policy BH 1 and BH 11, provides the policy context for this proposal and its potential impact on built heritage, including listed monuments and structures - in this case the nearby Narrow Water Castle and its environs.
- 6.14.** Planning Policy Statement 2 (PPS 2) 'Natural Heritage', in particular Policy NH 1, highlights the need to assess the impact this proposal would have on both National and European Designated sites, natural habitats and protected species. There are several designated sites located surrounding this application site. These include Carlingford Shore SAC, Carlingford Lough SPA, Carlingford Lough Ramsar and Carlingford Lough ASSI. Warrenpoint Harbour Authority, as a competent authority in its own right, submitted an HRA (Habitats Regulations Assessment).
- 6.15.** As part of this assessment, the Planning Department consulted a number of statutory agencies, in particular NIEA, (Natural and Historic Environment Division NED, HED), (Historic Buildings Unit, Historic Monuments Unit, Marine Environment Division, Water Management Unit, Natural Heritage and Conservation Areas) and DAERA Shared Environmental Services (SES).
- 6.16.** HED Historic Buildings Unit has confirmed that while it is content with the impact this sole change of use application would have on the adjacent built heritage, it has also requested that it should be consulted on any further development which may occur on site. This is to ensure that the specified criteria in Policy BH 1 and BH 11 can be met and secured in the future.
- 6.17.** Consultation was undertaken, during the assessment of this application, with Natural Environment Division (NED) and Shared Environmental Services (SES). Consultation was also carried out with Louth County Council. It did not raise any objections to the proposal in its final response. Details of the responses are available on the planning portal.

6.18. In its final responses, SES has confirmed that it carried out a full Stage 2 Appropriate Assessment of the proposal, having considered the HRA submitted by the applicant. It has concluded, having considered the nature scale, timing, duration and location of the project that, provided the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site.

1. All construction works must take place within the red line boundary and a suitable buffer of at least 10 metres must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the red line boundary.

Reason: To protect the tidal river and hence European Sites from the adverse impacts due to potential construction polluting discharges.

2. Emergency spill procedures must be in place prior to construction works on site and during operation of the facility.

Reason: To protect the tidal river and hence European Sites from the adverse impacts due to accidental polluting discharges. It is concluded that The Planning Department considered the content and is in agreement with the outcome.

6.19. SES has subsequently confirmed to the Planning Department that, in terms of a recent court ruling, it reviewed the HRA template in 2018 and processes to reflect the conclusions of the ruling. This proposal has not been through this updated SES template and process. In the absence of any new environmental information it is clear SES would still take the case to HRA Stage 2 Appropriate Assessment and append the conditions recommended in its earlier response. The Planning Department accepts the findings of the HRA Stage 2 assessment and outcome of the consultation process. It is satisfied that the proposal is in line with the Habitats Directive and NI Regulations and recent court judgements.

6.20. DoE Marine Response Team commented that the application site is adjacent to Carlingford Lough ASSI, which is declared under the Environment Order (Northern Ireland) 2002. The site is designated for bird species, coastal saltmarsh, mudflats and earth science features. Provided the proposal is

confined to the red line boundary there should be no impact on the site selection features of the designated site. Marine Environment Division has considered the impacts of the proposal and on the basis of the information provided is content with the proposal with a condition and informatives. The Loughs Agency has also considered the information provided and would have no objection in principle to the proposed development.

- 6.21.** The potential impacts on adjacent built and natural features, resultant from the open/outside storage of materials on the application site, must also be assessed. Due to the location and open nature of the site, it is considered that any future use should be effectively screened by the provision of an appropriate robust boundary landscaping scheme and planning conditions to secure its delivery. The applicant submitted a landscaping plan which includes boundary planting. It is considered that an enhanced planting scheme will be required to ensure future uses on the site are acceptable in visual terms at this important location.
- 6.22.** A height restriction should also be placed to control the future use of the site and its potential impact when viewed from the road network and the water. Given the site's key requirements within the Plan Zoning together with the designation of the ANOB and the built heritage context, it is considered that a height restriction for outside storage, of no more than 5.5m would be acceptable in this instance. The would ensure that the proposal would comply with Policies NH 6 as well as NH 1 and NH 3 of PPS 2. Warrenpoint Harbour Authority, the competent authority, should also be made aware of HED's concerns and its request to be consulted on any future development on the lands.
- 6.23.** It is further considered that the proposed use of the lands as Port Lands, for storage and distribution purposes in line with the current Harbour as proposed, will not lead to a significant diminution in the industrial/employment resource both in the locality and the plan area generally. The use of lands for storage purposes in conjunction with an existing economic resource will enhance the existing employment resource.

- 6.24.** In the light of all the above it is considered that the proposal will be of a scale, nature and form appropriate to the location and will be acceptable and in accordance with the requirements of the statutory area plan and policies PED 1 and PED 7 of PPS 4.
- 6.25.** PPS 3 'Access, Movement and Parking' provides the policy basis for access arrangements and impact on road safety and the flow of traffic on adopted roads. This application proposes to access the public road by utilising the existing access to the port. The existing access is on to the A2 Protected Route. There is sufficient space on site to allow for turning and parking of vehicles. A new internal access will be created from the site to the existing port lands. TNI Roads was consulted on these issues and confirmed no objections to the proposal, in its formal consultation response. In the light of this the proposed access arrangements are considered in accordance with Policy Amp 2 and Policy AMP 3 of PPS 3.
- 6.26.** The existing disused transport link, as identified in the Area Plan, is protected under Policy AMP 5 of PPS 3. The applicant has stated that the line of the disused line will be protected but on a slight alternative route. This can be addressed and delivered by planning condition.
- 6.27.** The majority of the site lies within the Q1-200 year coastal flood plain. A Flood Risk Assessment has been submitted and Rivers Agency has been consulted on its contents. DfI Rivers Agency has confirmed it has considered the FRA and has no reason to disagree with its conclusions. Consequently it cannot sustain a reason to object to the proposal from a flood risk perspective. This is subject to consent to discharge being granted. This can be condition to be submitted to the Planning Authority prior to commencement of this proposal.
- 6.28.** Water Management Unit has confirmed that it has considered the impacts of the proposal on the surface water environment and is content subject to conditions.
- 6.29.** There is no further impact in relation to crime or site security.

- 6.30.** The Planning Department consulted Environmental Health Department as part of its assessment of the application. It confirmed that it reviewed the information submitted in relation to noise, odour and dust. The information provided indicates that the area of ground will be used for storage including the external storage of RDF bales. While referring to previous complaints from local business operators in relation to odour and flies from the storage of RDF bales, it stated that the assessments completed in support of the application conclude that the proposal will not have any negative impact on local residents or properties. It recommended that a number of planning conditions to ensure protection of residential amenity. It further advised that that Waste Management Unit of NIEA should be consulted on this application as a Waste Management Licence will be required for the storage of waste on the proposed site. This is a separate matter beyond planning and can be addressed through an appropriate planning informative.
- 6.31.** Overall, in the light of all the above, it is considered that the proposal complies the prevailing planning policy requirements, as outlined above.

7.0. Recommendation:

- 7.1.** It is recommended that the proposal should be approved subject to the strict planning conditions attached which will ensure the proper use of the site and the protection of this extremely important natural and built setting.

Conditions:

1. The development hereby approved shall be begun before the expiration of 5 years from the date of this decision notice.

Reason: Time Limit

2. All construction works must take place within the red line boundary and a suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil,/fuel, concrete mixing

and washing areas, storage of machinery/ material/spoil etc and the red line. The boundary of the designated sites shall not be disturbed in any way.

Reason: To protect the tidal river and hence the European sites from adverse impacts due to potential construction polluting discharges.

3. All construction activity shall be confined within site boundaries, and the boundary of the designated areas shall not be disturbed in any way without written consent from the relevant department, NIEA Natural Environment Division.

Reason: To protect the integrity Carlingford Lough ASSI and to avoid it being damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002 (as amended).

4. Emergency spill procedures shall be in place prior to construction works on site and during operation of the facility.

Reason: To protect the tidal river and hence the European sites from adverse impacts due to potential construction polluting discharges.

5. A detailed Construction Method Statement (CMS) shall be submitted, for consultation and agreement with NIEA Water Management Unit, at least eight weeks prior to the commencement of any construction. The CMS should include robust pollution prevention measures to protect the water environment during the construction Phase

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

6. The use hereby approved shall not commence until a Schedule 6 Agreement with Rivers Agency has been submitted to and agreed in writing by the Planning Authority.

Reason: To Avoid Flooding.

7. The access to the application site shall be through the existing Port Lands and shall utilise the existing access to the Port and no other means of access.
Reason: In the interests of road safety and traffic progression.

8. The application site, as approved, shall be used for the purposes of Class B2 (Light Industrial) and Class B4 (Storage and Distribution) Use Classes, (as defined within The Planning Use Classes Order) only and for no other purpose.

Reason to ensure the proper use of the site and that the proposal complies with the terms of the statutory plan.

9. Vehicular activity on site must utilise the existing access to the Port and be restricted between the hours of 11pm and 6am.

Reason: To protect residential amenity.

10. To control potential nuisances from the site from flies and vermin the applicant must ensure that all mitigation measures and controls as per "Odour and Nuisance Assessment 14108 - Warrenpoint Harbour Authority Section 5.8 - 5.9" are put in place prior to operations commencing on site.

Reason: To protect residential amenity.

11. The layout and siting of any buildings on the site shall ensure that buildings do not back onto the Newry Road.

Reason: to ensure protection of the setting of the site and the natural and built heritage and that the proposal complies with the terms of the statutory plan.

12. A detailed landscaping planting scheme, to include a 5-metre landscaping boundary planting scheme along the entire north east and north west boundaries of the site, with appropriate tree and ground planting species, together with a detailed landscape management, planting and maintenance plan, shall be submitted to the Council's Planning Department for agreement in writing within 3 months from the date of this approval. This should include the retention and enhancement of the existing landscape boundary

treatments. This should also include details of the location and future use of the disused transport route, as identified in the statutory area plan.

Reason: to ensure protection of the setting of the site and the natural and built heritage and that the proposal complies with the terms of the statutory plan.

13. The detailed landscape management and planting plan shall be fully implemented within the first available planting season following its agreement in writing by the Council's Planning Department. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation. The approved screenings shall be allowed to grow and retained at a height of a minimum of 6m and a width of 5m unless modifications are necessary to prevent danger to the public in which case a full explanation and application shall be submitted to the Planning Department in writing for agreement.

Reason: to ensure protection of the setting of the site and the natural and built heritage and that the proposal complies with the terms of the statutory plan.

14. The total stacked height of any outside storage or storage facility on the application site hereby approved shall be limited to a height of no more than 5.5metres from existing ground level.

Reason: To protect the setting of the application site and adjacent built and natural heritage features.

Informatives:

NIEA HED Historic Monuments Unit has considered the impacts of the application and on the basis of the information provided is content with the proposal. Due to possible future visual impacts upon the state care site at Narrow Water, Warrenpoint Harbour Authority should ensure that HMU are consulted on any further developments on site.

The applicant is advised to ensure that all plant and equipment associated with the above process is operated and maintained in such a way as to prevent the transmission of noise, odour and dust to nearby dwellings.

The applicant should demonstrate best environmental practice when working close to watercourses. The potential for deleterious matter to enter a watercourse is of primary concern. Impacts on the aquatic environment such as a decrease in water quality can cause a significant impact upon various life history stages of fish species.

The applicant should also be aware that it is an offence under section 41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.

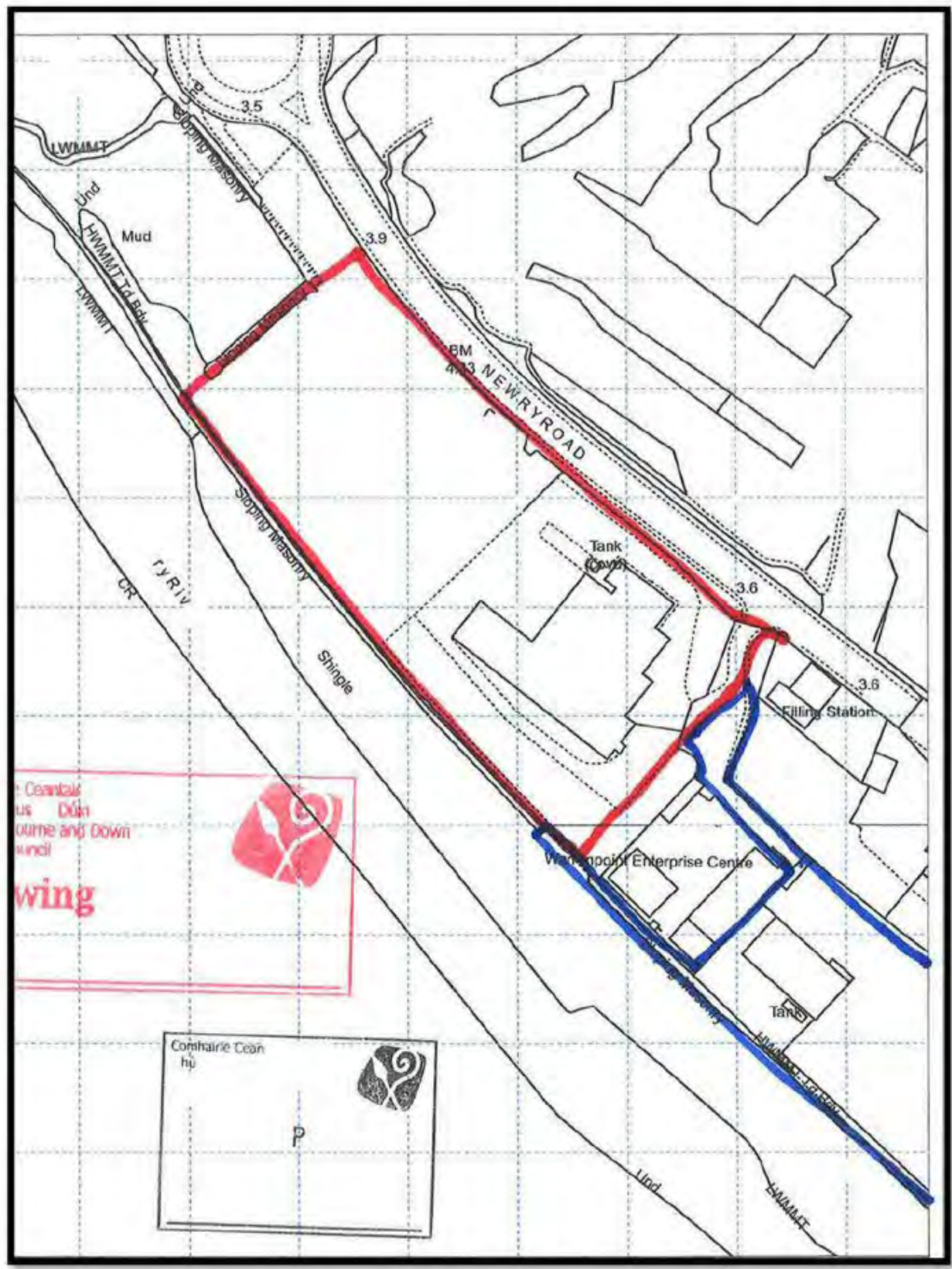
The applicant is advised that Waste Management Unit of NIEA should be consulted on this application as a Waste Management Licence will be required for the storage of waste on the proposed site.

It is acknowledged that a landscaping plan was submitted to the Planning Department for consideration, (date stamped 6th March 2018). It is considered that further additional information and detailing is required to address the Planning Department's concerns on appropriate boundary treatments and to ensure protection of the application site's setting and natural and built heritage.

Plus Rivers Agency EO1, EO2,EO3, EO6 &EO 11.

Plus NIEA NED and HED

APPENDIX 1: Application Site Boundary



APPENDIX 2: Summary of Consultation Responses.

DoE Planning Response Team

NIEA Archaeology and Built Heritage

Historic Buildings Unit has considered the impacts of the proposal on the nearby Narrow Water Castle and environs, and on the basis of the information provided is content with the proposal.

Historic Monuments Unit has considered the impacts of the application and on the basis of the information provided is content with the proposal. Due to possible future visual impacts upon the state care site at Narrow Water, please ensure that HMU are consulted on any further developments on site.

Coastal Development

DoE Marine Response Team commented that the application site is adjacent to Carlingford Lough ASSI, which is declared under the Environment Order (Northern Ireland) 2002. The site is designated for bird species, coastal saltmarsh, mudflats and earth science features. Provided the proposal is confined to the red line boundary there should be no impact on the site selection features of the designated site.

In addition to designated sites marine mammals are afforded protection throughout their range through the following nature conservation legislation:

- The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended); and
- The Wildlife (Northern Ireland) Order 1985 (as amended).

This includes marine mammals such as cetaceans and seals, both of which are present within Carlingford Lough. All plans/projects within or adjacent to the marine environment must therefore provide appropriate mitigation, if required.

Marine Environment Division has considered the impacts of the proposal and on the basis of the information provided is content with the proposal with a condition and informatives

Condition

All construction activity shall be confined within site boundaries, and the boundary of the designated areas shall not be disturbed in any way without written consent from the Department.

Reason: To protect the integrity Carlingford Lough ASSI and to avoid it being damaged by construction vehicles, deposited materials, contaminated run-off, or any other activity during the construction period or thereafter. Any works occurring within the designated site but outside the red line planning application boundary are subject to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002 (as amended)

Drainage and Water

Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided is content with the proposal subject to conditions.

Natural Heritage and Conservation Areas

Natural Environment Division has considered the impacts of the proposal on the Carlingford Lough SPA/ASSI and has concerns that the proposal may have an adverse impact on the N2K and ASSI site and advises that due regard is given to the recommendations detailed below by the competent authority, Newry, Mourne and Down District Council in undertaking the Habitats Regulations Assessment on, Carlingford Lough SPA. This should ensure compliance with the requirements of the Habitats Directive.

Environmental Health, Newry, Mourne and Down District Council.

Warrenpoint Harbour Authority currently occupies land to the south of this site and carryout a number of activities on this ground. Activities include transfer of materials from and to ships and storage of a range of materials including grain, scrap metal, RDF material, bulk cement and coal. The activities at the current site have been the subject of complaint from residents alleging nuisance from noise, dust and flies. Newry & Mourne District Council have served abatement notices having been

satisfied that certain activities carried out by operators on the site have caused nuisance to local residents.

Furthermore, the department are aware that RDF bales were stored on the proposed site during August 2015 and complaints were received by the department from local business operators in relation to odour and flies from the storage of the bales.

The department have reviewed the information uploaded onto epic in relation to noise, odour and dust. The information provided indicates that the area of ground will be used for storage including the external storage of RDF bales. The assessments completed in support of the application conclude that the proposal will not have any negative impact on local residents or properties. As stated previously the Environmental Health Department have received complaints from local business operators in relation to odour and flies from the storage of RDF bales on the proposed site.

The department would advise that Waste Management Unit of NIEA should be consulted on this application as a Waste Management Licence will be required for the storage of waste on the proposed site.

The department would recommend the following conditions are placed on any approval granted:

1. Vehicular activity on site should be restricted between the hours of 11pm and 6 am.

REASON: To protect residential amenity.

2. To control potential nuisance from the site from flies and vermin the applicant must ensure that all mitigation measures and controls as per 'Odour and Nuisance Assessment 14108 – Warrenpoint Harbour Authority Section 5.8 and 5.9' are put in place as operations commence on site.

REASON: To protect residential amenity.

Informative: The applicant is advised to ensure that all plant and equipment associated with the above process is operated and maintained in such a way as to prevent the transmission of noise, odour and dust to nearby dwellings.

DfI Transport NI

No objections to this proposal.

The above comments are on the basis that the information provided on Transport Assessment form is accurate and correct.

Louth County Council.

Louth County Council has considered the proposed development, the existing use of the lands and the permissions granted, as well as possible future developments on the lands. We note the conclusions of the HRA. We have no additional comments to make at this time.

Rivers Agency

Re: Change of use from the current zoning as 'Employment Land' & open countryside to 'Port Operational Land' to bring in line with rest of Harbour Estate. Lands adj. to 62 Newry Road, Warrenpoint.

With reference to your consultation dated 27th March 2017.

Rivers Agency, while not being responsible for the preparation of the FRA by KH Ramsey Consulting, dated November 2016, accepts its logic and has no reason to disagree with its conclusions. Consequently, Rivers Agency cannot sustain a reason to object to the proposed development from a flood risk perspective.

It should be brought to the attention of the applicant that the responsibility for justifying the Flood Risk Assessment and accepting any flood risk rests with the developer and his/her professional advisors (refer to section 5.1 of Revised Planning Policy Statement 15)

Under the terms of Schedule 6 of the Drainage (NI) Order 1973, any proposals either temporary or permanent, in connection with the development which involves interference with any watercourses such as culverting, bridging, diversion, building adjacent to or discharging storm water etc requires the written consent of Rivers Agency. This should be obtained from the Eastern

Regional Office at Ravarnet House, Altona Road, Largymore, Lisburn BT27

5QB. Planning Informatives

In addition to the foregoing point the Agency would recommend that planning informatives as follows should be included in any planning decisions.

Informative Numbers E01, E02, E03, E06 & E11.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/0574/F

Date Received: 12.04.2019

Proposal: The application is for full planning permission for an environmental improvement scheme.

Location: The application site is located within the small settlement of Ballyhornan within an Area of Constraint on Minerals development and AONB as designated in the Ards and Down Area Plan 2015.



Site Characteristics & Area Characteristics:

The site comprises an area within the small settlement of Ballyhornan. The scheme is located from Killard Road, south of Benderg Park, the site is bordered on the south side by section of Rocks Road and to the east by Ballyhornan Beach. The lands include an existing

play area, existing car park an area of grass and dunes. The proposal includes new play area, car park surfacing, granite paving, footpaths of various materials, stone walls, fencing, new seating, sand dune restoration and removal of overhead wires.

Site History:

No relevant history

Planning Policies & Material Considerations:

The application site is located within the settlement of Ballyhornan as designated in the Ards and Down Area Plan 2015 and as such the SPPS is the relevant policy document, which is read in conjunction with

PPS 2 – Natural Heritage

PPS 3 – Access, Movement and Parking

PPS 8 – Open Space, Sport and Outdoor Recreation

Consultations:

DFI Roads – No objections

NI Electricity – No objections

Rivers Agency – No objections

Marine and Fisheries Division – No objections

Natural Environment Division – No objections subject to conditions

Shared Environmental Services – No objection subject to conditions

Objections & Representations

In line with statutory requirements 29 neighbours have been notified on 09.05.2019. The application was advertised in the Mourne Observer and the Down Recorder on 01.05.2019. No third party letters have been received in relation to the proposal.

Consideration and Assessment:

The provisions of the Strategic Planning Policy Statement for Northern Ireland Planning for Sustainable Development (SPPS) are material in all decisions on individual planning applications and appeals. During the transitional period until the Council has adopted a Plan Strategy for its area, the SPPS and retained planning policy statements are applicable.

The Proposal is an Environmental improvement scheme within Ballyhornan.

The proposal will utilise the following materials and finishes:

- Granite sett paving to pavements
- Asphalt coat to car park
- Colour coated bonded resin to paths/steps
- Resin bound surface
- Metal barrier
- Low retaining wall
- Railway sleepers
- Post and mesh fencing and chestnut pale fencing

- Stone wall

PPS 8 – Open Space, Sport and Outdoor Recreation

District councils are key enablers in the development of sport and physical recreation and have the primary responsibility for the provision of public open space facilities within their areas. Their statutory powers to provide for and facilitate recreation are considerable, ranging from leisure and tourism promotion, acquisition of land for recreational use and provision of facilities, to securing public access to the countryside.

For the purposes of this Planning Policy Statement, open space is taken to mean all open space of public value, including not just land, but also inland bodies of water such as rivers, canals, lakes and reservoirs which offer important opportunities for sport and outdoor recreation and can also act as a visual amenity.

As part of the proposal a new play facility is proposed in the existing area of open space to the west of the existing car park. The proposal also entails a new path through the area of open space to the feature area south of No 71 Killard Road. It also includes replacement car parking surface, paving and granite setts, improved path access to the beach with new path surfaces including timber sleepers and handrails, feature standing stones and stone wall. Part of the scheme includes dune restoration along the most eastern portion of the site, with the planting of marram grass to stabilise the sand dunes and protected by post and wire fencing and chestnut pale fencing. These improvements shall not have a detrimental impact on the AONB and would be acceptable visually.

PPS 2 Natural Heritage

PPS 2 deals with a commitment to sustainable development and to conserving and where possible enhancing and restoring our natural heritage. The Habitats Directive requires the protection of certain natural habitats through the designation of Special Areas of Conservation (SACs). It also requires the establishment of a system of strict protection for a list of species (other than birds) whose resting and breeding places and whose habitats must be protected to secure their survival, wherever they occur in the member state's territory. The protection and management of these European sites and their habitats and species (known collectively as „Natura 2000“ sites) is transposed under the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) [“the Habitats Regulations”].

The application site is in proximity to the following national, European and international designated sites.

- Strangford Lough SAC, Murlough SAC, North and Channel SAC which are designated under the EC Habitats Directive (92/43/EEC on the conservation of natural habitats and of wild fauna and flora);
- Strangford Lough SPA, and East Coast Marine SPA, which are designated under the EC Birds Directive (79/409/EEC on the conservation of wild birds),
- Ramsar site, which is designated under the Ramsar Convention,
- Strangford Lough MCZ which is designated under the Marine Act (Northern Ireland) 2013

- Strangford Lough ASSI, and Killard ASSI, which are declared under the Environment Order (Northern Ireland) 2002;

The application site impacts on Strangford Lough SAC/SPA/Ramsar and East Coast Marine Proposed SPA (hereafter referred to as the designated site) which is of international and national importance and is protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002. After consultation with NIEA- NED, they have confirmed that they are now content, subject to conditions. Shared Environmental Services were also consulted regarding the proposal. The application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry, Mourne and Down 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 the following mitigation is conditioned in any planning approval, the proposal will not have an adverse effect on site integrity of any European site. It is considered that development proposal is not likely to result in the unacceptable adverse impact on the conservation management of the designated site.

PPS 3 – Access, Movement and Parking

PPS 3 sets out the planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning. Transport NI have offered no objections to this proposal and it is considered that there will be no prejudice to road safety or significantly inconvenience the flow of traffic. The existing road network will not be impacted upon by the proposal. Existing parking arrangements are also available at the site. The proposal complies with all relevant policies.

Other issues

NIE were consulted as part of the consultation process and having discussed with application with the agent are now satisfied that the proposal in its current form will have minimal impact on the electricity network. Furthermore, this engagement has been agreed to continue in order to facilitate a site visit during the construction works and to comply with any safety mitigation, such as height restrictions or safety distances.

Conclusion

Taking into account all material considerations the proposal is considered to comply with relevant planning policies and it is recommended that the application be approved subject to conditions.

Recommendation:

Approval

Conditions:**Standard Time, landscaping**

3) A suitable buffer of at least 10m must be maintained between the location of refuelling, storage of oil/fuel, spoil, concrete mixing and washing areas and the adjacent designated areas of Strangford Lough SAC/SPA/Ramsar.

Reason: To protect the site features of Strangford Lough SAC/SPA/Ramsar and East Coast (NI) Marine SPA.

4) A Construction Method Statement (CMS) must be submitted to Planning by the appointed contractor for approval prior to works commencing. The approved CMS shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by planning.

Reason: To ensure that the appointed contractor is informed of the risks associated with the proposal, and thus protect the site features of Strangford Lough SAC/SPA/Ramsar and East Coast (NI) Marine SPA.

5) All works must be undertaken as noted in submitted drawing number 01B (Site Plan).

Reason: To protect the site features of Strangford Lough SA/SPA/Ramsar.

Case Officer Signature

Date

Appointed Officer Signature

Date



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

**Newry, Mourne
 and Down**
 District Council

Application Reference: LA07/2019/0645/F

Date Application Valid: 30.04.2019

Proposal: Reconstruction of existing vehicle turning circle + replacement section of 1200high Stock proof fencing + construction of new boat slipway for the exclusive use of the education authority

Location: Delamont outdoor education centre, 88 Downpatrick Road, Killyleagh



Site Characteristics & Area Characteristics

The site is accessed through an existing access and lane that travels approx. 1.3km within the larger grounds of the Delmont Park, to the shore. The site is located adjacent to and includes the shore.

Site History:

R/1980/0436 Permission Granted

Leisure park - DELAMONT HOUSE, DOWNPATRICK ROAD, KILLYLEAGH, DOWNPATRICK

R/1981/0777 Permission REFUSED

CONVERT EXISTING OUTBUILDINGS INTO 35 NO FLATS - DELAMONT HOUSE, DOWNPATRICK ROAD, KILLYLEAGH

R/1985/0489 Permission Granted

CHANGE OF USE TO OUTDOOR PURSUITS CENTRE - DELAMONT HOUSE, KILLYLEAGH

R/1990/1028 Permission Granted

Continuation of bitmac road, new dust road, paths, fences and terraced area - DELAMONT ESTATE KULLAGH KILLYLEAGH CO-DOWN

R/1995/6128 - Mourne granite monolith Delamont Country Park Killyleagh

R/1998/0897 Permission Granted

Proposed construction of a miniature railway around the perimeter of one of the meadows - DELAMONT COUNTRY PARK KILLYLEAGH

Planning Policies & Material Considerations:

The proposal will be assessed in relation to the Regional Development Strategy, the Ards and Down Area Plan 2015, the Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement 8 Open Space, Sport and Outdoor Recreation (PPS8), PPS2 Natural Heritage and PPS15 Planning and Flood Risk. Planning Policy Statement 6 Planning, Archaeology and Built Heritage will form part of the assessment. Published guidance will also be considered and referenced within the report.

Consultations:

The Planning Authority consulted with DAERA, DfI and DAERA Rivers. Advice and Guidance has also been sought from Shared Environmental Services. The Environmental Information Report was uploaded to facilitate consultation and this document included the Habitat Regulations Assessment (HRA).

DfC Historic Environment Division (HED) – consulted as the site constraints refer to archaeological site MRD 206:164/049 and MRD:205:020 as Slipway and includes Intertidal Wall references MRD 206:139/151/140, Jetty MRD 205:009 and Ford MRD 205:010/018. The site is also within the Historic Park/Garden/Demesne of Delmont. HED are content with the details of the application and it is satisfactory to the SPPS and PPS6 Planning Archaeology and the Built Environment. HED noted the site has previously been subject to archaeological testing.

DAERA Natural Environment Division (NED) – Provided advice to the Planning Authority which highlights that the site is within Strangford Lough Ramsar/SAC/SPA, Strangford Lough Part 2 ASSI which are of international importance and are protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002. NED considered the information currently available and has no concerns subject to informatives. In relation to designated sites NED note the proposal is not connected with or necessary for the conservation management of the designated sites and are content that there will be no significant impacts on the site features provided mitigation measures within the HRA will be adhered to. NED Recommend a suitable buffer of 10m to be maintained between the location of all construction works eg refuelling etc, a suitable barrier erected around the works prior to commencement if construction and the barrier to be de-watered prior to use of wet concrete and all water contained and collected for treatment prior to disposal. NED also considered other natural heritage interests and concluded there is unlikely to be a significant impact on the protected and priority species and habitats with informatives provided.

DAERA Costal Development – Considered the details of the application, is content with the proposal and offers informative for applicant's benefit. They advise that a ***Marine: Licence has been granted for the development.*** The informatives can be attached to the decision if permission is granted.

DAERA Drainage and Water (Water Management Unit) – Considered the impacts the proposal would have on the surface water environment and is content with the details provided subject to condition of applicant referring and adhering to Standing Advice which require a final Construction Method Statement to be submitted at least 8 weeks prior to commencement and any relevant statutory permissions being obtained.

Rivers Agency – consulted as a result of comments from SES. The site is partially (the slipway) within the 1 in 200Year Coastal Floodplain. The proposal is an exception to PPS15 Policy FLD1 under (e) and would not cause flooding. The proposal would not require a Drainage Assessment and in order to prevent contaminants entering Strangford Lough during construction a recommendation is included within their comments to position the construction materials with potential contaminants 600mm above the coastal floodplain which is at 3.42OD. Rivers Agency also referred to standard information which can be detailed as informative within the decision in the event of planning approval.

SES – Originally advised the applicant required a Habitats Regulation Assessment. As this had been supplied within the Environmental Information Report submitted with the application SES were advised. SES then referred to the sites location within the T200 Coastal Floodplain and required consultation after the Planning Authority sought comments from Rivers Agency.

SES considered the details of the proposal as well as the consultation response from Rivers Agency and advised the following:

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry City, Mourne and Down District Council which is the competent authority responsible for authorising the project and any assessment of it required by the Regulations. SES advised that DAERA Marine Licencing Unit and NIEA are experts in this subject area and are part of the Statutory Nature Conservation Body therefore SES recommends the Council adopt the Habitats Regulation Assessment (HRA) completed for the project and requested mitigation through planning conditions which are included within recommended planning conditions of the planning report.

Objections & Representations

The site was advertised in Mourne Observer and Down Recorder on the 15.05.2019. 4 Neighbouring properties were notified within the neighbour notification process on the 09.05.2019.

Statutory Expiry for comments passed 29.05.2019. Several representations were received after this date expired and the Planning Authority must consider all representations received during the consideration of the proposal.

8 Objections have been received in relation to the proposal. Representations have been received from Cllr C Enright, Sketrick Coastal Rowing Club, Portaferry Coastal Rowing Club, Down Coastal Rowing Association which references Irish Coastal Rowing Federation it is affiliated with, Loch Cuain Canoe Club (Strangford and Lecale Coast) and members of the public Ms Dodds, Ms Armstrong and Mr Marr.

The concerns and consideration of representations are outlined below. The full details of representations are available on the planning portal and planning file:

- The proposal description refers to the exclusive use of the Education Authority.

This relates to comments received from elected representative Cllr C Enright which refers to the proposal damaging the potential for Council to support water sports on the site and identifies a similar facility the Education Authority has adjacent to Killyleagh Yacht Club.

- The proposal has potential to damage designated sites within Strangford Lough

The proposal has been submitted with an Environmental Information Report which includes a Habitats Regulation Assessment. The Planning Authority will consider the comments returned from statutory consultees when assessing the possible impact the proposal would have on designated sites. The proposal will also be subject to assessment in relation to PPS2 Natural Heritage which details policy relating to development that may affect designated sites.

- The isolated nature of the site would result in a risk of vandalism.

The security of the site would be matter for the applicant. The proposal includes fencing and the location of the site corresponds with the existing vehicle turning area that is also subject to an upgrade within this application.

- The need for a second pontoon or provision of an additional slipway to accommodate public access, local rowing clubs and Council sponsored events such as Skiff World Championships.

The need for an additional slipway or pontoon to facilitate public access to Strangford Lough is not the subject of this planning application. The proposal is the consideration of the planning application submitted by the applicant. Public access to Strangford Lough by way of a pontoon or slipway would be a matter for the Council and interested parties such as rowing clubs to pursue.

- Access has been identified though a redundant gateway and this would adversely affect traffic flows on the A22

The proposal does not include a new access. This is confirmed within the P1 Planning Application form submitted with the proposal. Question 12 of the P1 form identifies access arrangements for the development are through use of an existing unaltered access to the public road. The access is also identified within the red line of the submitted site location map. The proposal did not seek a new access or include alterations to the existing access and consultation with Transport NI was not considered necessary by the Case Officer to facilitate an informed opinion of the proposal. The proposal does not seek to intensify use of the existing the vehicular access which is demonstrated within the Questions 24 and 25 of the completed P1 form.

- Objection to access to the water being removed at Delamont.
- Lack of Consultation with local Rowing Clubs

The proposal was advertised in local press and the neighbour notification has been carried out as required by legislation.

This is not the subject of the planning application. The proposal includes a new slipway to provide the applicant access to Strangford Lough.

Objections received refer to the proposed exclusive use of the facility by the applicant, the Education Authority, as this is included within the proposal description of the planning application. The Planning Authority would state that the grant of planning permission for a proposal does not confer title and therefore use of the site is a matter for the applicant as the land owner. If a third party wishes to use the facility, they would require permission from the landowner.

The reference within the representations received highlight the Education Authority's property within Killyleagh adjacent to Killyleagh Yacht Club, its use and their relationship with the Council and clubs within the area and includes reference to the Education Authority's duty of care to community planning. This is not a planning matter and does not form part of the planning assessment.

Consideration and Assessment:

The proposal is a full application for reconstruction of existing vehicle turning circle and replacement section of 1200 high stock proof fencing and construction of new boat slipway for exclusive use of the education authority.

The application was accompanied with an Environmental Information Report for the proposal, a copy of the applicants Marine Licence (DAERA) application, the applicants Business Case for the proposed slipway, plans labelled LA07/2019/0645/01-04 bearing date stamp 12APR2019.

DAERA NED have confirmed within their consultation response that a Marine Licence has been granted for the proposal.

The site is within an area of several significant designations RAMSAR, Special Area of Conservation (SAC), Area of Special Scientific Interest (ASSI), Marine Nature Reserve, AONB and Ancient Woodland. The site is within the Historic Park/Garden/Demesne referred to within proposal COU7/11 of the Draft Ards and Down Area Plan 2015. The Planning Authority has carried out consultation with relevant statutory bodies to ensure an informed opinion of the proposal can be made.



The proposal will include reconstruction of the existing vehicle turning circle and replacement of 1200high stock proof fence. This will facilitate a suitable and safe area for vehicles of the users accessing the slipway and ensure they have the infrastructure in place at the site to accommodate the use. This is not a new facilitate as it will replace the existing vehicle turning area. The stock proof fence will replace the existing fencing and would not have an adverse impact on the character of the area in terms of visual amenity.

PPS8 Open Space, Sport and Recreation Policy OS3 Outdoor Recreation in the Countryside

The Department will permit the development of facilities ancillary to water sports adjacent to inland lakes, reservoirs and waterways where all the following criteria are met:

- (i) it is compatible with any existing use of the water, including non-recreational uses;

The proposal includes a new slip to facilitate safe access for recreational boat launches. This is compatible with the existing use associated with the Education Centre.

- (ii) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

The Planning Authority has consulted with DAERA Natural Environment Division, DAERA Coastal Development, DAERA Drainage and Water, Shared Environmental Services (SES) and Rivers Agency in relation to the proposal. The site is also within a Historic Park/Garden/Demesne and Historic Environment Division also considered the proposal. No objections to the proposal have been received from the statutory consultees and planning conditions have been recommended. It is therefore reasonable to conclude that the proposal is unlikely to have any detrimental impacts on the priority habitats and protected species.

- (iii) there is no adverse impact on visual amenity or the character of the local landscape;

The site is located within designated Area of Outstanding Natural Beauty. Views of the site will only be achieved from land within the immediate vicinity of the site or within Strangford Lough itself when adjacent to the slipway. Planning Policy Statement 2 Natural Heritage (PPS2) Policy NH6 states that 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 refers to criteria that must be met. The proposal would not have an adverse impact on the visual amenity or character of this local landscape.

- (iv) it will not result in water pollution or an unacceptable level of noise or disturbance;

The proposal includes mitigation measures within its Environmental Information Report and statutory consultees with the details of the proposal. Water Pollution has been considered and mitigation measures can be conditioned as recommended by NED and SES. The applicant will also be required to submit a Construction Method to Planning prior to commencing works on the site as a negative planning condition which will be forwarded to consultees for consideration.

The proposal will not result in unacceptable noise or disturbance in the area as the site is currently used by the Education Authority for non-motorised craft.

- (v) buildings or structures are designed to a high standard, are of a scale appropriate to the local area or townscape and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;

The works on site will largely be to the ground and shore. The fencing would be the most visible and is to replace an existing stock proof fence and therefore it would not introduce a new feature to the landscape. The details of the slipway and the replacement vehicle turning circle are included within the submitted plans. The proposal would satisfy policy.

(vi) the proposed facility takes into account the needs of people with disabilities; The Applicants Business case submitted with the application identified the health and safety concerns the shore presents when carrying a boat to and from the Lough. The shore has many dangers associated with it such as uneven surfaces, loose rock, seaweed which makes carrying the boat to and from its launch at the shore more difficult. The slipway would ensure that access can be provided for more users as the path can be more easily managed.

(vii) there is no conflict with the provisions of any local management plan The proposal would not conflict with the Ards and Down Area Plan 2015.

Paragraph 5.27 of Policy OS3 within PPS8 refers to locations designated for their landscape, nature conservation or heritage importance whereby special care is needed in assessing proposals as it may be possible to meet demand for outdoor recreation use so far as it is consistent with the conservation or enhancement of the interest for which the site or area is designated.

Planning Policy Statement 2 Natural Heritage Policies have been considered:

NH1 European and Ramsar Sites – International

NH2 Species Protected by Law

NH3 Sites of Nature Conservation Importance - National (eg ASSI)

NH4 Sites of Nature Conservation Importance – Local

NH5 Habitats, Species or Features of Natural Heritage Importance; and

NH6 Areas of Outstanding Natural Beauty

The applicant submitted a Habitats Regulation Assessment within their Environmental Information Report submitted with the planning application and the Planning Authority consulted with Department of Agriculture, Environment and Rural Affairs DAERA as well as Shared Environmental Services (SES) to ensure the details of the application were fully considered by the statutory agencies. The proposal includes mitigation measures referenced within their Environmental Information Report.

Natural Environment Division and SES are content with the proposed mitigation measures and have recommended planning conditions. The Drainage and Water division (WMU) within DAERA recommended a planning condition requiring a Construction Method Statement to be submitted for agreement prior to commencement of development. This could be attached as a negative planning condition. Impacts on the protected Habitats and Species such as Seals and the designated sites of the Strangford Lough have been considered in full. The proposal would not offend PPS2 Policies as the proposal is unlikely to result in unacceptable adverse impact on designated sites of acknowledged importance, priority habitats and priority species and the new development is appropriate in terms of siting, scale, materials and design for the locality.

SES required the Planning Authority to consult with Rivers Agency prior to their advice and guidance. The site is located within the T200year Coastal Flood Plain. Rivers consultation response advised the proposal would not increase flood risk and there would be little risk of flood. Further clarification with Rivers was sought and it has been confirmed that the applicant would not require a Drainage Assessment for the proposal. The proposal is an exception to PPS15 Planning and Flood Risk Policy FLD1 Development in Fluvial and Coastal Flood Plains exception (e) as water compatible development such as boat mooring, navigation and water based recreational use, which for operational reasons has to be located within the floodplain.

Objections have been submitted in relation to the proposed use as exclusive to the Education Authority. The use of the site by an individual would not be subject to a planning condition and would be subject to the landowner's discretion. Therefore, should any third parties wish to make use of the proposal this would be a civil matter between the landowner and those seeking to access the lough through the proposed slipway.

Recommendation:

Approval The proposal meets the planning policy and consultation with relevant statutory agencies has returned no objection subject to recommended planning conditions which will be considered.

Recommended Conditions:

Conditions recommended by planning officer and consultees, can be subject to edit prior to the issuing of the decision:

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.

NED recommended planning conditions:

- A. A suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc and the Strangford Lough Ramsar/SAC/SAC/Part 2 ASSI.
- B. A suitable barrier shall be erected around the works site prior to commencement of construction. The barrier shall be adequate to prevent egress of water from the construction site into the Strangford Lough Ramsar/SAC/SAC/Part 2 ASSI and shall be removed upon completion of all construction activities.
- C. The barrier shall be de-watered prior to use of wet concrete onsite and all water contained thereafter shall be collected for treatment prior to disposal. At no point shall water be discharged from the site into the Strangford Lough Ramsar/SAC/SAC/Part 2 ASSI during construction.

REASON: To protect the integrity of the designated sites Strangford Lough Ramsar/SAC/SACPart 2 ASSI.

SES recommended planning conditions:

- A. The applicant must adhere to all mitigation measures as detailed within the Habitats Regulations Assessment and Environmental Risk Assessment within Appendix C and D of the Environmental Information Report, date stamped 12/04/2019.
- B. Prior to any construction activities, a suitable barrier, such as a coffer dam, shall be erected around the activity within the marine environment. The barrier must prevent egress of water from construction site and shall be removed upon completion of all construction activities. All water contained within the barrier area shall be appropriately treated (e.g. through silt sock/silt fencing etc.) prior to disposal.
- C. A suitable and clearly defined buffer of at least 10 metres must be maintained between the location of construction activities including refuelling of vehicles, storage of fuel/oil/chemicals etc., stockpiles of materials/waste, washing areas, concrete mixing and the marine environment.

REASON: To protect the integrity of the designated sites Strangford Lough Ramsar/SAC/SAC Part 2 ASSI.

WMU recommended planning condition:

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

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

<p>Case Officer signature:</p> <p>Date:</p>
<p>Appointed Officer signature:</p> <p>Date:</p>

Report to:	Planning Committee
Date of Meeting:	13 th November 2019
Subject:	Planning Enforcement Strategy
Reporting Officer (Including Job Title):	Fearghal O'Connor, Legal Advisor
Contact Officer (Including Job Title):	Anthony McKay, Head of Planning

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For decision	<input type="checkbox"/>	For noting only	<input checked="" type="checkbox"/>		
1.0	Purpose and Background				
1.1	At the Planning workshop held at Monaghan Row on 21 st October 2019 a draft Planning Enforcement Strategy was presented to attendees. Comments and submissions were invited prior to the matter being put before Planning Committee.				
2.0	Key issues				
2.1	The key issue for members is the adoption of a new Planning Enforcement Strategy as part of the ongoing work in dealing with the significant planning enforcement case-load within the Planning Department.				
3.0	Recommendations				
3.1	That Elected Members approve the adoption of the attached Planning Enforcement Strategy document for this Council.				
4.0	Resource implications				
4.1	No resource implications.				

5.0	Equality and good relations implications
5.1	It is not anticipated that the proposal will have an adverse impact upon equality of opportunity or good relations.
6.0	Rural Proofing implications
6.1	Due regard to rural needs has been considered in this matter and a rural needs impact assessment is not required.
7.0	Appendices
	Planning Enforcement Strategy
8.0	Background Documents

Newry, Mourne and Down District Council

Planning Enforcement Strategy

November 2019

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Introduction

Under the provisions of the Planning Act (Northern Ireland) 2011 the Council has a general discretion to take enforcement action against a breach of planning control when it regards it expedient to do so, having regard to the provisions of the local development plan and any other material considerations.

The Council is committed to resolving all cases involving unauthorised development, including any consequent enforcement action.

Objectives of Planning Enforcement

The Council's key objectives for planning enforcement are:

- To resolve enforcement complaints informally;
- To bring unauthorised activity under control;
- To remedy the undesirable effects of unauthorised development including, where necessary, the removal or cessation of unacceptable development; and
- To take legal action, where necessary against those who ignore or flout planning legislation;
- To operate in an equitable, proportionate and consistent manner.

Council is committed to securing these objectives in order to ensure that the credibility and integrity of the planning system is not undermined.

Categories of offence

Planning offences

Planning offences are specific offences under the Planning Act and associated regulations, namely:-

- (a) unauthorised works to a listed building;
- (b) demolition within a Conservation Area without consent;
- (c) contravention of a Tree Preservation Order;
- (d) wilfully damaging or carrying out works to trees within a Conservation Area without prior consent;
- (e) unauthorised display of advertisements; and
- (f) contravention of hazardous substances control.

Planning breach

The Planning Act defines a breach of planning control as:

- Carrying out development without the required planning permission; or
- Failing to comply with any condition or limitation subject to which planning permission has been granted

A criminal offence in this case arises when an Enforcement Notice for a planning breach has been served and has not been complied with within the prescribed time period.

Penalties

On conviction the owner and/or any person with an interest in the land may be fined a maximum of £100,000. Council will also be able to recover the legal costs of the enforcement action.

Guiding Principles for investigating Enforcement Complaints

All alleged breaches of planning control will be investigated. However, on the basis of the legal test of 'expediency,' formal enforcement action will only be taken where it is fair and reasonable to do so. Any enforcement action should be proportionate to the breach of planning control. There will be cases where the breach or harm is so minor that action cannot be justified i.e. it is not expedient to pursue the case.

In exercising discretion, the Council will be mindful of its duty to enforce planning legislation and to ensure that development is managed in a proactive and proportionate manner. In determining the most appropriate course of action the Council will take into account the extent of the breach and its potential impact on the environment. Any decision to proceed with enforcement action will also be informed by case law, precedents and appeal decisions.

Any request received by Council for information in relation to any breach of Planning Control or enforcement action, including Personal Information, will be dealt with in accordance with the principles of the General Data Protection Regulation (GDPR) the Data Protection Act 2018; the Freedom of Information Act 2000; and the Environmental Information Regulations 2004.

Council will rely, where necessary, on any lawful exemptions to the provision of information under the above Acts and Regulations This may result in information being withheld until a case is concluded or the disclosure of information is ordered by a Court.

All complaints will be prioritised on receipt in accordance with the priorities set out in this Strategy. Priority will be given to those breaches where the greatest harm is being or is likely to be caused.

A decision to proceed with formal enforcement action must be agreed by the authorised officer referred to in the current Scheme of Delegation.

Enforcement action may be held in abeyance while a planning application or appeal to remedy the breach is being determined.

It is important to note that the vast majority of breaches of planning control are resolved informally through negotiation with the land owner/occupier or through the submission and consideration of a retrospective planning application.

Investigations are carried out in accordance with the provisions of the Police and Criminal Evidence (NI) Order 1989 and the Criminal Procedures and Investigations Act 1996.

Making a Planning Enforcement Complaint

To assist Council and for purposes of consistency, all complaints about alleged breaches of planning control should preferably be made in writing to the Planning Department. The Council will require as much information as possible in order to carry out an investigation and also to help keep complainants informed of the progress of the complaint. This information should include:

- the name, address and contact details of the complainant;
- full details of the precise nature of the complaint including the location and relevant dates;
- the name and address of the alleged responsible party, if known; and
- an explanation of the effect or consequence of the alleged breach.

The above information and identity of the complainant is treated as strictly confidential. Anonymous complaints are actioned by Council, however complaints of this nature make it difficult for staff to ask follow up questions or update customers on the outcome of cases. Should a case proceed to court action then details of complainants may be subject to disclosure.

Complainants concerned about their identity being revealed or having difficulties explaining the problems affecting them may wish to discuss the matter with their local councillor who can then raise the issue on their behalf. Details of Councillors for each individual District Electoral Area (DEA) can be obtained from Council's website.

Enforcement Priorities

Council will investigate all alleged breaches of planning control. However, when determining what (if any) action is to be taken, priority will be given to those breaches where, in the Council's opinion the greatest harm is likely to be caused.

Priority 1 – works resulting in public danger or development which may result in permanent damage to the environment. For example demolition of or works to a listed building, trees protected by a TPO, demolition of a building within a conservation area, unauthorised mineral extraction or waste disposal.

Priority 2 - commencement of building operations without planning permission, unauthorised works or uses which cause loss of amenity or any other significant public or private impact, non-compliance with conditions of a planning approval.

Priority 3 – minor breaches that can be regularised, for example, domestic sheds, fences and extensions.

The above list is not exhaustive and is for guidance only. It is ultimately the responsibility of the Council's Planning Enforcement Team to prioritise cases taking account of the nature of the breach and the harm being caused or likely to be caused.

It should again be stated that the vast majority of breaches are resolved informally through negotiation with the land owner/occupier or following the submission of a retrospective planning application.

Performance Targets

Statutory performance indicators for each council have been proposed in the Local Government (Performance Indicators and Standards) Order (NI) 2015. Within this legislation the statutory Key Performance Indicator (KPI) target for Enforcement agreed by this Council, is to bring 70% of cases to target conclusion with 39 working weeks of receipt of complaint. For the purposes of this strategy 'target conclusion' means case closure, submission of a retrospective planning application, enforcement action or summons to court.

The above method of performance measurement reflects the Council's approach to enforcement in that it focuses resources on those breaches of planning control where the harm is being or is likely to be caused.

In addition, the Council will adhere as far as possible to the following range of Performance Targets:-

- Acknowledge receipt of 75% of complaints within 3 working days and 95% of complaints within 6 working days.
- Site inspect 90% of Priority 1 cases within 3 working days and 100% within 5 working days.
- Site inspect 75% of all other cases within 20 working days and 95% within 30 working days.
- Discuss and agree a course of action for 90% of Priority 1 cases within 2 working weeks of receipt of the initial complaint.
- Discuss and agree a course of action for 60% of all other cases within 8 working weeks and 95% within 12 working weeks of receipt of the initial complaint.
- Notify complaints of case closure in 75% of cases within 2 working weeks, and 95% of cases within 4 working weeks of the Group Decision being made.

The above method of performance measurements reflects the Council's approach to enforcement in that it focuses resources on those breaches of planning control where the greatest harm is being or is likely to be caused.

Appeals

Appeals, to The Planning Appeals Commission for Northern Ireland, may be made against certain notices issued by Council as part of the enforcement action.

When an appeal is pending, the relevant notice shall be of no effect pending the final determination or withdrawal of the appeal. Further information on the planning appeals process, including the Commission's guide, "Enforcement Notice Appeals" can be obtained from the PAC website. The timescale for hearing an appeal and issuing a determination is a matter for the Planning Appeals Commission.

Legislative Timescales

When considering enforcement action, Council will have regard to the statutory time limits for taking enforcement action as set out in Section 132 of the Planning Act 2011.

Where there has been a breach of planning control consisting of carrying out, without planning permission, a building, engineering, mining or other operation in, on, over or under land, no enforcement action may be taken after the period of 5 years beginning with the date on which the operations were substantially completed.

In relation to unauthorised works to listed buildings, including demolition and non-compliance with a condition attached to a consent, no enforcement action may be taken in relation to works which occurred before 9 December 1978.

Unauthorised advertisement – Enforcement action may not be taken after 10 years from the date on which the breach began and where it has continued uninterrupted for the 10 years

Local Development Plan Steering Group: Programme (Oct'19 – Oct'20)

The LDP Steering Group is to meet bi monthly and report to the Planning Committee.

In reporting to the Planning Committee, the LDP Steering Group needs to sit 3 weeks in advance of the Planning Committee meeting. This would allow one week for the minutes of the LDP Steering Group to be drafted and included as an item on the agenda of the Planning Committee, which is issued two weeks in advance of the meeting.

The programme of LDP Steering Group meetings over the next 12 months is as follows:

LDP Steering Group	Planning Committee Agenda issues	Planning Committee
20 th November 2019	27 th November 2019	11 th December 2019
22 nd January 2020	29 th January 2020	12 th February 2020
18 th March 2020	25 th March 2020	8 th April 2020
13 th May 2020*	20 th May 2020*	3 rd June 2020*
5 th August 2020*	12 th August 2020*	26 th August 2020*
30 th September 2020*	7 th October 2020*	21 st October 2020*

*Note: indicative dates to be confirmed depending on agreed date of Planning Committee. Planning Committee dates only agreed to May 2020. Planning Committee sits every four weeks. The bi monthly programme has been adjusted to avoid July.

Based on the current work programme being advanced by the Development Plan Team, the items programmed for consideration at the Steering Group meetings over the next 12 months are as listed below. These listings are indicative and may be subject to change; many of the areas of work are dependent on a number of factors that may influence when they will be reported. For the moment, the latter three meetings will primarily address the policy review exercise and bring forward policy review papers for various subject areas. New items may also be added. Items being brought to the Steering Group will be determined by the Development Plan Team and agreed by the Chief Planning Officer.

November 2019

- LDP Steering Group: Terms of Reference – Amendment
- Notice of Motion – Climate Change Emergency (Referred from Planning Committee 29th May 2019)
- Preferred Option Paper – Interim Consultation Report (Working Draft)

January 2020

- LDP Work Programme
- Employment Need Analysis Study

March 2020

- Retail and Commercial Leisure Need and Capacity Study
- Landscape Character Assessment Review
- Urban Capacity Study and Settlement Appraisal Overview
- Housing Monitor 2019

May 2020

- Open Space Study
- Policy Review Papers

August 2020

- Policy Review Papers

September 2020

- Policy Review Papers

DRAFT

TRACKING ACTION SHEET ARISING FROM PLANNING COMMITTEE MEETINGS

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		PLANNING MEETING – 09 MAY 2018			
LA07/2017/1721/F	Millvale Services Ltd – proposed parking for neighbouring Millvale Service Station – Millvale Road, Bessbrook	Defer Planning Application LA07/2017/1721/F to allow for a Health and Safety Report / Road Traffic Report to be conducted as soon as possible and report back to Committee for further consideration of the application.	Pat Rooney	21 day letter issued to agent requesting the said information. Expiry date for info is 9.7.18. Application deferred at meeting on 29 August 2018 until issues raised by SPO have been considered and Planning Officers are to liaise with the agent/applicant at the earliest possible opportunity. Remains under consideration	N
		PLANNING MEETING – 1 AUGUST 2018			

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

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				<p>await the submission of this application and its conclusion before returning to consider the current deferred application. Contact made with agent re progress on potential new application which has yet to be submitted. Meeting to be convened. Agent advised on 19 March 2019 that the application for the 2no broiler houses was to be submitted within the next 3 weeks. No application has been received at time of update 29/04/2019.</p> <p>No application submitted to date 04/06/2019</p>	

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
				Application for poultry houses received LA07/2019/0953/F on 13/06/2019 Being processed.	
		PLANNING MEETING - 13 FEBRUARY 2019			
LA07/2015/0149/F	Change of use of building to provide storage and distribution of fuel with alterations and new bulk fuel tank in yard – site between 54 and 58 Edenappa Road, Jonesborough	Withdrawn by the Planning Department to allow further consultation to be completed	A Davidson	Remains under consideration	N
LA07/2018/0820/F	Erection of a semi-detached pair of dwellings and associated car parking – lands to the rear of Nos 1 and 2 Sally Gardens and 31-35 Mourne Rise Newcastle	Defer to allow revised plans to be considered and ensure a maintenance strip was provided for use by Rivers Agency.	A McAlarney	Applicant has met with Rivers Agency. Planning office has requested updated position from applicant. No response. Proceed to return to May 2019 Committee – DEFER Under consideration	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		PLANNING MEETING – 26 JUNE 2019			
LA07/2018/0930/F	New build residential development of 1 No. apartment block consisting of 13 No. 3P2B apartments, 12 No. 2PIB apartments and 1 No. 2PIB wheelchair apartment (26 apartments in total) with 19 No. basement parking spaces 2.0 – 41 Belfast Road, Newry	Defer for a site visit	M Keane	Site visit held – 08-07-2019 – application returned to July Committee Meeting – agreed to defer for further discussions between applicant/planning officers to see if an acceptable proposal can be agreed and decision making powers be delegated to Planning Officers	N
		PLANNING COMMITTEE MEETING – 24 JULY 2019			
LA07/2018/1787/F	Proposed extension to existing Materials Recovery Facility Building – 23 Downpatrick Road, Killough	Defer this application, which the Committee agreed was an exception under FLD 1, and refer the completed Flood Risk Assessment to Rivers Agency to be reviewed.	A McAlarney	Application to come back to Committee Under consideration.	N
		PLANNING COMMITTEE MEETING – 17 SEPTEMBER 2019			

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2017/1235/F	Demolition of No. 31 and erection of two shop units on ground floor with 4 No. apartments on first and second floors – No. 31 Cardinal O’Fiaich Square, Crossmaglen	Defer for discussions between agent and Planning Officers to agree a suitable scheme and delegate authority to Planning Officers to issue the decision	A Davidson		
LA07/2018/1670/F	Proposed two storey dwelling with integral garage as a change of house type from approval LA07/2015/1171/F with revised vehicular access from Church Road Road – 30m NE of 6 Main Street, Camlough	Defer for discussions between agent and Planning Officers to agree a suitable scheme and delegate authority to Planning Officers to issue the decision	A Davidson		
LA07/2018/1614/0	Dwelling on a farm – 50m south of No. 24 Island Road, Attical, Killeel	Site visit to be held	M Keane		
LA07/2018/0860/F	Proposed replacement dwelling (amended drawings) – 45 metres NE of No. 14 Rath Road, Clonallon Glebe tb Warrenpoint	Defer for further discussion between Planning Officers and agent/applicant – additional information to be provided	M Keane		
		PLANNING COMMITTEE MEETING – 16 OCTOBER 2019			
LA07/2016/1074/RM	Development of Community Treatment and Care Centre	<ul style="list-style-type: none"> • Defer for a site visit • Applicant to bring back a travel plan for making public transport available to the CTC facility to the next 	P Rooney		

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
		<p>Planning Committee Meeting</p> <ul style="list-style-type: none"> • A meeting be held with the owner of No. 71 Castle Street; Dfi Roads; applicant/agent and Planning Officers to attempt to resolve issues raised at the meeting by the objectors 			
LA07/2017/0542/F	Retail park at Carnbane	Defer for officers to consider late information and take back to the November Planning Committee Meeting	P Rooney	Back on schedule for November Meeting	
LA07/2019/0512/0	Infill dwelling and detached garage – lands between Nos 151 and 149 Dunmore Road, Ballynahinch	Defer for a site visit	A McAlarney		
LA07/2019/1031/F	Extension to side dwelling – 4 Oldpark Road, Loughinisland	<p>Defer for further discussions between agent/Planners with a view to agreeing a suitably designed extension which would not impact on the streetscene.</p> <p>Planners to be given authority to issue the decision</p>	A McAlarney		

Newry, Mourne & Down District Council – October 2019

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1. Live Applications

MONTH 2019/20	NEW APPLICATIONS	LIVE APPLICATIONS	LIVE APPLICATIONS OVER 12 MONTHS
April	177	1,173	269
May	192	1,196	266
June	155	1,184	264
July	139	1,157	250
August	127	1,108	249
September	110	1,026	241
October	155	981	234

2. Live Applications by length of time in system

Month 2019/20	Under 6 months	Between 6 and 12 months	Between 12 and 18 months	Between 18 and 24 months	Over 24 months	Total
April	701	203	89	60	120	1,173
May	718	212	81	61	124	1,196
June	718	202	86	57	121	1,184
July	664	243	76	51	123	1,157
August	632	227	77	44	128	1,108
September	574	211	70	45	126	1,026
October	534	213	80	39	115	981

Newry, Mourne & Down District Council – October 2019

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3. Live applications per Case Officer

Month 2019/20	Average number of Applications per Case Officer
April	78
May	79
June	73
July	76
August	76
September	76
October	67

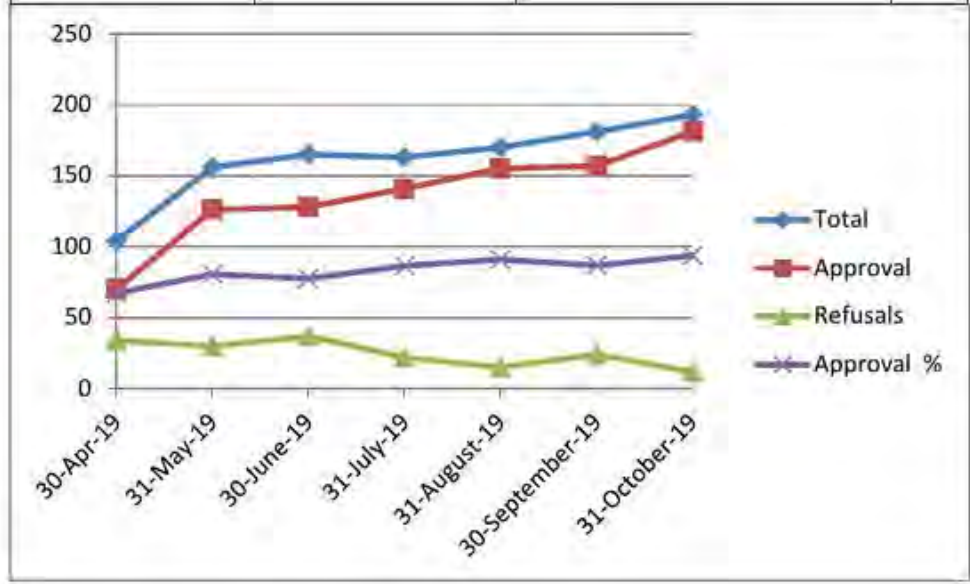
4. Decisions issued per month

Month 2019/20	Number of Decisions Issued	Number of Decisions Issued under delegated authority
April	104	95
May	156	152
June	165	148
July	163	157
August	170	142
September	181	158
October	193	185

Newry, Mourne & Down District Council – October 2019

5. Decisions Issued YTD

Month 2019/20	Number of Decisions Issued	Breakdown of Decisions	
April	104	Approvals (70)	67%
		Refusals (34)	33%
May	260	Approvals (196)	75%
		Refusals (64)	25%
June	425	Approvals (324)	76%
		Refusals (101)	24%
July	588	Approvals (465)	79%
		Refusals (123)	21%
August	758	Approvals (620)	82%
		Refusals (138)	18%
September	939	Approvals (777)	83%
		Refusals (162)	17%
October	1132	Approvals (958)	85%
		Refusals (174)	15%



Newry, Mourne & Down District Council – October 2019

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6. Enforcement Live cases

Month 2019/20	<=1yr	1-2 yrs	2-3 yrs	3-4 yrs	4-5 yrs	5+yrs	Total
April	329	230	183	79	63	179	1,063
May	308	247	174	85	62	178	1,054
June	286	249	171	83	61	174	1,024
July	283	261	166	83	60	170	1,023
August	264	256	179	81	55	175	1,010
September	248	264	179	89	45	174	999
October	240	260	169	84	38	164	955

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
10 April 2019	17	11	6	5
29 May 2019	15	12	3	5
26 June 2019	16	13	3	3
24 July 2019	27	18	9	8
21 August 2019	34	29	5	5
18 September 2019	17	12	5	6
16 October 2019	15	12	3	3
Totals	141	107	34	35

8. Appeals

Planning Appeal Commission Decisions issued during October 2019

Area	Number of current appeals	Number of decisions issued	Number of decisions Allowed	Number of decisions Dismissed	Withdrawn
Newry & Mourne	21	4	3	1	0
Down	24	5	3	2	0
TOTAL	45	9	6	3	0

Newry, Mourne & Down District Council – October 2019

Statutory targets monthly update - April 2019 - September 2019 (unvalidated management information)

Newry, Mourne and Down

	Major applications (target of 30 weeks)				Local applications (target of 15 weeks)				Cases concluded (target of 39 weeks)			
	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 30 weeks	Number received	Number decided/withdrawn ¹	Average processing time ²	% of cases processed within 15 weeks	Number opened	Number brought to conclusion ³	"70%" conclusion time ³	% of cases concluded within 39 weeks
April	3	1	51.8	0.0%	161	81	22.0	22.2%	28	66	192.0	30.3%
May	1	1	600.0	0.0%	151	138	21.1	28.3%	29	36	85.4	44.4%
June	2	3	230.8	33.3%	123	145	24.6	22.1%	25	48	114.7	37.5%
July	0	-	0.0	0.0%	109	151	20.0	36.4%	41	43	168.6	30.2%
August	1	2	55.4	50.0%	99	159	22.2	29.6%	24	42	83.5	47.6%
September	1	1	321.0	0.0%	115	166	22.4	24.1%	33	35	185.7	40.0%
October	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
November	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
December	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
January	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
February	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
March	0	-	0.0	0.0%	0	-	0.0	0.0%	0	-	0.0	0.0%
Year to date	8	8	162.4	25.0%	758	840	22.0	27.5%	180	270	130.4	37.4%

Source: NI Planning Portal

Notes:

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

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

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.

Newry, Mourne & Down District Council – October 2019

Record of meetings between Planning Officers and Public Representatives 2018-2019

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DATE OF MEETING	PLANNING OFFICER'S NAME/S	PUBLIC REPRESENTATIVE'S NAME
05/04/2019	A McAlarney	Cllr Curran
22/05/2019	A McAlarney	Cllr Curran
04/06/2019	A McAlarney	Colin McGrath
04/06/2019	A McAlarney	Colin McGrath
06/06/2019	A McAlarney	Cllr Andrews
11/06/2019	A McAlarney	Colin McGrath (Dominic O'Reilly)
12/06/2019	A McAlarney	Cllr Walker
18/07/2019	A McAlarney	Cllr Doran
06/08/2019	A McAlarney	Cllr Walker Jim Shannon
12/08/2019	A McAlarney	Cllr McEvoy
13/08/2019	A McAlarney	Cllr McEvoy
16/08/2019	A McAlarney	Cllr Curran
06/09/2019	A McAlarney	Colin McGrath
10/09/2019	A McAlarney	Cllr Burgess
07/10/2019	A McAlarney	Cllr Walker

Current Appeals

261

AUTHORITY Newry, Mourne and Down

ITEM NO 1
Planning Ref: LA07/2018/0410/ **PAC Ref:** 2018/A0201
APPELLANT Mr And Mrs Stevenson **DEA** Rowallane
LOCATION 80m South East Of 2 School Road
 Saintfield
 RT24 7.IH
PROPOSAL Proposed dwelling and garage (Change of design from that previously approved under R/2015/0060/F)

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 04/02/2019
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

ITEM NO 2
Planning Ref: LA07/2018/0015/ **PAC Ref:** 2018/A0251
APPELLANT Gordon Graham **DEA** The Mournes
LOCATION Between 20 And 22 Ulster Avenue
 Annalong
 Co Down
PROPOSAL Proposed change of house type and integrated domestic garage (Amended scheme)

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Written Reps with Site Visit** **Date Appeal Lodged** 29/03/2019
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

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ITEM NO	3	PAC Ref:	2019/A0008
Planning Ref:	LA07/2018/0340/	DEA	Downpatrick
APPELLANT	Mr Rea		
LOCATION	100m SE Of 71 Killyleagh Road Downpatrick		
PROPOSAL	BT30 9RN Farm dwelling with associated hard and soft landscaping and alterations to existing vehicular access onto public road		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	12/04/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	4	PAC Ref:	2019/A0009
Planning Ref:	P/2014/0107/F	DEA	Crotlieve
APPELLANT	Paul McAlinden		
LOCATION	53 Rostrevor Road Hilltown Newry BT34 5TZ		
PROPOSAL	Erection of dwelling (change of house type on site where works have commenced)		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	5	PAC Ref:	2019/A0011
Planning Ref:	LA07/2018/1417/	DEA	Slieve Croob
APPELLANT	Ellen Brennan		
LOCATION	Between 84 Cumber Road And 80 Drumnaconagher Road Crossgar Downpatrick		
PROPOSAL	Proposed 2 No Dwellings on an infill site under Policy CTY8 of PPS21		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	17/04/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	6	PAC Ref:	2019/A0012
Planning Ref:	LA07/2018/1273/	DEA	Crotlieve
APPELLANT	Ms A Dunford		
LOCATION	Lands Adjacent And North Of No. 104 Burren Road Burren RT34 3XT		
PROPOSAL	Two storey detached dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	19/04/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	7		
Planning Ref:	LA07/2018/1412/	PAC Ref:	2019/A0014
APPELLANT	Christopher Brown	DEA	Crotlieve
LOCATION	Adjacent To And West Of No.40 Ballygorian Road Ballygorian		
PROPOSAL	Hilltown Proposed replacement dwelling and detached garage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	30/04/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8		
Planning Ref:	LA07/2018/0185/	PAC Ref:	2019/A0016
APPELLANT	Michael Doran	DEA	Slieve Croob
LOCATION	Opposite 37 Carricknab Road Downpatrick		
PROPOSAL	Proposed new dwelling on a farm		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	30/04/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	9	PAC Ref:	2019/A0017
Planning Ref:	LA07/2018/1635/	DEA	The Mournes
APPELLANT LOCATION	James Morgan 87 Head Road Ballymartin		
PROPOSAL	RT34 API1 Alterations and extension to dwelling in substitution to approval LA07/2016/0646/F		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	01/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	10	PAC Ref:	2019/A0023
Planning Ref:	LA07/2018/0264/	DEA	Downpatrick
APPELLANT LOCATION	Steven Skelly 36 Demense Heights Downpatrick		
PROPOSAL	Extension to dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	07/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	11	PAC Ref:	2019/A0025
Planning Ref:	LA07/2017/0707/	DEA	Crotlieve
APPELLANT	Mr John Annett		
LOCATION	75m North East Of 29 Rath Road Warrenpoint		

PROPOSAL

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	12	PAC Ref:	2019/A0027
Planning Ref:	LA07/2018/1663/	DEA	Downpatrick
APPELLANT	Mr & Mrs Cyril Hamilton		
LOCATION	Between 153 & 157 Strangford Road Downpatrick		

PROPOSAL Dwelling (infill Site)

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	13	PAC Ref:	2019/A0028
Planning Ref:	LA07/2017/1849/	DEA	Rowallane
APPELLANT	Mr N Graham		
LOCATION	6-10 Fairview Saintfield Parks Saintfield		
PROPOSAL	Erection of 9 no domestic dwellings (Townhouses)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14	PAC Ref:	2019/A0031
Planning Ref:	LA07/2018/0128/	DEA	Rowallane
APPELLANT	Paul Scott		
LOCATION	Lands 195m SSE Of 95 Cahard Road Cahard Ballinahinch		
PROPOSAL	New private access to dwelling previously approved under LA07/2017/1210/RM		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	15	PAC Ref:	2019/A0032
Planning Ref:	LA07/2018/0672/	DEA	The Mournes
APPELLANT	Marc Morgan		
LOCATION	Approx 50m North West West Of 53 Tullyree Road		
PROPOSAL	^{Kilronn} Infill dwelling and garage		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	17/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16	PAC Ref:	2019/A0035
Planning Ref:	LA07/2018/1266/	DEA	Slieve Croob
APPELLANT	Mr S O'Hare		
LOCATION	Lands Approx. 200m SW Of 59 Demesne Road Seaforde		
PROPOSAL	^{Ballynahinch} Proposed farm building and animal handling facility (amended plans)		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	20/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	17	PAC Ref:	2019/A0037
Planning Ref:	LA07/2018/1371/	DEA	Slieve Croob
APPELLANT	Mr Christopher Rea		
LOCATION	Between 52 & 52A Magheralone Road Ballynahinch		
PROPOSAL	Single dwelling house and garage		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	20/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	18	PAC Ref:	2019/A0038
Planning Ref:	LA07/2018/0787/	DEA	Crotlieve
APPELLANT	Maria Morgan		
LOCATION	Approximately 30 Metres North East Of 75 Benagh Road Newry		
PROPOSAL	RT34 2.IF Erection of dwelling and garage (gap site)		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	20/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	19	PAC Ref:	2019/A0041
Planning Ref:	LA07/2017/1799/	DEA	The Mournes
APPELLANT	H Lynch & E Ferguson		
LOCATION	Land East Of 2 Castle Place Newcastle		
PROPOSAL	RT33, 04A 2 No Apartments with associated parking and amenity		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	24/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	20	PAC Ref:	2019/A0049
Planning Ref:	LA07/2017/1488/	DEA	The Mournes
APPELLANT	Blackgate Developments Ltd		
LOCATION	Lands Approximately 60 Metres East Of No. 4 Beach Side Harbour Road Kilkeel		
PROPOSAL	Proposed demolition of existing building and erection of 2 No. dwelling houses, retaining wall, landscaping and ancillary site works		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	29/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	21	PAC Ref:	2019/A0050
Planning Ref:	LA07/2019/0164/	DEA	Slieve Croob
APPELLANT	Mr & Mrs N Crean		
LOCATION	38 Lighthouse Road Ballyward Castlewellan		
PROPOSAL	Replacement dwelling with retention of old dwelling as agricultural storage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	29/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	22	PAC Ref:	2019/A0051
Planning Ref:	LA07/2019/0018/	DEA	Downpatrick
APPELLANT	Mr Cavan Johnston		
LOCATION	Approximately 220m North East Of 51 Shore Road Strangford		
PROPOSAL	Retrospective agricultural building on footprint of existing agricultural building utilising existing rear wall		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	30/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	23		
Planning Ref:	LA07/2018/1677/	PAC Ref:	2019/A0052
APPELLANT	BB&M Developments	DEA	Rowallane
LOCATION	1-4 The Hill Clay Road		
PROPOSAL	Shrinley Removal of the old remains of the four properties and building one new split level house with integral garage and parking		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	03/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	24		
Planning Ref:	LA07/2018/1451/	PAC Ref:	2019/A0058
APPELLANT	G Hancock	DEA	The Mournes
LOCATION	64 Drummanmore Road Maghery		
PROPOSAL	Kilkeel Proposed retention of 2 No outbuildings within curtilage of existing dwelling for purposes ancillary to the enjoyment of the dwelling house.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	11/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	25	PAC Ref:	2019/A0059
Planning Ref:	LA07/2018/1343/	DEA	Crotlieve
APPELLANT	Mr M Hills		
LOCATION	Lands South And Adjacent To 7 Benagh Road Newry		
PROPOSAL	Erection of a dwelling and garage and associated site works (Infill site)		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	17/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	26	PAC Ref:	2019/A0062
Planning Ref:	LA07/2019/0488/	DEA	Slieve Croob
APPELLANT	Brenda Rooney		
LOCATION	Approx 60m NE Of No 82 Bann Road Castlewellan		
PROPOSAL	Single storey dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	27		
Planning Ref:	LA07/2018/0785/	PAC Ref:	2019/A0064
APPELLANT	Mr W McMahon	DEA	Crotlieve
LOCATION	Approximately 50 Meters North West Of 78 Upper Dromore Road Warrenpoint		
PROPOSAL	Proposed dwelling and detached garage (infill site)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	26/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	28		
Planning Ref:	P/2014/0920/F	PAC Ref:	2019/A0065
APPELLANT	Mr Brian Mulholland	DEA	Crotlieve
LOCATION	To The Rear Of 37A Ballyholland Road Ballyholland Lower		
PROPOSAL	^{Newry} Retention of existing agricultural shed, hardstanding, agricultural laneway and earthen embankments		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	27/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	29	PAC Ref:	2019/A0069
Planning Ref:	LA07/2018/0496/	DEA	Slieve Croob
APPELLANT LOCATION	Eugene Stranney 149 Ballydugan Road Downpatrick BT30 8HH		
PROPOSAL	Change of use of existing garage, study & games room to a dwelling as ancillary to the main existing dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	04/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	30	PAC Ref:	2019/A0082
Planning Ref:	LA07/2019/0013/	DEA	Slieve Croob
APPELLANT LOCATION	Niall Branniff 50 Drumkeeragh Road Ballynahinch		
PROPOSAL	Replacement dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	19/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	31	PAC Ref:	2019/A0090
Planning Ref:	LA07/2018/1946/	DEA	Slieve Croob
APPELLANT LOCATION	Mr & Mrs J McAteer 21 Drumboy Road Dromara		
PROPOSAL	Dwelling and garage on a farm		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	01/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	32	PAC Ref:	2019/A0093
Planning Ref:	LA07/2018/1995/	DEA	The Mournes
APPELLANT LOCATION	Mr N Dodds West Of 133 Tullybrannigan Road Newcastle		
PROPOSAL	2 Infill dwellings between 133 & 135 Tullybrannigan Road		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	02/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	33	PAC Ref:	2019/A0094
Planning Ref:	LA07/2017/1068/	DEA	The Mournes
APPELLANT LOCATION	Mr And Mrs M Pedan Between No's 42 And 46 Fair Road Greencastle		
PROPOSAL	RT34 41 S Erection of dwelling on gap site		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	02/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	34	PAC Ref:	2019/A0096
Planning Ref:	LA07/2017/1064/	DEA	The Mournes
APPELLANT LOCATION	Mr Pat McCartan 60 Metres South East Of No. 77 Tullyframe Road Kilkeel		
PROPOSAL	RT34 4R7 Site for dwelling and garage on equestrian holding		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	02/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO 35
Planning Ref: LA07/2017/1845/ **PAC Ref:** 2019/A0097
APPELLANT Mrs Celine McMullan **DEA** Downpatrick
LOCATION Between 4 And 8 Ballintogher Road
 Saul
PROPOSAL ^{Downpatrick}
 2no new dwellings and garages and associated site and access works

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 08/08/2019
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: LA07/2019/0005/ **PAC Ref:** 2019/A0104
APPELLANT Clare Higgins & Shauna Mageenan **DEA** Downpatrick
LOCATION Between 45 And 49 St Patrick's Road
 Raholp
PROPOSAL ^{Downpatrick}
 Proposed two one and half storey dwelling and detached garages

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 23/08/2019
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

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ITEM NO	37		
Planning Ref:	P/2014/0427/O	PAC Ref:	2019/A0106
APPELLANT	Joseph McGivern	DEA	Crotlieve
LOCATION	To The Rear And South Of 2 Berkley Grove Warrenpoint		
PROPOSAL	Site for dwelling (amended plans)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	27/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	38		
Planning Ref:	LA07/2019/1054/	PAC Ref:	2019/A0108
APPELLANT	EDB Construction	DEA	Newry
LOCATION	On Lands Between The Sacred Heart Grammar School And Newry High School Ashgrove Avenue		
PROPOSAL	Erection of approved dwellings on sites 9 & 10 of approval P/ 2011/1067/F		
APPEAL TYPE	DC - Non Determination of a Planning Application		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	29/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	39	PAC Ref:	2019/A0111
Planning Ref:	LA07/2017/0078/	DEA	Slieve Croob
APPELLANT LOCATION	Mr D Mahon 20m East Of 223a Newcastle Road Seaforde		
PROPOSAL	BT30 8NP Erection of 3 light industrial units (Additional supporting info received)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	05/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	40	PAC Ref:	2019//A0112
Planning Ref:	LA07/2018/1023/	DEA	The Mournes
APPELLANT LOCATION	Mr & Mrs D Sloan 10 Tullybrannigan Brae Newcastle		
PROPOSAL	Loft conversion & rear 1.5 storey extension with integral single storey garage with utility room to side & rear of dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	10/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	41	PAC Ref:	2019/A0126
Planning Ref:	LA07/2019/0462/	DEA	Slieve Gullion
APPELLANT	Mr Colm Watters		
LOCATION	118 Cullaville Road Crossmaglen		
PROPOSAL	Newry Erection of replacement dwelling house, ancillary site works and landscaping		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	20/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	42	PAC Ref:	2019/E0001
Planning Ref:	LA07/2019/0210/	DEA	Crotlieve
APPELLANT	Chris Kennedy		
LOCATION	9a Moneymore Road Newry		
PROPOSAL	Private Dwelling and Garage		

APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	02/04/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	43		
Planning Ref:	LA07/2018/1792/	PAC Ref:	2019/E0002
APPELLANT	Mr William McDonnell	DEA	Crotlieve
LOCATION	Aughnagon Road Opposite To 60 Derryleckagh Road Mayohridge		
PROPOSAL	Confirmation sought that construction works undertaken were lawful under planning reference P/2011/F and P/2007/0735/RM and therefore constituted a material start to the dwelling approved under P/2011/0124/F.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	16/04/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	44		
Planning Ref:	LA07/2018/1381/	PAC Ref:	2019/E0004
APPELLANT	Copart Uk LTD	DEA	Rowallane
LOCATION	39 Junction Road Saintfield Co Down		
PROPOSAL	Vehicle storage, dismantling and sales operation		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	17/04/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	45	PAC Ref:	2019/E0010
Planning Ref:	LA07/2019/0277/	DEA	The Mournes
APPELLANT LOCATION	Mr Kieran Campbel 1a And 1b Greenhill Park Newcastle		
PROPOSAL	Use of building as 2 separate residential properties comprising 1A and 1B Greenhill Park		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	29/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	46	PAC Ref:	2019/E0025
Planning Ref:	LA07/2019/0459/	DEA	Slieve Gullion
APPELLANT LOCATION	Roger And Simon Foster 165m North West Of 20 Barkers Road Newtownhamilton		
PROPOSAL	Newry To confirm that the works which were undertaken to construct a building to accommodate heating boilers, associated plant and staff welfare facility and the erection of a vertical storage silo were lawful.		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure	Written Reps	Date Appeal Lodged	18/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	47	PAC Ref:	2019/E0026
Planning Ref:	LA07/2019/0460/	DEA	Slieve Gullion
APPELLANT LOCATION	Roger And Simon Foster 65m SW Of 8 Blaney Road Newtownhamilton Newry		
PROPOSAL			
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	18/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	48	PAC Ref:	A07/2018/0128/F
Planning Ref:	LA07/2018/0128/	DEA	Rowallane
APPELLANT LOCATION	Paul Scott Lands 195m SSE Of 95 Cahard Road Cahard Rallvnahinch		
PROPOSAL	New private access to dwelling previously approved under LA07/2017/1210/RM		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Appeal Decision

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Appeal Reference:	2018/A0223.
Appeal by:	Ms Naiomh Morgan.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Dwelling house.
Location:	Adjacent to and immediately west of 13 Crieve Road, Newry.
Planning Authority:	Newry, Mourne & Down District Council.
Application Reference:	LA07/2017/1252/F.
Procedure:	Written representations and accompanied site visit on 4 July 2019.
Decision by:	Commissioner Mark Watson, dated 3 September 2019.

Decision

1. The appeal is dismissed.

Reasons

2. The main issue in this appeal is the potential effect of the appeal development upon the overall character and pattern of settlement of the established residential area.
3. The appeal site comprises the western side garden of No. 13 Crieve Road, a single storey dwelling on the southern side of that road. The site sits above road level at the frontage and slopes upwards to the south. The site frontage is defined by a low stone wall with hedge along its top, with a mature hedgeline providing the western and southern site boundaries. A 1.8m high close board fence bisects the appeal site, providing the delineation between the front and rear gardens for No. 13. The proposed dwelling is single storey and sited gable-end to the roadside. According to the evidence the new dwelling has been designed and sited to read as an extension to No. 13, with design cues taken from No 13 itself. The entrance lobby is to be finished in granite cladding with the main house walls finished in smooth, white painted render. The roof is to be finished in natural slate. Access is proposed through a paired access with the existing one, presently defined by a set of gates with wing walls. A new boundary is proposed between the appeal dwelling and No. 13 Crieve Road, with the appeal dwelling to be occupied by a family member of the Appellant.
4. The Banbridge Newry & Mourne Area Plan 2015 (BNMAP) is the local development plan for the area the site lies within. The appeal site is within the settlement limit for Newry and is not zoned for any purpose. There are no policies or proposals pertinent to the appeal development in BNMAP and it is not material.

5. The Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' (SPPS) refers at paragraph 6.137 to the need to deliver increased housing without town cramming and espouses the importance of new development respecting local character and environmental quality. In respect of the appeal development, there is no conflict or change in policy direction between the provisions of the SPPS and that contained in Planning Policy Statement 7 – Quality Residential Environments (PPS7) and the Second Addendum to PPS7 – Safeguarding the Character of Established Residential Areas (APPS7). PPS7 and APPS7 remain the applicable policy documents to consider the appeal development under.
6. Policy QD1 of PPS7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. It goes on to state that all proposals for residential development must conform to all of a series of criteria. Criterion (a) is that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. Policy LC1 of APPS7 states that in established residential areas planning permission will only be granted for redevelopment of existing buildings where all of the criteria set out in Policy QD1 of PPS7 and all of 3 additional criteria set out in Policy LC1 are met. The Council's concerns fell under criterion (b) of LC1; that the pattern of development is in keeping with the overall character and environmental quality of the established residential area.
7. A previous application for a dwelling on the site was refused planning permission on 21 December 2016 (ref. LA07/2016/0523/F) and subsequently dismissed at appeal on 26 June 2017 (ref. 2016/A0228). Whilst conceptually similar to the previous application in that the appeal development also seeks a new dwelling on the site, the appeal dwelling is nevertheless is a different proposal and shall be considered on its own merits.
8. The Council considered that the proposed use of a shared access with No. 13 would be out of keeping with the character of the area. The Appellant's representative suggested that an alternative access arrangement could be secured by condition was the Commission to deem the proposed arrangement unacceptable. The appeal before me seeks full permission and notwithstanding the lack of details for any such alternative access arrangement, consideration of any alternative access arrangements could give rise to potential third party prejudice, as members of the public would be unaware of the changed access arrangements. Nor would it be appropriate in this instance to condition the detailed design of alternative access arrangements post-decision given that their potential impact on visual character could not be assessed prior to that permission being granted. I shall confine my assessment to the arrangement as submitted.
9. The appeal site lies within an area characterised by single dwellings sited facing onto the roadside. Assessment of character and the effects of a new development upon it includes a subjective element. A variety of styles and vintages of dwelling are evident along this part of the southern side of Crieve Road, whilst the dwellings on the opposite side of the road nearby are largely more modern builds. Despite the historical development of the buildings on Crieve Road, there nevertheless remains a degree of uniformity, the dwellings along the southern side

of the road each occupying their respective plots comfortably with space around them. This contributes to and forms an important component of the local character of the established residential area. Although the appeal dwelling has been designed to read as an extension to No. 13 from the frontage and to avoid drawing the eye, it would fill the western side garden of No. 13 with a new building, with little space left to its side.

10. The plot width for the appeal dwelling would be approximately 14m at its midpoint, with the remaining plot for No. 13 approximately 34m. The nearby dwellings at Nos. 1 – 11 Crieve Road have plot widths varying between approximately 22.2m and 31.97m. The comparatively restricted plot width of the appeal site along with the gable-on siting of the new dwelling to the roadside would, even with the physical proximity of the new dwelling to No 13 itself, still be at variance with the existing dwellings, which face onto the road conventionally. Although when viewed on a drawing the proposed dwelling may read as an extension to No. 13, I am not persuaded that this would be the case when built as the front facing gable end and the porch of the appeal dwelling would sit forward of the existing front building line of No. 13, even if the porch is attached to the front edge of that existing dwelling. This would be evident when viewed in three dimensions and notwithstanding the ridge height of the new dwelling being no higher than the highest part of the ridge for No. 13, the appeal development would still read as a new dwelling on a constricted plot.
11. Whilst the existing dwellings each possess their own individual access, the proposed access arrangements show a widened, paired access, with wing walls similar to what is presently there now. The proposed access has clearly been designed to minimise disruption to the existing road frontage, replicating what is presently there. However, despite this design intent the paired access would still alert the viewer to the fact there are two accesses, each serving a dwelling. Despite the design ethos employed and although the access and driveway themselves would not harm the character of the area, it would visually reinforce the presence of a new dwelling within a tightly constrained site.
12. Although the appeal dwelling would have sufficient private amenity space and would not create any adverse impacts on neighbouring residential amenity, for the reasons given above the appeal development would, despite the limited views available on Crieve Road, fail to respect the surrounding context in terms of the dwelling's orientation and siting within the narrow plot. The appeal development would not comply with criterion (a) of Policy QD1 of PPS7 and given the critical nature of this element, nor the policy when read as a whole. The Council's first reason for refusal is sustained to the extent specified.
13. The pattern of development in the established residential area is one of detached roadside dwellings situated on reasonably sized plots. As mentioned earlier, the appeal dwelling, despite its design ethos to read as an extension to No. 13, would still present as a new dwelling within this established residential area. Given its orientation, even though a direct response to the site constraints, it would still read as being squeezed into a site with a very narrow plot width. The resultant visual impact of the appeal development, despite retention of existing boundary vegetation and the relatively confined visual envelope wherein it would be viewed, would nevertheless present as a pattern of development not in keeping with the overall character and environmental quality of the established residential area.

The Council in its statement of case also referred to the density of the appeal development being higher than that found in the surrounding area, although it was not specifically referenced in the reasons for refusal. However, the effects of the proposed dwelling upon the character of the area and pattern of settlement are also indicative that the density of the development would be significantly higher than that found in the established residential area along this part of Crieve Road.

14. The Appellant referred to an application for a dwelling (ref. LA07/2015/0575/O) granted permission by the Council on lands 20m south-east of 15 Pinewood Hill, Warrenpoint. Notwithstanding any similarities in terms of plot size ratios between the Pinewood Hill proposal and the appeal dwelling, the Pinewood Hill site was a backland site, with a new dwelling proposed directly to the rear of an existing dwelling. It was judged that a new dwelling in that position would not give rise to detrimental impacts on the character of the area. Given the differences in siting relative to their respective contexts, the appeal development is not comparable to that case and it would not justify the granting of permission in this case.
15. For the reasons given above the appeal development would not comply with criterion (b) of Policy LC1 of APPS7 and given the critical nature of this deficiency, the policy read as a whole. The Council's second reason for refusal is sustained.
16. Whilst there is a thrust at regional level in both the Regional Development Strategy 2035 and the SPPS to promote additional housing in existing urban areas, that does not justify development found to contravene prevailing regional planning policy. The lack of third party objections to the appeal development would not warrant the granting of planning permission. As the Council's reasons for refusal have been sustained to the extent specified and are determining the appeal must fail.

This decision is based on the following drawings submitted with the application:-

DRAWING NUMBER	TITLE	SCALE	DATE
01	Location Map	1:1250	18/08/17
02	Proposed Site Layout	1:200	18/08/17
03	Elevations, Floor Plan & Section	1:100	18/08/17

COMMISSIONER MARK WATSON

List of Appearances

Planning Authority:-	Mr P Rooney (NM & D DC) Mr S Maguire (NM & D DC)
Appellant:-	Mr J Lynam (Architect) Ms N Morgan (Appellant) Ms J Stephenson

List of Documents

Planning Authority:-	'A' Statement of Case & Appendices (NM & D DC) 'B' Rebuttal Statement (NM & D DC)
Appellant:-	'C' Statement of Case & Appendices (J Lynam Chartered Architect) 'D' Rebuttal Letter (J Lynam Chartered Architect)



Appeal Decision

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Appeal Reference:	2019/A0020
Appeal by:	Mr William Lindsay
Appeal against:	Refusal of Outline Planning Permission
Proposed Development:	Single dwelling under CTY 6
Location:	Land opposite and to the south of 18 Ringdufferin Road, Rathcunningham, Toye, Downpatrick.
Planning Authority:	Newry Mourne and Down District Council
Application Reference:	LA07/2018/0085/O
Procedure:	Written representations with Commissioner's site visit on 5 th September 2019.
Decision by:	Commissioner Helen Fitzsimons on 16th September 2019

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and whether it would have an adverse impact on the visual amenities of the surrounding rural area.
3. The Ards and Down Area Plan 2015 (ADAP) is the local development plan which operates in the area where the appeal site is located. The appeal site lies in the open countryside outside any designated settlement. There are no plans or policies pertinent to the appeal proposal within ADAP.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing Planning Policy Statements (PPS) one of which is Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21).
5. Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. It goes on to say that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. One of the acceptable types of development is a dwelling in accordance with Policy CTY 6 'Personal and Domestic Circumstances' This policy states that 'planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to

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

6. Paragraph 5.29 of the Policy says that applicants will be expected to provide sufficient information to allow a proper assessment of each specific case. The paragraph requires that supporting information should be submitted and includes such information as a statement detailing the special personal or domestic circumstances supported if appropriate by medical evidence from a medical or health professional ; details of the level of care required in relation to any medical condition again supported by the appropriate health professional, the identity of the main carer, their current address and occupation, an explanation of why care can only be provided at the specific location and how genuine hardship would be caused if planning permission were refused.
7. The appeal site lies opposite the appellant's dwelling at No 18 Ringdufferin Road and his adjacent Agri Sales business, and comprises a field. Across the frontage of the appeal site is a hard cored vehicle parking area which facilitates the parking of vehicles associated with the business.
8. The personal circumstances of this case are predicated on the future viability of the appellant's business, due to his recent medical diagnosis, and the need for his son to reside in No 18 Ringdufferin Road to ensure that the business does not fail as a result.
9. There was no dispute that the appellant's Agri Sales business does not benefit from planning permission. The appellant stated that the Agricultural Machinery Business has been in existence for 32 years and presented an aerial photograph dated 2010 that shows it in place. He also presented aerial photographs dated 2010 and 2017 which he claims show the parking area 'tapering to the east, subsequently hardcoded for use of larger vehicles'. Notwithstanding this evidence I agree with the Council that the correct vehicle to establish immunity from enforcement is through a Certificate for Existing Lawful Use or Development. No such certificate has been presented and I cannot take the appellant's current and future business needs into account in my assessment of the appeal proposal.
10. I accept that the appellant has a health condition that requires care and that his wife, who is in receipt of an attendance allowance, provides care for him in their existing dwelling. I note from the background papers and the third party letter of objection that Mr Lindsay's son lives some 2km away and this is close by. The doctor's letter dated November 2017 referred to was not presented to me, however, I note from the appellant's written statement that the doctor considers the appellant's 'comfort and home situation would be helped if planning was granted for a single storey dwelling'. This does not tell me the extent and implications on the appellant's future health of any hardship the appellant, his wife and family may currently be experiencing due to their current living arrangements. Notwithstanding the evidence

presented to support the argument that the existing dwelling could not be suitably converted and/or adapted for specialist disabled accommodation I was given no evidence as to the extent of disability the appellant currently experiences nor what degree of disability might be anticipated in the future. In this evidential context I am not persuaded that the appellant has demonstrated that there are compelling and site specific reasons to grant planning permission for a new dwelling on the appeal site and that hardship would be caused if planning permission were refused. The Council has sustained its second reason for refusal based on Policy CTY 6 of PPS 21.

11. As it fails Policy CTY 6 of PPS 21 and I was given no overriding reasons why the development is essential and could not be located in a settlement the proposed development also fails Policy CTY 1 of PPS 21 and it is not acceptable in principle in the countryside. The Councils' first reason for refusal is sustained. The objector's concerns in this respect are also upheld.
12. Policy CTY 13 of PPS 21 'Integration and Design of Buildings in the Countryside' says that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of appropriate design. New buildings will be unacceptable where they fail stated criteria. The Council raised objections under criterion (b) the site lacks long established boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and criterion (c) ancillary works do not integrate with their surroundings. Land within the appeal site rises to the south, its eastern and western boundaries are defined by hedgerow whist that on the north is comprised of a post and wire fence. Travelling in both directions along Ringdufferin Road due to intervening landform and vegetation and because of the alignment of the road a dwelling sited to the front of the appeal site would only be viewed across its frontage. It would be viewed against the backdrop of rising land within the appeal site and would integrate satisfactorily into the landscape. Criterion (a) of Policy CTY 13 of PPS 21 would be met. The vehicle parking area does not form part of this application for planning permission and is therefore not ancillary works associated with it. Criterion (c) of Policy CTY 13 of PPS 21 is not offended. There would be no adverse impact on the visual amenities of the countryside and the Council has not sustained its third reason for refusal based on Policy CTY 13 of PPS 21.
13. Policy CTY 14 of PPS 21 'Rural Character' states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area. It states that a new building will be unacceptable in five circumstances one of which is (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character. My conclusions regarding the Council's arguments in respect of ancillary works are set out in paragraph 11 above and it therefore follows that criterion (e) of Policy CTY 14 of PPS 21 would be met. The Council has not sustained its fourth reason for refusal.
14. Notwithstanding that I have concluded that the proposal meets Policies CTY 13 and CTY 14 of PPS 21 as it is not acceptable in principle in the countryside the appeal must fail and planning permission is refused.

This decision relates to the 1:1250 scale site location plan.

COMMISSIONER HELEN FITZSIMONS

2019/A0020

List of Documents

Planning Authority: -

C1 Written Statement and Appendix

Appellant: -

A1 Written Statement and Appendix
A2 Comments



Appeal Decisions

Park House
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Appeal Reference:	2018/A0160.
Appeals by:	Mrs Josephine Watson.
Appeal against:	The refusal of full planning permission.
Proposal:	Dwelling and Garage on a Farm.
Location:	Adjacent to 57 Tullyree Road, Kilcoo.
Planning Authority:	Newry Mourne and Down District Council.
Application Reference:	LA07/2018/0190/RM.
Procedure:	Written representations and Commissioner's site visit on 5 August 2019.
Decisions by:	Commissioner Pauline Boomer, dated 26 September 2019.

Decision

1. The appeal is dismissed.

Claim for Costs

2. A claim for costs was made by Mrs Watson against Newry, Mourne and Down District Council. This claim is the subject of a separate decision.

Preliminary Issues

3. The Appellant chose for the appeal to be considered through the exchange of written representations, after originally requesting an Informal Hearing. In such appeals, parties to the proceedings submit their evidence in what is termed 'Statements of Case'. The purpose of such statements is to set out the arguments pursuant to their case. Following on from this, the parties have the opportunity to submit rebuttals if they wish. As the name suggests, such documents are used to address or rebut points made in the other parties' Statements of Case. If received, rebuttal evidence is copied to the other parties to the appeal for information only. On 1 February 2018, the Commission asked for Statements of Case from the parties and on 11 March 2018, the Commission forwarded the statements received to the respective parties seeking comments. Rebuttal comments were received only from the appellant and not from the Local Planning Authority (LPA).
4. The position of the LPA is set out in its decision notice of 3 August 2018 which includes the reasons for refusal. Whilst a copy of the report to the Planning Committee on 1 August 2018 was not forwarded to the Commission, much of the substantive points raised in the Case Officer's report are reflected in the reasons for refusal which are carried through in the LPA's Statement of Case. This document does not introduce any additional objections that the appellant would not have already been aware of. Accordingly, I do not accept her argument that she was unable to present her main evidence until rebuttal stage as "she did not

know the exact grounds of objection as the LPA failed to offer clarity". The appellant did not avail of the opportunity to submit the evidence she deemed to be necessary in her Statement of Case.

5. Rebuttal evidence, by its very nature, serves to provide a response to the main evidence submitted by parties to the appeal. It should not be used to present a case or to introduce new evidence because it is only copied to the other parties for information. This is clearly outlined in PAC procedures as set out on our website. Unhelpfully, the appellant submitted a significant amount of new evidence in her Rebuttal as well as copies of correspondence with the LPA. Whilst an exchange took place, the LPA had no opportunity to comment on these additional submissions at this late stage.
6. The appellant submitted only a copy of her original drawings with her appeal form and has indicated that she is seeking consideration of the original scheme. However, the LPA objections relate exclusively to the revised scheme which the decision notice is predicated on. The original scheme was obviously before the Council. Given this and relevant case law on admissibility, in the interests of procedural fairness, I will deal with the revised scheme first before considering the original scheme.
7. Whilst the appellant has raised concerns about the processing of the planning application, this is a matter for the parties and does not form part of my consideration in this appeal.

Reasons

8. The main issue in this appeal is whether the design and finishes of the proposed dwelling is acceptable in principle and in keeping with the special character of the Mourne Area of Outstanding Natural Beauty (AONB).
9. The Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Ards and Down Area Plan 2015 (ADAP) is the local development plan for the area where the appeal site is located. It lies within the countryside and within the Mourne AONB. The relevant planning policy context is provided by Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21) and Planning Policy Statement 2: Natural Heritage. These are identified by the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development (SPPS) as retained policy documents. The Building on Tradition planning guidance document (BoT) is also a material consideration.
10. The principle of a dwelling on the appeal site was established when outline planning permission was granted under R/2014/0481/O on 23 June 2015. This allowed for a dwelling on a farm, subject to conditions requiring that the proposed dwelling have a ridge height of less than 6 metres above finished floor level with 0.35m underbuild. It also stipulated that the dwelling be single storey and designed and landscaped in accordance with the prevailing Design Guide for Rural Northern Ireland.

11. The appeal proposal involves the erection of a dwelling with a maximum ridge height of 6m above ground level in compliance with the height restrictions imposed in Conditions 03 and 04 of that outline approval. Whilst the floor plan indicates a single storey dwelling, additional openings are indicated above eaves level in the western elevation which would give the appearance of a 2nd floor. With a footprint of approximately 199 square metres, I consider that it represents a dwelling of modest proportions reflecting the scale of other dwellings recently completed along this shared lane network. The site is positioned approximately 137m south of Tullyrea Road. It is accessed off the existing network of laneways but given its setback from the public road and the steep gradient of the land rising in a southerly direction and intervening vegetation, all parties agree that it would not be visible when travelling along this road. The only identified public viewpoints are from Drumena Road. The LPA has raised no issue with the design and finishes of the proposed ancillary buildings, positioned in front of the dwelling.
12. Whilst the principle of a dwelling at this location has been established and the proposed dimensions accord with the outline conditions, the LPA considers that certain design features would be inappropriate in the AONB. I will firstly assess the revised scheme based on drawings submitted on 23 May 2018. In those revised drawings, date stamped refused by the LPA on 3 August 2018, the cladding was removed on the north and west elevations but remained on the upper section of wall on the south and east elevations. Section drawings remain unchanged still displaying a mansard style roof finished in black cladding. It is unclear whether this was an oversight but I note that the LPA raised no issue with the discrepancies in these stamped refused drawings. I also note that there is a lack of clarity about what materials are to be used in different sections of the main dwelling, especially below and around some openings and there are insufficient details about the proposed openings in the two ancillary buildings with no first floor details of garage building available. Nonetheless, the LPA considered this set of drawings and concluded that the scheme conflicted with extant policy in the SPPS, Policy CTY 13 of PPS 21 and Policy NH 6 of PPS2. My reasoning is confined to the stated objections to that proposal as outlined by the LPA as a corporate body in their decision notice and Statement of Case at appeal stage.
13. As there is some dispute between the parties about the availability of public views of the proposed dwelling and outbuildings from Drumena Road, this also falls to be considered. The prominence of the appeal development would be dependent upon the extent of excavation proposed within this sloping site where there is a 5m differential in levels throughout the plot. This is a full application and no details have been provided about existing and proposed levels or finished floor levels / sections. Whilst the extensive use of stone walling is proposed around the curtilage, no scaled drawing showing details of levels have been provided. Although some planting is proposed to the rear of the building, outside the site boundaries, this will take some time to mature and become established. In any event, it will not provide any screening of the proposed buildings, with low hedging and a wild meadow proposed fronting towards the road.
14. The first reason for refusal states that the appeal proposal conflicts with criterion (e) of Policy CTY 13 which requires that the design of buildings in the countryside is appropriate for the site and its locality. Paragraph 5.68 of the Justification and Amplification text states that the relative simplicity of design and discretion in the use of material, texture and colour will greatly enhance the appearance of a new

building. The second reason for refusal indicates that the proposed development does not find support in Policy NH6 of PPS 2. This states that 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. Policy NH6 goes on to say that 3 criteria must be met. Criterion (a) states that the siting and scale be sympathetic to the special character of the AONB in general and of the particular locality. Criterion (b) requires that it respects or conserves features of importance to the character, appearance or heritage of the landscape whilst Criterion (c) indicates that new development should respect local architectural styles and pattern, local materials, design and colour as well as boundary details. Although the LPA have listed all three criteria in their Statement of Case, I consider that their concerns as identified in the 2nd reason for refusal relate specifically to Criterion (c).

15. The appellant argues that the LPA ignores the advice set out in Paragraph 4.29 of the SPPS which states that they should not attempt to impose a particular architectural taste or style arbitrarily but should encourage good design and responsible innovation, originality or initiative. It is her view that the LPA discourages contemporary designs and sustainable innovations and imposes a preference for traditional design. Within the AONB a higher test is set, requiring that even greater attention be given to design features and materials which are sympathetic to its special character. As the appellant argued that the appeal site would be screened from all public views, before considering the individual design features of the proposal, it is important to assess the visual impact it will have within the AONB.
16. The appeal site comprises an open field devoid of any vegetation, currently enclosed by sections of stone wall and post and wire fencing. Consideration must be given to all public viewpoints, regardless of the status of the road. Whilst I accept that the photograph provided in the LPA's Statement of Case is of poor quality, it demonstrates that any dwelling on this site will be read as a 4th tier of development on this hillside. From my own observations, I do not accept that the appeal site is well enclosed and screened from views, as argued by the appellant. I agree with the LPA that any dwelling on this open field would be visible from a section of Drumena Road. Whilst the public viewpoints when travelling in both directions along that road are long distant ones, these public views are not screened by intervening vegetation or topography, allowing for clear views across the valley from where the proposed dwelling would be dominant, given its elevated and open position. Planting to the rear of the dwelling may provide a backdrop in the future once established but would fail to offer effective screening or filtering of the buildings as now proposed. Despite the steep gradient rising within the appeal site, it is unclear whether or not the dwelling would be excavated into the slope. Whilst I note that stone walls ranging in height from 1.2m to 1.8m are proposed within and around the curtilage, it is not indicated whether or not these would be retaining walls. In any event, I conclude that any dwelling on this site would be conspicuous in the landscape, despite its setback from the public road.
17. I agree with the appellant that the appeal proposal would be no more prominent than the dwelling immediately to the south-east, No. 41A, which occupies a more elevated position. However, this single storey dwelling has been designed using traditional form and materials incorporating local stone, white render and slates which minimises its impact on this sensitive landscape. I note that two other single

storey dwellings at Nos. 41 and 39 have been built along the same lane network and finished in slate/tiles and with a dashed/rendered finish. It is noteworthy that all three of these recently constructed dwellings display strong vertical emphasis in all openings with minimal use of glazing.

18. The appellant presents arguments that the appeal proposal represents a modern twist on a traditional form which finds support in the SPPS and BoT guidance. However, Policy NH6 deals specifically with what is appropriate in an AONB where new development is required to respect local architectural styles and pattern, local materials, design and colour (my emphasis).
19. The appellant in her Statement of Case does acknowledge that a good relationship of solid to void is extremely important when designing dwellings in a rural setting. She goes on to say that secluded elevations screened from public view may provide opportunities for design innovation. However, I share the concerns of the LPA that whilst the southern and eastern elevations of the proposed dwelling have no public aspect, the northern and western elevations would be clearly visible from Drumena Road. The LPA considers that the solid to void ratio especially in the front elevation and the expansive area of floor to roof glazing accentuates the massing and bulk of the dwelling, creating a form which appears to be more than single storey. They consider that extensive use of glazing, lack of traditional design features and massing result in a design which is unsympathetic and failing to respect local architectural styles and patterns within the AONB.
20. The scheme as refused seeks to introduce 8 areas of glazing in the front elevation incorporating 5 different sizes and styles as well as 4 areas of glazing in the roof, all of varying sizes. Significant amounts of glazing are also proposed in the other elevations, with a total of 11 sections of glazing extending to and beyond the eaves level, excluding the conservatory. Whilst the cross section shows the proposed living room with a vaulted ceiling, it is unclear why the glazed panels extend into the roof in other parts of the building with a standard ceiling height. The LPA has raised concerns about the western gable wall where two large openings are proposed at first floor level just below the eaves level. As this elevation is clearly visible from Drumena Road, I agree with the LPA that this would accentuate the massing of the building and would give the appearance of a 2 storey building, especially on such an elevated and open plot. Its impact on the landscape would be compounded by the use of a variety of materials, particularly in the front elevation, some of which are unspecified. It is not therefore reflective of long established properties nearby or the three adjacent new build dwellings which share the lane network, all of which display more traditional design, materials and solid to void ratios. For these reasons, the design of the revised proposal refused by the LPA would be inappropriate at this location and I see nothing in the BoT to assist the appellant's case.
21. I will now consider the original scheme submitted, upon which the appellant has requested that this appeal be based. With her appeal form, the appellant provided an A4 copy of the original drawings which I was unable to scale but I will assume that the overall dimensions of the buildings remain unchanged. Whilst the LPA has made no comment on the original scheme in their Statement of Case, the series of emails between them and the appellant confirm that they had concerns about both the roof form and the extensive use of cladding. The difference between the two

schemes relates to the introduction of a mansard style roof which along with the upper part of the wallplate would be finished in black/grey profiled metal cladding panels. Whilst the appellant has presented arguments that the cladding represents a modern twist on a traditional material which is found in many agricultural buildings in the area, I am not persuaded that the darker materials and use of a variety of finishes would have minimal visual impact compared to a building finished in white render/dark slates such as No. 41A. I consider that the mansard style roof fails to respect the local architectural style within the Mourne AONB and would increase the massing and visual impact of the proposal, exacerbated by the use of materials and colours not prevalent in the area. The original scheme shows large areas of floor to roof glazing differing only slightly from the revised proposal assessed above. I note that the area of glazing proposed in the upper section of the western gable wall would be marginally reduced but this does not alter my conclusions that such features would accentuate the massing of the building and would give the appearance of a 2 storey building on this elevated and open site. Having carefully considered the original scheme, I find that such features are inappropriate on such an open and elevated site within the AONB.

22. In their Statement of Case, the LPA acknowledges that contemporary design may be acceptable in some locations within this AONB but not on such an elevated and open site. The appellant in her Rebuttal has introduced new evidence on which the LPA has been unable to comment. She has referred to a number of cases where she considers cladding and areas of glazing were more extensively used, including sites within this and other AONBs. Without full details of each case, I am unable to make direct comparisons with the appeal site. In any case, all but two of the cases referred to me were approved by the former planning authority, the Department of the Environment, and the current planning authority, Newry Mourne and Down District Council is not bound by the decisions of the former Planning Authority. Passing reference is made to a recent approval of a profiled metal clad dwelling with large areas of glazing by Newry Mourne and Down District Council at Cloughue House, Newry. Again, in the absence of full details, I cannot make direct comparisons with the appeal proposal. The small section copied by the appellant from the associated Case officer's report affirms that "the main dwelling was hidden mainly from public view". As such, the site context and level of visibility in the landscape differs significantly from the appeal site. Design is a subjective matter and each case must be considered on its own merits to reflect differences in terms of siting, setback, backdrop, integration and visibility. In the absence of sufficient detail to allow me to make direct comparisons with the proposed development on the appeal site, I cannot attach significant weight to the limited details of other cases submitted.
23. I acknowledge that the appellant is seeking to increase the light available within the building to allow her to pursue her creative interests and provide a sense of airiness and wellbeing but no explanation has been given for introducing such large openings extending up to and into the roof on all elevations. The desire of the appellant to maximize light within the dwelling cannot outweigh the policy objections.
24. I conclude that both the original scheme and the revised proposal seek to introduce design features which are not reflective of local architectural styles in this AONB. Whilst I acknowledge that viewpoints are long range when travelling in both directions along Drumena Road, the open and elevated nature of the plot

would ensure that the roof profile and extensive areas of glazing and cladding would be read as discordant features readily visible from this aspect. I conclude that neither scheme finds support in Policy CTY 13 or Criterion (c) of Policy NH6. Both reasons for refusal are therefore sustained and the appeal must therefore fail.

This decision is based on the A4 unscaled drawings received with the Appellant's Statement of Case as well as the following drawings date stamped received by the LPA on the following dates and all date stamped refused on 3 August 2018:-

24 January 2018:

Drg PL001	1:2500 Site Location Plan;
Drg PL002	1:2500 plan showing land ownership;
Drg PL003	1:2500 plan showing shared access;
Drg PL005	site analysis plan (unscaled);
Drg PL006	site context plan (unscaled)
Drg PL007	1:1250 site survey plan (i);
Drg PL008	1:500 site survey plan (ii);
Drg PL009	1:500 site survey plan (iii);
Drg PL010	Concept Statement (i);
Drg PL011	Concept Statement (ii);
Drg PL100	1:100 proposed ground floor plan;
Drg PL300	1:100 proposed sections

6 March 2018:

Drg PL500 REV 1	1:500 Access Plan
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11 April 2018:

Drg PL103	1:50 Proposed floor plan of garage and store;
Drg PL203	1:100 proposed elevations/ sections of store;
Drg PL202	1:100 proposed elevations/ sections of garage.

23 May 2018:

Drg PL400 REV A	1:500 Landscape Plan;
Drg PL020 REV A	1:500 Block Plan;
Drg PL200 REV C	1:100 proposed south and east elevations;
Drg PL201 REV C	1:100 proposed north and west elevations.

COMMISSIONER PAULINE BOOMER

2018/A0160**303****List of Documents**

- LPA 1: Statement of Case and Appendices from Newry Mourne and Down District Council.
- APP1: Statement of Case from Appellant.
- APP2: Rebuttal and Appendices from Appellant.



Costs Decision

Park House
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Appeal Reference:	2018/A0160
Appeal against:	The refusal of Reserved Matters approval for a dwelling and garage on a farm.
Location:	Adjacent to 57 Tullyree Road, Kilcoo
Claim by:	Mrs Josephine Watson
Claim against:	Newry Mourne and Down District Council for a full award of costs
Decision by:	Commissioner Pauline Boomer dated September 26 2019.

Decision

1. An award of costs is denied.

Reasons

2. Paragraph 12 of the Commission's Costs Awards Guidance states that the Commission will normally award costs only where all four stated conditions, set out below, are met:
 - The claim relates to a relevant type of appeal;
 - The claim is timely;
 - The party against whom the award is sought has acted unreasonably; and
 - The unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense.
3. The appellant submitted her costs award claim in respect of an appeal that falls within Section 205 of the Planning Act (Northern Ireland) 2011. The costs claim was received on 27 April 2019 and was incorporated within her Rebuttal evidence. Accordingly, the first two stated conditions are met.
4. The Commission's Costs Award Guidance sets out some examples of behaviours that may be found to be unreasonable (Paragraph 14). The first relates to causing an unnecessary appeal. There are various situations in which an appeal may be judged to have been unnecessary. The appellant judges that the Council acted unreasonably in both a substantive and

procedural manner, resulting in an unnecessary appeal and wasted expenses and is seeking full costs.

5. The appellant also argues that the Council is guilty of severe maladministration. She has raised a number of concerns, including the failure of the Council to engage fully with her during the processing of her application or to explain in detail their concerns about certain design features and changing the parameters during the process. The main focus in a cost claim against a planning authority is predicated on their behaviour during the course of the appeal rather than on what happened during the processing of the application. The Council's decision notice represents their final position on the latest scheme submitted to them. The deliberation of the Council prior to the issuing of the notice belongs to the application processing stage rather than appeal stage. For the purposes of a cost claim, what matters is the decision arrived at rather than the manner in which it was reached. Concerns about the processing of the planning application therefore lie outside the remit of this costs claim and are matters which could be pursued directly with the Council and /or the Ombudsman if deemed necessary.
6. The Council correctly considered this planning application in light of the relevant planning policies. Whilst the appellant placed greater emphasis on Building on Tradition, this is guidance only and whilst it is a material consideration, it does not outweigh the appropriate planning policies. As the appeal site is located within the Mourne AONB, a higher test is set for new development within this sensitive landscape. Disagreement is an expected feature of the appeal process and is not inherently unreasonable.
7. I consider that the appellant expected that her scheme would be approved, citing inconsistencies in policy interpretation and pointing out contemporary designs approved by the former planning authority, the Department of the Environment and other Councils. In her Rebuttal, new evidence was submitted on which the LPA has been unable to comment. Without full details of each case referred to me, I have been unable to make direct comparisons. Design is a subjective matter and each case must be considered on its own merits to reflect differences in terms of siting, setback, backdrop, integration and visibility. In the absence of detailed comment from the LPA and with insufficient detail to allow me to make direct comparisons with the appeal proposal, those other decisions do not therefore justify the granting of planning permission to a proposal contrary to policy, on the basis of equity and fairness.
8. I note that the LPA has not responded to the costs claim application nor have they sought to challenge the arguments presented by the appellant that they have acted unreasonably. I must assume that their decision not to comment was based on the fact that the appellant's arguments largely related to their behaviour during the processing of the planning application rather than during the appeal process. I have found in favour of the Council's decision to refuse planning permission in concluding that both reasons for refusal are sustained and, as such, do not consider that an unnecessary appeal has been caused or that the Council displayed unreasonable behaviour during the appeal process.

In reaching these conclusions, I consider that no unnecessary costs have been incurred.

9. No award of costs will therefore be made.

COMMISSIONER PAULINE BOOMER

Documents

APP3 Appellant's Submission for Costs



Appeal Decision

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Appeal Reference:	2018/A0231
Appeal by:	Declan Clarke
Appeal against:	The conditional grant of full planning permission.
Proposed Development:	Retrospective change of use from store to gym (against condition) approved for a limited period of two years
Location:	Unit 7, Ballyardle Buiness Park, Dunnaval Road, Kilkeel
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/0270/F
Procedure:	Written Representations with Commissioners Site Visit on 29 August 2019.
Decision by:	Commissioner Mandy Jones, dated 3 September 2019.

Decision

The appeal is allowed.

Condition 1 is deleted from approval LA07/2018/0270/F.

Claim for Costs

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

Reasoning

1. The main issue in this appeal is whether a time limiting condition is necessary.
2. Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. The Banbridge, Newry and Mourne Area Plan 2015 (BNMP) is the local development plan for the area and the appeal site is located within the small settlement of Dunnaval/Ballyardle. It is also located within the Mournes Area of Outstanding Natural Beauty (AONB). The plan contains no material policies for the type of development proposed.
3. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) which came into effect in September 2015, is material to all decisions on individual planning applications and appeals. The SPPS retains policies within existing planning policy documents until a new Plan Strategy for the whole council area has been adopted. It sets out transitional arrangements

to be followed in the event of a conflict between the SPPS and retained policy or when the SPPS is silent or less prescriptive on certain policies. There is no conflict or change in policy direction between its provisions and those of Planning Policy Statement 4 : Planning and Economic Development. Therefore, PPS 4 provides the policy context for this appeal.

4. Full planning permission (LA07/2018/0270/F) for the retrospective change of use from store to gym was granted on 21 November 2018 subject to a number of conditions. The planning appeal form indicated that the appeal is against condition 1.

Condition 1: The permission hereby granted shall be for a limited period of two years from the date of this decision notice and the building shall then be returned to its original B4 use class as per the Planning (Use Classes) Order (Northern Ireland) 2015.

Reason: To ensure there is not a permanent loss of economic development land.

5. Paragraph 5.65 of the SPPS sets out a number of tests against which to assess the propriety of the imposition of planning conditions namely whether they are necessary, relevant to planning, relevant to the development being permitted, precise, enforceable and reasonable. The appellant argues that Condition 1 is unnecessary, unfair and unreasonable.
6. The appeal site is within Ballyardle Business Park on unzoned land. The business park consists of a number of units which have developed since around 1980 with various subsequent approvals. The appeal unit (unit 7) is the southerly one of a pair which were approved under application LA07/2015/0089/F in April 2016 for two stores / commercial buildings. The appeal unit is occupied by Conquer Fitness and the adjacent unit is occupied by Serenity Tiles and Bathrooms.
7. Paragraph 6.89 of the SPPS refers to the need to retain economic development land and buildings on zoned land. It also goes on to say that while the same principle should also apply generally to unzoned land in settlements in current economic development use (or land last used for these purposes) ; councils may wish to retain flexibility to consider alternative proposals that offer community, environmental or other benefits, that are considered to outweigh the loss of land for economic development use
8. Within PPS 4, Policy PED 7 refers to the Retention of Zoned Land and Economic Development Uses. In terms of unzoned land in Settlements it states that a development proposal that would result in the loss of an existing Class B2, B3, or B4 use, or land last used for these purposes, will only be permitted where one of a number of criteria is demonstrated. One of these is criterion (c) which refers to a proposal for the development of a compatible sui generis employment use of a scale, nature and form appropriate to the location.
9. The Council considered that the proposal warranted being treated as an exception to the principle that land, or buildings used for economic development should be retained for that purpose, as it felt that there was a community benefit in allowing a gym as it is a sui generis use of a scale, nature and form appropriate to its location. Accordingly, it was considered by the Council that the proposal for a gym met

criterion (c) of Policy PED 7 and the SPPS. However, the Council also considered that the benefits were insufficient to warrant a permanent loss of the economic development use and as such I was told that the application was approved subject to a condition restricting its use as a gym for 2 years to secure the long term use of the building for economic development.

10. The SPPS contains a number of core planning principles, one of which is 'improving the health and well – being of people and communities in decision making'. The Council considered that while there was a need to retain the economic development use of the site, it felt that the need to improve the health and well being of the residents of the surrounding area would assist in meeting the Core Planning Principle.
11. The appellant's evidence included 14 approvals for the change of use of a Class B2, Class B3 and / or Class B4 building on unzoned land within settlement development limit to that of a gym. It was presented that in all cases the respective Councils, including Newry, Mourne and Down District Council in 3 of the 14 approvals, considered that the proposal met one of the criterion of Policy PED 7 – without the imposition of a time condition. It was argued by the appellant that the time limiting condition is unnecessary and unreasonable.
12. I was told that floor space has remained unoccupied within Ballyardle Buisness Park for many years and there is currently over 1000 sq ft of unoccupied floor space. The owners of the park stated that despite their constant efforts to find tenants for unit 7 it remained unoccupied for a year. Other than the current tenant there has been no expression of interests for unit 7. In addition, it was argued that Kilkeel, Warrenpoint and Newry have large areas of land zoned for economic development which has not yet been developed.
13. The Council have no concerns regarding the compatibility of the proposal with the adjacent land uses, rather the crux of their case is that the time condition allows the Council to control the use on the site and enable it to be returned to its intended use at the end of this period.
14. Policy PED 7 of PPS 4 does not refer to the imposition of time limiting conditions in circumstances where a proposal would result in the loss of existing Class B2,B3 or B4 use, if it met any of the criteria cited. It was common case that the proposal met criterion (c). The proposal is therefore policy compliant. There is no policy basis for a time limiting condition of two years within either PPS 4 or the SPPS. Given the under occupancy of the Ballyardle Business Park, I consider that a sufficient supply of land for economic development use remains in the immediate locality.
15. Accordingly, I consider that condition 1 attached to approval LA07/2018/0270/F for a limited period of two years is unnecessary and the appeal is allowed.

This decision relates to the following:

- PAC 1: Site Location Map, scale 1:2500 (Council ref : 01)
- PAC 2: Site Plan, scale 1:500 (Council ref : 02 Rev 1)
- PAC 3: Proposed Drawings, scale 1:100 (Council ref : 03 Rev 1)

COMMISSIONER MANDY JONES

2018/A0231

List of Documents

- | | | |
|----------------------------|-----|-------------------|
| Planning Authority: | 'A' | Statement of Case |
| | 'B' | Rebuttal |
| Appellant: | 'C' | Statement of Case |
| | 'D' | Rebuttal |



Appeal Decision

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Appeal Reference:	2019/A0038
Appeal by:	Maria Morgan
Appeal against:	Full Planning Permission
Proposed Development:	Infill dwelling
Location:	Approx 30m North East of 75 Benagh Road, Newry.
Planning Authority:	Newry Mourne and Down District Council
Application Reference:	LA07/2018/0787/F
Procedure:	Informal Hearing on 17 th September 2019
Decision by:	Commissioner Helen Fitzsimons 30 th September 2019

Decision

1. The appeal is allowed subject to conditions.

Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and if it would have an adverse impact on the visual amenities of the countryside.
3. The appeal site lies outwith any settlement or designation as defined by the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP), the local development plan which operates in the area where the appeal site is located. There are no plans or policies in the plan pertinent to the appeal proposal within BNMAP. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) provides the relevant policy context for the appeal proposal.
4. Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is a dwelling in accordance with Policy CTY 8 'Ribbon Development'. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, it also includes the exception that 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 purposes of this policy the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

5. The appeal site comprises a road frontage plot of land which contains a 3-4m high rocky outcrop. It is bounded on the north by an access lane which serves No 75A Benagh Road which lies to the rear of the appeal site on significantly lower ground. Immediately rear of the appeal site and on excavated land some 4-5m lower is an industrial style shed sited within a concrete yard. The eastern boundary of this compound is formed by the excavated rock face of the western boundary of the appeal site. This shed is not discernible in the landscape. Immediately south of the appeal site are two dwellings whilst north of the access lane is a dwelling and garage. All of these buildings have a frontage to Benagh Road.
6. The Council considers that the proposed development fails Policy CTY 8 because the access lane breaks the frontage. Given that on the ground the buildings presently read as a continuously built up frontage I do not agree with the Council that the access lane to No.75A breaks up this frontage and the appeal site represents a small gap in this frontage. The Council's concerns in this respect are not upheld.
7. At the hearing the Council told me that it considers the shed to be associated with the appeal site and consequently it was accompanying development to the rear. Its objections to the proposed development were also based on this policy requirement.
8. There is currently no means of accessing the appeal site from the shed and its compound or vice versa. From the laneway the shed and the compound appear as separate from the appeal site due to the excavated rock face on its eastern boundary. I do not agree that the shed is development associated with the appeal site and there is no accompanying development to the rear of the frontage. The Council's objections are not upheld.
9. As neither of the Council's concerns are upheld the proposed development meets the requirements of Policy CTY 8 of PPS 21 and the proposed development is acceptable in principle in the countryside. As the appeal proposal is acceptable in principle in the countryside it also meets the requirements of Policy CTY 1 of PPS 21 and the Council has not sustained its first and second reasons for refusal.
10. Policy CTY 13 'Integration and Design of Buildings in the Countryside' states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. A new building will be unacceptable in seven stated circumstances. The Council raised objections under criteria (a) it is a prominent feature in the landscape; (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; (c) it relies primarily on the use of new landscaping for integration; and (f) fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.
11. The boundaries of the appeal site are formed by hedgerow to the south and a wall to the east. The northern boundary is open and that to the west is formed by rock. The appellant proposes replacing the wall as part of the proposed development and planting along the northern boundary. Given the proposed excavation the eastern boundary will comprise a rock face. At my site visit I noted that the front boundaries of Nos. 73, 75 and 77 Benagh Road, which lie either side of the appeal site, are defined by a stone wall; a ranch style fence and a wall respectively and appear

suburban in nature. I also noted that the dwelling at No. 75 benefits from little sense of enclosure due to a lack of backdrop and that its remaining boundaries are defined by low hedgerows which appear to me to have been planted in association with that dwelling. It is prominent in the landscape. In my mind there is little to distinguish the appeal proposal from what I observed at No 75 Benagh Road and the proposed development would not be any more prominent in the landscape. Criterion (a) of Policy CTY 13 of PPSC 21 would not be offended. Regarding criteria (b) (c) and (f) it is my view that rural quality has been adversely impacted by those dwellings which form the substantial and continuously built up frontage. The siting of the proposed development within that frontage would not have a further adverse impact on the landscape and the visual amenities of the countryside in this location. I find those circumstances sufficient to outweigh the requirements of criteria (b) (c) and (f) of Policy CTY 13 of PPS 21. The Council has not sustained its objections under Policy CTY 13 of PPS 21.

12. CTY 14 of PPS 21 'Rural Character' states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A new building will be unacceptable where: (a) it is unduly prominent in the landscape; or (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or (c) it does not respect the traditional pattern of settlement exhibited in that area; or (d) it creates or adds to a ribbon of development (see Policy CTY 8); or (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character. The Council raised objections under all five criteria in its reason for refusal. However, in its written statement it accepted that the area already has a suburban character with closely packed dwellings. This suggests to me that the Council accepts that little vestige of rural character remains in the area and that settlement pattern is predominantly suburban. Consequently the proposed development would not offend criteria (b) (c) and (e) of Policy CTY 14. In addition as the appeal proposal meets Policy CTY 8 of PPS 2 it also meets that criteria (d) of Policy CTY 14 and is not ribbon development. Buildings sited behind each other and served of shared laneways are not uncommon features in the countryside. In any event the term 'back land and tandem development' more commonly arises in urban situations. I have already set out my conclusions regarding the prominence of the proposed development and in the circumstances of this appeal it would not offence criterion (a) of the policy. The Council has not sustained it fourth reason for refusal under Policy CTY 14 of PPS 21.
13. A condition is necessary to ensure that the access from the site onto the Benagh Road is satisfactory in the interests of road safety. A planting and retention of landscaping condition is necessary in the interests of visual amenity.

Conditions

- (1) Before the commencement of building the visibility splays shall be laid out in accordance with the drawing numbered P02 and permanently retained.
- (2) The scheme of planting shown on the drawing numbered P02 shall be carried out during the first planting season after the dwelling is occupied. Trees or

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

- (3) The development shall be begun before the expiration of five years from the date of this permission.

This decision is based on the 1:2500 scale site location plan and Drawing No P02.

COMMISSIONER HELEN FITZSIMONS

2019/A0038**List of Documents**

Planning Authority: - PA1 Written Statement and Appendices

Appellant: - A 1 Written Statement and Appendices

Attendances

Planning Authority: - Mr A Donaldson

Appellant:- Mr C O Callaghan – O Callaghan Planning
Mr C Morgan (Appellant's Partner)



Appeal Decision

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Appeal Reference:	2018/A0238.
Appeal by:	Miss Leah Patterson.
Appeal against:	The refusal of outline planning permission.
Proposed Development:	Erection of dwelling and garage and associated site works as per CTY2A.
Location:	Lands adjacent to and west of 83 Dunmore Road, Ballynahinch.
Planning Authority:	Newry Mourne & Down District Council.
Application Reference:	LA07/2018/0963/O.
Procedure:	Written representations with accompanied site visit on 23 July 2019.
Decision by:	Commissioner Mark Watson, dated 19 September 2019.

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether or not the appeal development would:
 - be acceptable in principle;
 - result in ribbon development; and
 - adversely impact on rural character.
3. The Ards and Down Area Plan 2015 (ADAP) operates as the statutory local development plan for the proposal. In it, the site lies within the countryside. The ADAP offers no specific policy or guidance in respect of the proposed single dwelling and is not material. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) in respect of the appeal proposal. The policy provisions of PPS21 remain applicable to the proposed development.
4. The appeal site comprises the northern section of a larger grassed agricultural field on the western side of Dunmore Road. The site lies below the level of the road and slopes downwards in a westerly direction. There is an agricultural access onto Dunmore Road which it is proposed be modified to serve the new dwelling. The frontage along Dunmore Road comprises a grassed bank with a line of mature trees and hedgerow. The north-eastern boundary and a large part of the north-western boundary is comprised of mature trees and hedge. A post and wire fence provides the western boundary, whilst the southern is undefined. No. 83 Dunmore Road, a

chalet bungalow, and No. 139 Ballymacarn Road, a two storey dwelling, lie adjacent and east of the site. To the east of No. 83 Dunmore Road lies No. 141 Ballymacarn Road, a two storey dwelling. To the north of the site lies the Magherahamlet Parish Church and Church Hall. On the opposite side of Dunmore Road from the proposed site access lies a sizeable two storey dwelling and several outbuildings. Opposite and south-east of that dwelling and outbuildings there is a new dwelling and garage presently under construction.

5. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a. It follows that if the development complies with Policy CTY2a it will also comply with Policy CTY1 of PPS21.
6. Policy CTY2a of PPS21 states that planning permission will be granted for a dwelling at an existing cluster of development provided all of six criteria are met. The Council initially considered that the appeal development failed to meet the second, fourth and fifth criteria, but its final position was that the second criterion, that the cluster appears as a visual entity in the local landscape, was met. The fourth criterion is that the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. The fifth criterion is that development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.
7. With regard to the fourth criterion the Council accepted that the appeal site could provide a suitable degree of enclosure for the development, but that it was not bounded on at least two sides with other development in the cluster. The appeal site is bounded along the north-eastern boundary by two dwellings, No. 139 Ballymacarn Road and No. 83 Dunmore Road. Even accounting for legal ownership of the site into the middle of the mature treeline on the north-eastern boundary, approximately only 2.5m of the north-western site boundary, the total length of which is approximately 53m long, abuts the boundary of the Magherahamlet Parish Church Hall curtilage.
8. The Appellant's representative considered that as the wording of the fourth criterion did not expressly state that the identified site must be bounded along the *entire* (my emphasis) length of two sides with other development in the cluster, the appeal development could meet this policy test. Whilst the wording of the criterion does not state a specific proportion for which the side of a prospective site must bound with other development, to my mind the thrust of this specific criterion and the policy as a whole is one of proposed new development being sited to consolidate with and read as part of an existing cluster. I am reinforced in this opinion by the use of the words 'at least two sides' (my emphasis) within the criterion, which indicates that this should be the minimum acceptable degree of physical relationship between the site and adjacent existing development in the cluster. In my judgement the appeal site which is bounded on one side to development and bounded on another for approximately 2.5m does not comply with this criterion, even if the appeal dwelling and garage would not sit in visual isolation from the existing development. Thus, whilst the site itself could provide a suitable degree of enclosure for the

development, the site is not bounded on at least two sides with other development in the cluster. The fourth criterion of CTY2A is not fully met.

9. In respect of the fifth criterion, the appeal site would not round off existing development given its disposition in relation to the existing buildings within the cluster. Rather, it would project beyond the existing cluster on its south-western edge, even if from certain views on the Drumgavlin Road the site would have backdrop from the development along the eastern side of Dunmore Road including the new dwelling under construction (ref. LA07/2016/1220/O), as well as rising land. Although from certain positions the Church Hall and the new dwelling under construction may "frame" the appeal site, such contrived views would not persuade me that development of the appeal site, regardless of the position of the buildings within the site, could be absorbed into the existing cluster through rounding off and consolidation. Whilst the Appellant included measurements of separation distances between the existing buildings at the cluster and showed that the proposed appeal dwelling and garage could be sited with similar separation distances from the existing buildings, the appeal development would nevertheless read as a visual intrusion into the open countryside extending the cluster. It would also alter its character, though I would accept not to a significant degree. However, for the reasons given above the fifth criterion of Policy CTY2a is not fully met.
10. The proposed development does not satisfy two of the criteria of Policy CTY2a. Given the critical nature of this deficiency, the appeal development, irrespective of where it was positioned within the confines of the site, does not meet Policy CTY2a of PPS21 when read as a whole. The Council's second reason for refusal is sustained.
11. Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. The Council considered that the appeal development would create a ribbon of development with No. 83 Dunmore Road and No. 141 Ballymacarn Road. Although the proposed dwelling and garage would themselves be sited back from the roadside, the removal of some roadside vegetation for the required 2m x 60m visibility splays would, even with the use of the existing field gate access point, open up some views of part of the development from the southern approach on Dunmore Road, creating an awareness of development at that location. There would be a sequential awareness of the appeal development, No. 83 Dunmore Road and No. 141 Ballymacarn Road when travelling north on Dunmore Road. Travelling the opposite direction these visual linkages would be less significant given the road alignment and consequent angles of view relative to that direction of travel. Whilst the positioning of the dwelling and garage in relation to the existing development would not afford any future infill opportunities along the road frontage, regardless of the positioning of the buildings within the site itself, it would nevertheless create ribbon development, contrary to Policy CTY8 of PPS21.
12. Policy CTY14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area. The appeal dwelling itself would not appear visually prominent in its own right given its position in the landscape. However, given my conclusions in respect of the creation of ribbon development, the appeal development would nevertheless result in a detrimental change to the rural character of the area. The appeal development would be contrary to Policy CTY14 read as a whole. The Council's third reason for refusal is sustained.

13. For the reasons given above the development would not comply with prevailing regional planning policy. There are no overriding reasons why the appeal development is essential and could not be located in a settlement. Whilst there were no third party objections to the appeal development and no objections were raised by the statutory consultees, these matters would not justify the development. The appeal development is contrary to Policy CTY1 of PPS21 and the related provisions of the SPPS. The first reason for refusal is sustained.
14. The Council's reasons for refusal have been sustained to the extent specified and are determining. The appeal must fail.

This decision relates to the 1:2500 scale Site Location Plan, 1:500 scale Site Plan & Proposal and Conceptual Analysis drawing numbered WW1718/P01, submitted with the application.

COMMISSIONER MARK WATSON

List of Appearances

Planning Authority:- Mrs C Cooney (Newry, Mourne & Down District Council)

Appellant:- Mr W Wallace (WHW Design Ltd.)
Miss L Patterson (Appellant)
Mr J Patterson (Appellant's father)

List of Documents

Planning Authority:- 'A' Statement of Case & Appendices (NM&D DC)

Appellant:- 'B' Statement of Case (WHW Design Ltd.)
'C' Rebuttal Statement (WHW Design Ltd.)



Appeal Decision

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Appeal Reference:	2019/A0015
Appeal by:	Ms Karen Turley
Appeal against:	The refusal of outline planning permission
Proposed Development:	Dwelling
Location:	Adjacent to No.7 Bannaghan Road, Downpatrick
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/1043/O
Procedure:	Written representations and accompanied site visit on 5 th September 2019
Decision by:	Commissioner Diane O'Neill, dated 20 th September 2019

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development:
 - is acceptable in principle
 - would create ribbon development
 - would impact on rural character
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, so far as material to the application, and to any other material considerations. The Ards and Down Area Plan 2015 (ADAP) is the local development plan for the area where the appeal site is located. The site is located outside any settlement development limit within ADAP and is within the countryside. It is also located within the Strangford and Lecale Area of Outstanding Natural Beauty. The ADAP has no material policies for dealing with dwellings in the countryside.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing planning policy statements and amongst these is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) which provides the relevant policy context for the appeal proposal.
5. Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for a single dwelling are outlined. The appellant

argued that the appeal proposal represents an infill opportunity in accordance with Policy CTY 8 of PPS 21.

6. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses. Policy CTY 8 requires four specific elements to be met: the gap site must be within an otherwise substantial and continuously built-up frontage; the gap site must be small; the existing development pattern along the frontage must be respected; and other planning and environmental requirements must be met.
7. The appellant and the planning authority considered that the line of 3 or more buildings which constitute the substantial and continuously built up frontage were the single storey dwelling and outbuilding at No.1, the single storey dwelling at No.3, the bungalow and modest outbuilding at No.5 and the single storey dwelling at No.7 Bannaghan Road. The appeal site is located within the side garden of No.7 Bannaghan Road to the west of the small outbuilding of No.5 Bannaghan Road. As these buildings stand on plots that abut the Bannaghan Road, the appeal proposal meets the first element of Policy CTY 8.
8. As it was proposed to locate the dwelling in a portion of the domestic side garden of bungalow (No.7), between the dwelling at No.7 and the shed at No.5 the planning authority accepted that this was a small gap site.
9. The planning authority however raised an objection to the third criterion of Policy CTY 8 in that they considered that the proposal would not respect the existing development pattern along the frontage. No.7 has a large 46m wide rectangular plot with the dwelling set back from the road. Its roadside and rear north-western boundary are defined by mature hedgerow. The access and driveway for No.7 are located within the southern half of the appeal site. The north-eastern boundary of No.7 and the appeal site is partly defined by hedgerow and dispersed vegetation whilst the south-western boundary of the appeal site is undefined. No.5 Bannaghan Road and its modest shed are located adjacent and to the east of the appeal site within a 88m long rectangular roadside plot.
10. Both parties calculated that the existing average frontage length of the plots within the identified frontage was approximately 53m with the average plot area being approximately 0.19ha. The appellant argued that the approximate 0.15ha plot size of the proposed site would respect the existing development and that the 88m wide plot of No.5, which is outside the control of the appellant, could be subdivided at a future date in order for a further dwelling to be constructed between the appeal site and the dwelling at No.5. However, with the appeal proposal having a proposed 22m frontage width, this would be less than half of the existing average width and half of the proposed plot width of No.5 were it to be subdivided in the future. The proposal would fail to respect the wide frontages that are a characteristic of this locality. While the frontage width of No.7 is currently approximately 46m and is reflective of the wide plots in the identified frontage and general area, it is uncharacteristically deep. To replicate this depth of a plot whilst creating two narrow frontages, with No.7 having a new frontage width of approximately 24m, would not respect or be in-keeping with the predominant pattern of development within the identified frontage. Being located

approximately 3m from the side elevation of No.7, the proposal would also not adopt the spacing of the existing buildings at this locality with there currently being approximately 31m between the dwelling No.7 and the shed of No.5, approximately 57m between the shed of No.5 and its associated dwelling and approximately 26m between the dwellings of Nos. 3 and 5 Bannaghan Road.

11. The appellant argued that outline planning permission had been granted for dwellings located between Nos. 226 and 230 Ardglass Road, Ardglass (LA07/2016/0966/O and LA07/2017/0793/O) where it was claimed that was a greater deviation in plot size areas and plot frontage lengths. Although the appellant did not provide substantial details, from the planning authority's evidence it is apparent that the sites had different characteristics and were obviously in a different locality. At any rate, every case has to be assessed on its own merits and within its own context.
12. As the proposal would not respect the development pattern within the identified frontage, the proposal therefore fails to comply with the third element of Policy CTY 8.
13. The fourth element of the infill policy in Policy CTY 8 is whether the appeal proposal would meet other planning and environmental requirements. The planning authority raised concern in relation to Policy CTY 14. Policy CTY 14, which is also the basis for the third reason for refusal, 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 planning authority raised concern that the appeal proposal would be contrary to criteria (b), (c) and (d) of Policy CTY 14 in that the proposal would result in suburban style build-up of development, does not respect the traditional pattern of settlement exhibited in the area and would add to a ribbon of development. The proposed dwelling would be visually linked and share a common frontage with the four existing dwellings (Nos. 1, 3, 5 and 7 Bannaghan Road) and their associated outbuildings. The proposal would add to the ribbon of development and have an unacceptable impact on the character of this rural area. It has also been concluded that the proposal would not respect the traditional pattern of settlement exhibited in the area. As the proposal would further erode the rural character of the area, the fourth reason for refusal in relation to Policy CTY 14 has been sustained.
14. Irrespective of arguments that the proposed dwelling would be of an appropriate design, have adequate open space provision, a suitable access arrangement and aligned with the dwelling at No.7, as the proposal does not meet the third and fourth elements of Policy CTY 8, it is not an exception and is contrary to that policy. Accordingly, the second reason for refusal in relation to Policy CTY 14 is sustained.
15. Accordingly, the appeal proposal is not one of the specified types of development acceptable in the countryside under Policy CTY 1. Policy CTY 1 also states that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. No evidence was submitted to demonstrate that there are overriding reasons why the development is essential. I conclude that the proposal is

unacceptable in principle and contrary to Policy CTY 1 of PPS 21. Accordingly, the first reason for refusal is sustained.

16. As the three reasons for refusal are sustained, the appeal must fail.

This decision is based on Drawing 01 1:2500 site location map dated received by the planning authority on 5th July 2018.

COMMISSIONER DIANE O'NEILL



Appeal Decision

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Appeal Reference:	2019/A0007
Appeal by:	Rebekah Wilson
Appeal against:	The refusal of full planning permission
Proposed Development:	Offsite replacement dwelling with retention of existing for ancillary use of dwelling at No 59
Location:	150 metres South East of 59A Drumsnade Road, Ballynahinch
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/1756/F
Procedure:	Written representations and Commissioner's site visit on 10 September 2019
Decision by:	Commissioner Rosemary Daly, dated 18 September 2019

Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.

Reasons

2. The main issues in this appeal relate to the principle of a new dwelling in the countryside; and the visual impact of the development on the surrounding landscape.
3. The appeal site is around 4½ miles south of the settlement of Ballynahinch. The Ards and Down Area Plan 2015 (ADAP) operates as the statutory plan for this area. The plan offers no determining policies for the appeal development but advises that prevailing regional policies apply. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS retains regional policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS.
4. Paragraph 6.73 of the SPPS provides strategic policy for residential and non residential development in the countryside. It makes provision for the replacement of existing dwellings where the building to be replaced exhibits the essential characteristics of a dwelling and, as a minimum all external structural walls are

substantially intact. No conflict arises between the provisions of the SPPS and the retained policy contained in PPS21.

5. Policy CTY1 of PPS21 relates to development in the countryside and sets out a range of types of development which in principle are considered to be acceptable in the countryside that will contribute to the aims of sustainable development. One type of development is a replacement dwelling in accordance with Policy CTY3. This policy also states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristic of a dwelling and as a minimum all external structural walls are substantially complete.
6. The proposal is to replace an existing 2 storey semi-detached dwelling at 59a Drumsnade Road. This dwelling is part of a larger property conjoined with 59 Drumsnade Road. Planning permission R/1988/1037 was granted in August 1989 for the division of the dwelling at 59 into two residential units. A further extension for an ensuite bathroom was certified as permitted development in January 2000 (R/2000/0042/A41). The dwelling includes a self-contained ground floor porch, a toilet, kitchen, living room with fireplace and a staircase. The first floor includes 2 bedrooms and a bathroom. Pedestrian access into the property is at the rear elevation. There is no internal connecting access between the properties at 59 and 59a Drumsnade Road. The Council have stated that the property is serviced by a separate electricity meter and heating system. There is no dispute that the property at 59a Drumsnade Road exhibits the essential characteristics of a dwelling.
7. The proposal also involves the retention of the property at 59a Drumsnade Road with an offsite replacement, some 120 metres, south of the property. It is proposed that the dwelling at 59 and 59a Drumsnade Road would be amalgamated to become one residential unit. Drawings (LA07/2018/1758/04 & LA07/2018/1758/05) have been submitted as part of the proposal. If considered necessary a condition could be implemented requiring the amalgamation of the property for form one residential unit.
8. Policy CTY3 also sets out further criteria for all replacement cases. The first criterion is that the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless (a) the curtilage is so restricted that it could not reasonably accommodate a modest size dwelling, or (b) it can be shown an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. Paragraph 5.15 of the justification and amplification of Policy CTY3 states that proposals to replace existing semi-detached or terraced dwellings will generally only be acceptable if replaced in situ with the proposed new dwellings remaining attached to the other elements of the existing development unless there are practical mitigating circumstances to be considered.
9. The Council stated that the amalgamation of the two dwellings to form one residential unit would not have a detrimental impact on the rural character or the external appearance of the existing building. The existing dwelling is located at the centre of an active farm complex. Notwithstanding that the Council identified the curtilage of the dwelling to be approximately 470 square metres (0.047 ha) on the ground, the dwellings at 59 and 59a do not have separate garden areas, access arrangements, parking or curtilage definition. The curtilage around the property is

also shared and communal to the active farm yard. The garden area around the dwelling is narrow and surrounded by other farm buildings and access laneways through the farm. The retention of dwelling at 59a, to become part of 59, will also restrict the size of the curtilage to accommodate a modest size dwelling.

10. A recently constructed dwelling (R/2012/0403/RM) is also located to the east side of the farm complex. The access to this property runs to the north and rear of the property at 59a. From my assessment of the site it further limits the expansion of the curtilage of the property towards this direction. Having assessed the area around the dwelling to be replaced I am satisfied in this instance that the curtilage immediately around the existing dwelling is so restricted that it could not reasonably accommodate a modest sized dwelling unless the building to be replaced was in situ and attached to the existing dwelling at 59 Drumsnade Road.
11. I find the approach taken in applications LA07/2018/1377/O, LA07/2016/0015/O & LA07/2015/0568 where the off-site replacements were considered acceptable due to restricted curtilages, within a farm group, to be very similar to the circumstances in this case. The fact these approved dwellings were granted on adjacent land to the farm or closer to the dwelling to be replaced than what is proposed is not a determining factor or a specific requirement of Policy CTY3.
12. The dwelling to be replaced is surrounded by existing agricultural buildings including two slurry tanks that are within 40 metres of the dwellings. The appellant stated the slurry tanks emit a constant odour, resulting in a complete loss of amenity. Furthermore the appellant noted that noise from the fully operational dairy farm also has a detrimental impact on residential amenity. The appellant stated that the previous resident of the existing dwelling worked on the farm and whilst the new residents of the dwelling are related to the operator of the farm, they will not be involved in the daily operation of the farm. Therefore the appellant presented that an alternative position for the new dwelling away from the centre of the working farm would provide amenity benefits for the residents in respect of reduced noise, odour and safety impacts.
13. The Council noted that there is no evidence or planning history to support any change to intensification of the farm business. However, to my mind there is a change in circumstances in respect of the farm. The new residents of the replacement dwelling will not be working on the farm. Taking account of the existing dwellings location at the centre of an active farm; the undefined curtilage associated with the existing dwelling; and the restrictive nature of the area around the existing dwelling on the farm I considered there to be practical and mitigating circumstances that justify the offsite replacement of the dwelling at 59a Drumsnade Road. The offsite location would also provide demonstrable amenity benefits for the residents of the new dwelling. On the whole I find the proposal satisfies both exceptions set out by the first criterion, applicable to all replacement cases as stated by Policy CTY3 of PPS21.
14. The appeal proposal relates to a modest single storey dwelling with a maximum ridge height of around 5.8 metres. The building is rectangular in shape with a small front projection. The roof and elevation finishes are black corrugated metal with window openings punched at various parts of the elevations. A small detached garage also forms part of the full details. The Council note that the design of the dwelling appears to pull from the traditional vernacular but note that the materials

and finishes are not traditional. However the Council do not appear to consider this matter to be determining in this instance. In respect of the metal corrugated finish whilst it is not necessarily traditionally used for a dwelling in the countryside such materials represent a contemporary re-interpretation of traditional agricultural and rural buildings found in the countryside. The proposed design and finishes give rise to the appearance of a modern modest single storey building which is appropriate to the rural setting in the surrounding area. Accordingly the appeal proposal satisfies the third criterion for all replacement cases of Policy CTY3 of PPS21.

15. The second criterion of Policy CTY3 relates to the integration of a new dwelling into the surrounding landscape and requires that the replacement dwelling would not have a visual impact significantly greater than the existing building. Policy CTY13 of PPS21 also relates to the integration of building in the countryside and states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. In this case it stands if the proposal satisfies the second criterion set out by Policy CTY3 it should also satisfy the tests of integration and design of buildings in the countryside as required by Policy CTY13.
16. The proposed dwelling will be positioned some 120 metres south of the property at 59/59a Drumsnade Road and is set back some 370 metres, along a private laneway, from the public road. Vehicular access will be taken directly from the private lane. The appeal site is part of a larger field. Whilst the appeal site relates to some 2560 square metres, the proposed dwelling and garage, which are modest in size, form, scale and layout, will only occupy less than 50% of the site. I have not been persuaded that the built development will be some five and half times greater than the scale, form and size of the existing semi-detached dwelling at 59a. Traveling east along the laneway in the direction towards the site, past the property at 57 Drumsnade Road, views of the host site are possible. From this approach the site is within the context of the wider undulating landscape. The host site is notable when travelling along the lane as it rises from a low lying area, with ground levels measuring around 84.56 m AOD, to the north along the lane and rises to the site south, where ground levels are measured around 97.78 m AOD. A mature tree boundary, some 10 – 12 metres high, defines and runs along a substantial part of the site's eastern boundary. The site's northern boundary is defined by a mature hedgerow, some 3-4 metres high, with intermittent taller trees. The site's boundaries to the south and west are undefined.
17. The single storey dwelling will be positioned at a 45 degree angle to the lane. The small garage, is subordinate and will be positioned to the front of the main dwelling. Access is taken through an existing field gate which minimises the loss of the existing mature vegetation along the lane. The appellant's block plan indicates that the dwelling will be positioned at a contour of 87.00 m AOD with the dwelling having a finished floor level of 87.50 m AOD. This is at a midpoint in the rising topography of the site. Whilst on plan the dwelling is positioned around the highest part of the appeal site, it will appear on the mid contour of the rising topography of the host field. The rising landform will therefore provide a backdrop and will envelope the building to the south side. The proposed siting works with the natural contours on the host field. The use of the existing field gate to create the access will limit the loss of the mature vegetation along the lane way. The retention of this established vegetation, at a height above 8 metres, will largely screen and ensure

that the proposed single storey dwelling would satisfactorily integrate into the surrounding landscape. I do not consider the development relies primarily on the use of new landscaping for integration, however the definition of the west and southern boundaries with a hedgerow would further add to the integration of the modest dwelling. The landscape proposal could be ensured with the use of conditions. Whilst the new offsite replacement dwelling would have some visual impact on the landscape that is greater than the existing semi-detached dwelling, I do not consider this to be significantly greater in the surrounding context of neighbouring agricultural farm buildings and dwellings in this area of countryside. Furthermore I do not consider the offsite location for the replacement dwelling to be remote from the existing dwelling on the farm group. The replacement dwelling shares the same lane and will be viewed in the same context as the established farm group. The appeal proposal therefore satisfies the second criterion for all replacement cases in accordance with Policy CTY3 of PPS21. As the proposal can be visually integrated into the surrounding landscape and is of an appropriate design it therefore meets the requirements of Policy CTY13 of PPS21.

18. No objections were raised by the Council in respect of any adverse impact on the environment due to the availability of necessary services. The Council note that a septic tank and soakaway system can be facilitated within the site. The appellant requires consent to discharge for this part of the development. This is a separate requirement that must be obtained in its own right. I have not been persuaded that it is necessary that a planning condition is imposed for this requirement to be achieved. In order to minimise the number of residential units in the area, the existing semi-detached dwellings at 59 and 59a Drumsnade Road should be amalgamated to form one residential unit. As the proposed development will not give rise to any intensification of traffic along the existing laneway it will not prejudice road safety or inconvenience the flow of traffic. The appeal proposal therefore satisfies the fourth and fifth criteria for all replacement cases in accordance with Policy CTY3 of PPS21.
19. As I have found the proposed off site replacement satisfies the requirements of Policy CTY3, and will satisfactorily integrate into the surrounding landscape in accordance with Policy CTY13, the Council's first and second reasons for refusal are not sustained. The appeal proposal therefore falls within the range of type of development which in principle is considered to be acceptable in the countryside. The appeal proposal satisfies the requirements of regional policy as set out by SPPS and PPS21, subject to conditions, the appeal is allowed.

Conditions

- (1) When the approved offsite replacement dwelling is first occupied, the semi-detached dwelling at 59a Drumsnade Road shall be amalgamated as additional living space for the incidental use of the dwelling at 59 Drumsnade Road, to form one residential unit as shown by the submitted drawing LA07/2018/1756/05 date received the 12 Nov 2018 by Newry, Mourne and Down District Council
- (2) The proposed native species hedge along the south and west site boundaries as indicated by the proposed block plan (drawing LA07/2018/1756/02 date received the 12 Nov 2018 by Newry, Mourne and Down District Council), shall be planted at a height above 1 metre, and be allowed to grow on thereafter and maintained above that height, during the first available planting season following the

commencement of development. Trees or shrubs dying, removed or becoming seriously damaged, along the south and west boundaries, within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the council gives written consent to any variation.

- (3) The existing mature vegetation along the site's east boundary (laneway boundary) shall be retained at a height above 8 metres. Trees or shrubs dying, removed or becoming seriously damaged, along this boundary, shall be replaced in the next planting season with others of a similar size and species unless the council gives written consent to any variation.
- (4) The development shall be begun before the expiration of five years from the date of this permission.

This decision relates to the following drawings:

- Site Location Map (LA07/2018/1756/01) Scale 1:2500 dated Newry, Mourne and Down District Council received 12 November 2018;
- Proposed Block Plan (LA07/2018/1756/02) Scale 1:500 dated Newry, Mourne and Down District Council received 20 December 2018;
- Proposed Elevations (LA07/2018/1756/03) Scale 1:100 dated Newry, Mourne and Down District Council received 12 November 2018;
- Existing plans (dwelling to be replaced) (LA07/2018/1756/04) Scale 1:100 dated Newry, Mourne and Down District Council received 12 November 2018;
- Potential plans for existing dwelling (LA07/2018/1756/05) Scale 1:100 dated Newry, Mourne and Down District Council received 12 November 2018;
- Proposed floor plans and garage (LA07/2018/1756/06) Scale 1:100 dated Newry, Mourne and Down District Council received 12 November 2018;

COMMISSIONER ROSEMARY DALY

2019/A0007

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List of Documents

Planning Authority:-	"A"	Newry, Mourne and Down District Council Statement of Case
	"A1"	Newry, Mourne and Down District Council comments
Appellant:-	"B"	Appellant's Statement of Case

Current Appeals

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AUTHORITY **Newry, Mourne and Down**

ITEM NO	1	PAC Ref:	2018/A0201
Planning Ref:	LA07/2018/0410/	DEA	Rowallane
APPELLANT LOCATION	Mr And Mrs Stevenson 80m South East Of 2 School Road Saintfield		
PROPOSAL	RT24 7.IH Proposed dwelling and garage (Change of design from that previously approved under R/2015/0060/F)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	04/02/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	2	PAC Ref:	2018/A0251
Planning Ref:	LA07/2018/0015/	DEA	The Mournes
APPELLANT LOCATION	Gordon Graham Between 20 And 22 Ulster Avenue Annalong		
PROPOSAL	Cn Down Proposed change of house type and integrated domestic garage (Amended scheme)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	29/03/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	3	PAC Ref:	2019/A0009
Planning Ref:	P/2014/0107/F	DEA	Crotlieve
APPELLANT	Paul McAlinden		
LOCATION	53 Rostrevor Road Hilltown Newry BT34 5TZ		

PROPOSAL Erection of dwelling (change of house type on site where works have commenced)

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure Informal Hearing **Date Appeal Lodged**

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

ITEM NO	4	PAC Ref:	2019/A0016
Planning Ref:	LA07/2018/0185/	DEA	Slieve Croob
APPELLANT	Michael Doran		
LOCATION	Opposite 37 Carricknab Road Downpatrick		

PROPOSAL Proposed new dwelling on a farm

APPEAL TYPE DC- Refusal of Planning Permission

Appeal Procedure **Date Appeal Lodged** 30/04/2019

Date of Hearing

Date Statement of Case Due for Hearing

Date Statement of Case Due - Written Representation

Date of Site Visit

Current Appeals

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ITEM NO	5	PAC Ref:	2019/A0023
Planning Ref:	LA07/2018/0264/	DEA	Downpatrick
APPELLANT	Steven Skelly		
LOCATION	36 Demense Heights Downpatrick		
PROPOSAL	Extension to dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	07/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	6	PAC Ref:	2019/A0025
Planning Ref:	LA07/2017/0707/	DEA	Crotlieve
APPELLANT	Mr John Annett		
LOCATION	75m North East Of 29 Rath Road Warrenpoint		
PROPOSAL			

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	7	PAC Ref:	2019/A0027
Planning Ref:	LA07/2018/1663/	DEA	Downpatrick
APPELLANT	Mr & Mrs Cyril Hamilton		
LOCATION	Between 153 & 157 Strangford Road Downpatrick		
PROPOSAL	Dwelling (infill Site)		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	8	PAC Ref:	2019/A0028
Planning Ref:	LA07/2017/1849/	DEA	Rowallane
APPELLANT	Mr N Graham		
LOCATION	6-10 Fairview Saintfield Parks Saintfield		
PROPOSAL	Erection of 9 no domestic dwellings (Townhouses)		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	13/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	9		
Planning Ref:	LA07/2018/0128/	PAC Ref:	2019/A0031
APPELLANT	Paul Scott	DEA	Rowallane
LOCATION	Lands 195m SSE Of 95 Cahard Road Cahard		
PROPOSAL	Rallvnahinch New private access to dwelling previously approved under LA07/2017/1210/RM		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	10		
Planning Ref:	LA07/2018/1266/	PAC Ref:	2019/A0035
APPELLANT	Mr S O'Hare	DEA	Slieve Croob
LOCATION	Lands Approx. 200m SW Of 59 Demesne Road Seaforde		
PROPOSAL	Rallvnahinch Proposed farm building and animal handling facility (amended plans)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	20/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	11	PAC Ref:	2019/A0037
Planning Ref:	LA07/2018/1371/	DEA	Slieve Croob
APPELLANT	Mr Christopher Rea		
LOCATION	Between 52 & 52A Magheralone Road Ballynahinch		
PROPOSAL	Single dwelling house and garage		

APPEAL TYPE	DC- Refusal of Planning Permission	Date Appeal Lodged	20/05/2019
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	12	PAC Ref:	2019/A0041
Planning Ref:	LA07/2017/1799/	DEA	The Mournes
APPELLANT	H Lynch & E Ferguson		
LOCATION	Land East Of 2 Castle Place Newcastle		
PROPOSAL	RT33 0AA 2 No Apartments with associated parking and amenity		

APPEAL TYPE	DC- Refusal of Planning Permission	Date Appeal Lodged	24/05/2019
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	13		
Planning Ref:	LA07/2017/1488/	PAC Ref:	2019/A0049
APPELLANT	Blackgate Developments Ltd	DEA	The Mournes
LOCATION	Lands Approximately 60 Metres East Of No. 4 Beach Side Harbour Road		
PROPOSAL	Kilkeel Proposed demolition of existing building and erection of 2 No. dwelling houses, retaining wall, landscaping and ancillary site works		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	29/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	14		
Planning Ref:	LA07/2019/0164/	PAC Ref:	2019/A0050
APPELLANT	Mr & Mrs N Crean	DEA	Slieve Croob
LOCATION	38 Lighthouse Road Ballyward Castlewellan		
PROPOSAL	Replacement dwelling with retention of old dwelling as agricultural storage		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	29/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	15	PAC Ref:	2019/A0051
Planning Ref:	LA07/2019/0018/	DEA	Downpatrick
APPELLANT	Mr Cavan Johnston		
LOCATION	Approximately 220m North East Of 51 Shore Road Strangford		
PROPOSAL	Retrospective agricultural building on footprint of existing agricultural building utilising existing rear wall		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	30/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	16	PAC Ref:	2019/A0058
Planning Ref:	LA07/2018/1451/	DEA	The Mournes
APPELLANT	G Hancock		
LOCATION	64 Drummanmore Road Maghery Kilkeel		
PROPOSAL	Proposed retention of 2 No outbuildings within curtilage of existing dwelling for purposes ancillary to the enjoyment of the dwelling house.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	11/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	17	PAC Ref:	2019/A0059
Planning Ref:	LA07/2018/1343/	DEA	Crotlieve
APPELLANT	Mr M Hills		
LOCATION	Lands South And Adjacent To 7 Benagh Road Newry		
PROPOSAL	Erection of a dwelling and garage and associated site works (Infill site)		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	17/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	18	PAC Ref:	2019/A0062
Planning Ref:	LA07/2019/0488/	DEA	Slieve Croob
APPELLANT	Brenda Rooney		
LOCATION	Approx 60m NE Of No 82 Bann Road Castlewellan		
PROPOSAL	Single storey dwelling		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	19		
Planning Ref:	LA07/2018/0785/	PAC Ref:	2019/A0064
APPELLANT	Mr W McMahon	DEA	Crotlieve
LOCATION	Approximately 50 Meters North West Of 78 Upper Dromore Road Warrenpoint		
PROPOSAL	Proposed dwelling and detached garage (infill site)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	26/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	20		
Planning Ref:	P/2014/0920/F	PAC Ref:	2019/A0065
APPELLANT	Mr Brian Mulholland	DEA	Crotlieve
LOCATION	To The Rear Of 37A Ballyholland Road Ballyholland Lower		
PROPOSAL	^{Newry} Retention of existing agricultural shed, hardstanding, agricultural laneway and earthen embankments		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	27/06/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	21	PAC Ref:	2019/A0069
Planning Ref:	LA07/2018/0496/	DEA	Slieve Croob
APPELLANT LOCATION	Eugene Stranney 149 Ballydugan Road Downpatrick BT30 8HH		
PROPOSAL	Change of use of existing garage, study & games room to a dwelling as ancillary to the main existing dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	04/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	22	PAC Ref:	2019/A0082
Planning Ref:	LA07/2019/0013/	DEA	Slieve Croob
APPELLANT LOCATION	Niall Branniff 50 Drumkeeragh Road Ballynahinch		
PROPOSAL	Replacement dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	19/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	23	PAC Ref:	2019/A0090
Planning Ref:	LA07/2018/1946/	DEA	Slieve Croob
APPELLANT LOCATION	Mr & Mrs J McAteer 21 Drumboy Road Dromara		
PROPOSAL	Dwelling and garage on a farm		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	01/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	24	PAC Ref:	2019/A0093
Planning Ref:	LA07/2018/1995/	DEA	The Mournes
APPELLANT LOCATION	Mr N Dodds West Of 133 Tullybrannigan Road Newcastle		
PROPOSAL	2 Infill dwellings between 133 & 135 Tullybrannigan Road		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	02/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	25	PAC Ref:	2019/A0094
Planning Ref:	LA07/2017/1068/	DEA	The Mournes
APPELLANT	Mr And Mrs M Pedan		
LOCATION	Between No's 42 And 46 Fair Road Greencastle		
PROPOSAL	RT34 41 S Erection of dwelling on gap site		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	02/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	26	PAC Ref:	2019/A0096
Planning Ref:	LA07/2017/1064/	DEA	The Mournes
APPELLANT	Mr Pat McCartan		
LOCATION	60 Metres South East Of No. 77 Tullyframe Road Kilkeel		
PROPOSAL	RT34 4R7 Site for dwelling and garage on equestrian holding		

APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	02/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO 27
Planning Ref: LA07/2017/1845/ **PAC Ref:** 2019/A0097
APPELLANT Mrs Celine McMullan **DEA** Downpatrick
LOCATION Between 4 And 8 Ballintogher Road
 Saul
PROPOSAL ^{Downpatrick}
 2no new dwellings and garages and associated site and access works

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 08/08/2019
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

ITEM NO 28
Planning Ref: LA07/2019/0005/ **PAC Ref:** 2019/A0104
APPELLANT Clare Higgins & Shauna Mageenan **DEA** Downpatrick
LOCATION Between 45 And 49 St Patrick's Road
 Raholp
PROPOSAL ^{Downpatrick}
 Proposed two one and half storey dwelling and detached garages

APPEAL TYPE DC- Refusal of Planning Permission
Appeal Procedure **Date Appeal Lodged** 23/08/2019
Date of Hearing
Date Statement of Case Due for Hearing
Date Statement of Case Due - Written Representation
Date of Site Visit

Current Appeals

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ITEM NO	29		
Planning Ref:	P/2014/0427/O	PAC Ref:	2019/A0106
APPELLANT	Joseph McGivern	DEA	Crotlieve
LOCATION	To The Rear And South Of 2 Berkley Grove Warrenpoint		
PROPOSAL	Site for dwelling (amended plans)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	27/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	30		
Planning Ref:	LA07/2019/1054/	PAC Ref:	2019/A0108
APPELLANT	EDB Construction	DEA	Newry
LOCATION	On Lands Between The Sacred Heart Grammar School And Newry High School Ashgrove Avenue		
PROPOSAL	Erection of approved dwellings on sites 9 & 10 of approval P/ 2011/1067/F		
APPEAL TYPE	DC - Non Determination of a Planning Application		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	29/08/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	31	PAC Ref:	2019/A0111
Planning Ref:	LA07/2017/0078/	DEA	Slieve Croob
APPELLANT LOCATION	Mr D Mahon 20m East Of 223a Newcastle Road Seaforde		
PROPOSAL	BT30 RNP Erection of 3 light industrial units (Additional supporting info received)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	05/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	32	PAC Ref:	2019//A0112
Planning Ref:	LA07/2018/1023/	DEA	The Mournes
APPELLANT LOCATION	Mr & Mrs D Sloan 10 Tullybrannigan Brae Newcastle		
PROPOSAL	Loft conversion & rear 1.5 storey extension with integral single storey garage with utility room to side & rear of dwelling		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	10/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

350

ITEM NO	33		
Planning Ref:	LA07/2018/1758/	PAC Ref:	2019/A0121
APPELLANT LOCATION	Around A Pound 19 Church Street Warrenpoint	DEA	Crotlieve
PROPOSAL	Retrospective shop sign with static exterior illumination		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps	Date Appeal Lodged	18/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	34		
Planning Ref:	LA07/2019/0462/	PAC Ref:	2019/A0126
APPELLANT LOCATION	Mr Colm Watters 118 Cultaville Road Crossmaglen	DEA	Slieve Gullion
PROPOSAL	Newry Erection of replacement dwelling house, ancillary site works and landscaping		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Written Reps with Site Visit	Date Appeal Lodged	20/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

351

ITEM NO	35	PAC Ref:	2019/A0128
Planning Ref:	LA07/2019/0128/	DEA	The Mournes
APPELLANT LOCATION	Spectator Newspapers 81 Main Street Newcastle		
PROPOSAL	Change of use to Offices and escape/access window in first floor staff room in side wall south side of rear return (Amended description)		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	24/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	36	PAC Ref:	2019/A0129
Planning Ref:	LA07/2015/1302/	DEA	Newry
APPELLANT LOCATION	EDB Construction Lands To Rear Of 11-29 Thomas Street And Adjacent To Access Road To Buttercrane Shopping Centre		
PROPOSAL	Proposed new retail development at ground floor with 4No. 2 bedroom apartments at first floor level, relocation of existing NIE sub-station and provision of associated carparking and landscaping.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	25/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	37	PAC Ref:	2019/A0143
Planning Ref:	LA07/2017/1213/	DEA	Slieve Gullion
APPELLANT LOCATION	Tullyherron Farm Feeds 38 Tullyherron Road Mounthorris		
PROPOSAL	Armagh Retention of extension to existing farm feeds business, including extension to hard standing area, storage buildings silos and associated works.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	16/10/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	38	PAC Ref:	2019/A0150
Planning Ref:	LA07/2019/1056/	DEA	Slieve Croob
APPELLANT LOCATION	Felix McEvoy 60m South East Of No 36 Derryneill Road Ballyward		
PROPOSAL	Castlewellan Proposed holiday chalet with retention of sub structure as commenced on site		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure		Date Appeal Lodged	24/10/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

353

ITEM NO	39		
Planning Ref:	LA07/2018/1792/	PAC Ref:	2019/E0002
APPELLANT	Mr William McDonnell	DEA	Crotlieve
LOCATION	Aughnagon Road Opposite To 60 Derryleckagh Road Mayohridge		
PROPOSAL	Confirmation sought that construction works undertaken were lawful under planning reference P/2011/F and P/2007/0735/RM and therefore constituted a material start to the dwelling approved under P/2011/0124/F.		
APPEAL TYPE	DC- Refusal of Planning Permission		
Appeal Procedure	Informal Hearing	Date Appeal Lodged	16/04/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	40		
Planning Ref:	LA07/2018/1381/	PAC Ref:	2019/E0004
APPELLANT	Copart Uk LTD	DEA	Rowallane
LOCATION	39 Junction Road Saintfield Co Down		
PROPOSAL	Vehicle storage, dismantling and sales operation		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	17/04/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	41	PAC Ref:	2019/E0010
Planning Ref:	LA07/2019/0277/	DEA	The Mournes
APPELLANT LOCATION	Mr Kieran Campbel 1a And 1b Greenhill Park Newcastle		
PROPOSAL	Use of building as 2 separate residential properties comprising 1A and 1B Greenhill Park		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	29/05/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	42	PAC Ref:	2019/E0025
Planning Ref:	LA07/2019/0459/	DEA	Slieve Gullion
APPELLANT LOCATION	Roger And Simon Foster 165m North West Of 20 Barkers Road Newtownhamilton		
PROPOSAL	Newry To confirm that the works which were undertaken to construct a building to accommodate heating boilers, associated plant and staff welfare facility and the erection of a vertical storage silo were lawful.		
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure	Written Reps	Date Appeal Lodged	18/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	43	PAC Ref:	2019/E0026
Planning Ref:	LA07/2019/0460/	DEA	Slieve Gullion
APPELLANT LOCATION	Roger And Simon Foster 65m SW Of 8 Blaney Road Newtownhamilton Newry		
PROPOSAL			
APPEAL TYPE	DC- Refusal of CLUD		
Appeal Procedure		Date Appeal Lodged	18/07/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	44	PAC Ref:	2019/E0037
Planning Ref:	LA07/2019/1057/	DEA	Newry
APPELLANT LOCATION	EDB Construction Lands To Rear Of 11-29 Thomas Street And Adjacent To Access Road To Buttercrane Shopping Centre.		
PROPOSAL	Completion of retail building granted planning permission by approvals P/2009/0003/F and P/2011/1020/F.		
APPEAL TYPE	DC - Non Determination of a Planning Application		
Appeal Procedure		Date Appeal Lodged	25/09/2019
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

Current Appeals

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ITEM NO	45	PAC Ref:	2019/E0043
Planning Ref:	LA07/2019/0514/	DEA	The Mournes
APPELLANT	Alastair Chestnutt		
LOCATION	177a Kilkeel Road Annalong BT34 4TN		
PROPOSAL	Retention of existing building		

APPEAL TYPE	DC- Refusal of CLUD	Date Appeal Lodged	21/10/2019
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			

ITEM NO	46	PAC Ref:	A07/2018/0128/F
Planning Ref:	LA07/2018/0128/	DEA	Rowallane
APPELLANT	Paul Scott		
LOCATION	Lands 195m SSE Of 95 Cahard Road Cahard Ballinahinch		
PROPOSAL	New private access to dwelling previously approved under LA07/2017/1210/RM		

APPEAL TYPE	DC- Refusal of Planning Permission	Date Appeal Lodged	16/05/2019
Appeal Procedure			
Date of Hearing			
Date Statement of Case Due for Hearing			
Date Statement of Case Due - Written Representation			
Date of Site Visit			



Appeal Decision

corrected decision

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Appeal Reference:	2019/A0016
Appeal by:	Michael Doran.
Appeal against:	The refusal of outline planning permission
Proposed Development:	Proposed new dwelling on a farm.
Location:	Land opposite 37 Carricknab Road, Downpatrick.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne & Down District Council.
Application Reference:	LA07/2018/0185/O.
Procedure:	Written representations and accompanied site visit on 28 th August 2019.
Decision by:	Commissioner Damien Hannon, dated 31 st October 2019.

Decision

1. The appeal is allowed and outline planning permission is granted, subject to the conditions set out below.

Reasons

2. The site lies adjacent to a fen habitat within Murlough Special Area of Conservation (SAC), a European Protected Site. There was agreement that any potential negative impact the proposal could have on this habitat could be avoided by siting any building works 10m away from the SAC boundary. Such a requirement could be secured by condition and consequently the main issue raised by this appeal is whether the proposed development is acceptable in principle in the countryside.
3. The Ards and Down Area Plan 2015 (ADAP) is the relevant statutory development plan but contains no policies specific to proposals for residential development in the countryside. Furthermore, there is no conflict between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and retained policy regarding issues raised by this appeal. Consequently, Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS 21), provides the relevant policy context.
4. Policy CTY 1 of PPS 21 sets out a range of types of development which are acceptable in principle in the countryside. The appellant argued that the proposal was acceptable as a dwelling on a farm in accordance with Policy CTY 10 of PPS 21. Policy CTY 10 states that planning permission will be granted for a dwelling on a farm where three listed criteria are met. The Council stated that criteria (a) and (b), relating to whether the farm is established and active and whether development opportunities on it have been disposed of, would be met. Criterion (c) requires a new

- building to be visually linked or sited to cluster with an established group of buildings on the farm. The Council also stated that criterion (c) would also be met as the proposed dwelling would be visually linked with an established group on the farm comprising two adjacent stone buildings fronting the road.
5. Policy CTY 10 also requires development proposals to meet the requirements of other policies including Policy CTY 14. Policy CTY 14 deals with the issue of rural character and states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Policy CTY 14 adds that a new building will be unacceptable where any of a number of stated criteria are offended. Provided the ridge height of the proposed building is appropriately restricted by condition, it would not present as unduly prominent in the landscape and thereby meet the test set out in criterion (a) Policy CTY 14. The Council argued that the proposal would add to a ribbon of development and thereby offend criterion (d) of Policy CTY 14. Reference is made in criterion (d) to Policy CTY 8, which specifically addresses the matter of ribbon development.
 6. The proposed dwelling would, in association with the two adjacent farm buildings, read as visually linked with a common road frontage and would therefore create a ribbon of development for the purposes of Policy CTY 8. However, as set out above, the proposed dwelling would be visually linked and sited to cluster with an established group of buildings on the farm and therefore meet the rural character and integration test inherent in Policy CTY 10. Policies CTY 8 and CTY 10 must be considered in the round and I judge that while CTY 8 may be technically contravened, the fact that the proposal would present visually as part of a cluster, would ensure that there would be no resulting detrimental change to or erosion of rural character. The Council's objection on the grounds of loss of rural character through creation of ribbon development is not upheld and its reason for refusal based on Policies CTY 8 and CTY 14 is not sustained.
 7. I conclude that the proposal would meet all the requirements of Policy CTY 10 and therefore constitute acceptable development in the countryside in accordance with Policy CTY 1 of PPS 21. In the absence of sustained objection, the appeal succeeds and outline planning permission is granted.

Conditions

- 1) Except as expressly provided for by conditions 2, 3 and 4, the following reserved matters shall be as approved by the council – the siting, design and external appearance of the buildings and the means of access thereto.
- 2) No built development shall take place within 10m of the boundary of the Murlough Special Area of Conservation.
- 3) The ridge height of the dwelling shall not exceed 7metres above existing ground level at the lowest point within its footprint and underbuilding shall not exceed 0.5 metres at any point above existing ground level. Any application for approval of reserved matters shall incorporate plans and sections indicating existing and proposed ground levels and proposed finished floor levels, all in relation to a known datum point.

- 4) Visibility splays of 2.4m x 45m in each direction along Carricknab Road shall be laid out before any building operations commence and be thereafter permanently retained.
- 5) No development shall take place until there has been submitted to and approved by the council, a landscaping scheme showing a scheme of planting behind visibility splays and providing the location, numbers, species and sizes of trees and shrubs to be planted within the site. The scheme of planting as finally approved shall be carried out during the first planting season after the dwelling is occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.
- 6) Application for approval of the reserved matters shall be made to the council before the expiration of three years from the date of this decision.
- 7) The development shall be begun before the expiration of five 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 the 1:2500 scale Site Location Map received by the Council on 26th January 2018 and numbered 01 by them.

COMMISSIONER DAMIEN HANNON

List of Appearances

Planning Authority:-	Ms Caira Cunningham
Appellant:-	Mr Michael Smith (Agent) Mr Michael Doran Mrs Christina Doran

List of Documents

Planning Authority:-	COU1	Statement of Case
Appellant:-	APP1	Statement of Case



Appeal Decision

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Appeal Reference:	2019/A0008.
Appeal by:	Mr E. Rea.
Appeal against:	The refusal of full planning permission.
Proposed Development:	Farm dwelling with associated hard and soft landscaping and alterations to existing vehicular access onto public road.
Location:	100m SE of 71 Killyleagh Road, Downpatrick.
Planning Authority:	Newry, Mourne & Down District Council.
Application Reference:	LA07/2018/0340/F.
Procedure:	Written representations and accompanied site visit on 28 August 2019.
Decision by:	Commissioner Mark Watson, dated 7 October 2019.

Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.

Preliminary Matter

2. The Appellant submitted evidence along with his Statement of Case to demonstrate that his horticultural farm business was active and established. The Council in its Rebuttal Statement considered that this evidence represented a new matter and was therefore contrary to section 59 of the Planning Act (NI) 2011. It stated that the evidence should not be admissible on that basis and made no comment upon it.
3. Section 59 of the Planning Act states that in an appeal under section 58, a party to the proceedings is not to raise any matter which was not before the Council or, as the case may be, the Department at the time the decision appealed against was made unless the party can demonstrate to the satisfaction of the PAC that the matter could not have been raised before that time or that its not being raised before that time was a consequence of exceptional circumstances.
4. Notwithstanding the failure to submit the majority of farm activity evidence at an earlier stage, the matter of whether the farm business was active and established was already before the Council at the time the decision was appealed against. In my judgement the information submitted at appeal stage pertaining to the activity on the farm holding is not a new matter. Acceptance of this information would not be contrary to the provisions of section 59 of the Planning Act. The submitted

evidence relating to farming activity is admissible and will form part of my consideration of the appeal development.

Reasons

5. The main issues in this appeal are whether or not the proposed development would:
 - be acceptable in principle;
 - be visually linked or sited to cluster with an established group of buildings on the farm; and
 - appear unduly prominent in the landscape.
6. The Ards and Down Area Plan 2015 (ADAP) is the statutory local development plan for the proposal. In it, the site lies in the countryside. There are no policies or proposals in the ADAP of relevance to the appeal development and it is therefore not material. In respect of the appeal development there is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland '*Planning for Sustainable Development*' (SPPS) and those of PPS21. PPS21 remains the applicable policy context to consider the proposed development under.
7. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these cases is a dwelling on a farm in accordance with Policy CTY10. It follows that if the development complies with Policy CTY10 it will comply with Policy CTY1 of PPS21.
8. The appeal site comprises a portion of an agricultural field situated approximately 100m south-east of No. 71 Killyleagh Road, a single storey cottage of traditional design. No. 71 along with a series of several outbuildings to the south and east of that dwelling form a courtyard. There are apple, plum and pear trees planted to the south and south-east of the buildings, as well as some along the side of the laneway to the public road. There are three polytunnels erected to the east of the courtyard group of buildings which are used for growing various vegetables including tomatoes, melons and sweetcorn. There is a greenhouse and several beehives nearby. Areas of land to the north and north-east of the main building group have been planted in hardwood trees for the production of hazelnuts. The field beyond to the north-east is in use for the growing of various vegetables including potatoes, beetroot and onions. A well located to the east of one of the farm buildings is used to supply irrigation throughout the growing areas. A large Dutch barn shed to the north-east of No. 71 accommodates various farm machinery and a workshop / repair area. Approximately 12m south of the access from the laneway into the appeal site there is a small concrete block built shed used as a shop. Adjacent and south of that shed is another block built storage shed.
9. The appeal site itself slopes gently down to the south-east but slopes more steeply beyond the site itself. A stone wall and some hedging provides the north-western boundary, whilst the others are undefined. Access to the site is to be taken from

the existing laneway that serves No. 71 and also provides access to the host field the site is within. Modifications to the visibility splays at the access to the public road are proposed. The appeal dwelling and garage is to be a single storey structure designed to resemble 4 rectangular pitched roof sheds sited side by side to one in a staggered arrangement. The walls are to be finished in a mix of dark grey colour metal cladding and smooth render, whilst the roof structures are to be finished in a mix of dark grey aluminium standing seam zinc and dark grey fibre cement slates. A rectangular curtilage is proposed which would be defined along the new boundaries by post and wire fencing and native species hedgerows.

10. Policy CTY10 of PPS21 states that planning permission will be granted for a dwelling house on a farm subject to several criteria. Criterion (a) requires that the farm business is currently active and has been established for at least 6 years. The Council accepted that the farm business was established but not that it had been active for the requisite period.
11. The Appellant runs a horticultural business 'Connoisseur Vegetables'. He grows over 30 types of vegetable and 8 different types of fruit, with multiple varieties of several of them, as well as producing products such as jams and honey. The produce is sold either through the on-site shop or dispatched in 'Veggieboxes' to customers by post through an online ordering system, though this aspect of the business is still being refined. At present the Appellant and his son work in the business, with his daughter-in-law also assisting. There is also a regular part-time worker and another casual worker who assists when needed.
12. The documentary evidence includes receipts dating from 2011 through to 2019 and are all in the Appellant's name, although some of the earlier ones are addressed to a previous office address of the Appellant rather than the farm business address. The receipts relate to purchases of building materials, fencing supplies and various other items such as lengths of hosing, all of which would be items used in a horticultural business. Numerous receipts were also provided relating to purchases of fruit and vegetable plants and seeds. There is also a receipt for provision and construction of a lean-to greenhouse structure. A letter from the Appellant's accountant stated that he was responsible for the income tax returns and accounts work for the business from 2011 until present. Account summaries for the business encompassing the business years of 2011-12 through to 2018-19 were also provided. Copies of insurance cover were also provided, which latterly include employer's liability cover, reflecting the addition of part-time employees to the business.
13. The totality of the submitted evidence is persuasive that around 2011 the Appellant transitioned his farm business into a horticultural business which has grown and developed over the last 8 years. Whilst only 2.5 ha of the holding is being used for the horticultural business with the remaining land still let out in conacre, from the evidence provided as well as my own inspection of the business I accept the rationale that a horticultural business growing fruit and vegetables requires less land-take than more conventional farming uses of land, such as grazing or arable crop growing. From the evidence and my own observations of the land and buildings in use, the farm business is active and established for the purposes of the policy. The appeal development satisfies criterion (a) of Policy CTY10.

14. Criterion (c) requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. The access to the proposed dwelling would utilise the existing laneway serving No. 71, with a short extension into the site itself. I consider this policy preference met. In respect of the visual test element of the criterion, the Council considered that the appeal building would be sited approximately 58m from the nearest farm building, which it considered to be the eastern most outbuilding of the courtyard group at No. 71. The policy does not distinguish between types of buildings on the farm, nor specify that they be a certain size, only that they are buildings on the farm. The Appellant pointed to several other structures closer to the proposed appeal dwelling location than the building referred to by the Council. There is a sizeable polytunnel and a small glass greenhouse situated east of that building. There are also two modest, longstanding concrete block built sheds located at the rear of the orchard area and south of the access point into the appeal site. The shop building lies approximately 30m from the proposed dwelling. Whilst the siting of the appeal dwelling would represent a linear extension of the group of existing buildings, I see nothing in the policy which expressly prohibits this type of development or an extension to the grouping of existing buildings, provided the required visual linkage exists between the new dwelling and those existing buildings.
15. The Council identified critical views of the site from Gibb's Island and on the water, to the east and south-east of the site. Whilst these viewing positions are likely less frequented compared to views on public roads, I accept that they are nevertheless public views. The views from Gibb's Island are approximately 0.6km from the appeal site. From the long distance views at Gibb's Island and from the water, although the appeal dwelling would be discernible within the landscape, it would be viewed within the framing of and set against the grouping of existing buildings at No. 71, including the building serving as the shop, the roofs of the outbuildings opposite and east of No. 71 and the large Dutch barn to the north-east of No. 71. From these views the low elevation dwelling would read as being visually linked with those buildings. Given the limited nature of the long distance views available from Gibb's Island and on the water, despite the linear extension of the farm grouping that would arise, this extension would not be evident from these views. From the views on the water close to the shoreline the dwelling would be again evident but situated to the front of the existing building group from this position and visually linked with that established group of buildings on the farm. I find that criterion (c) of Policy CTY10 is met, as is the policy read as a whole.
16. Policy CTY13 of PPS21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Policy CTY14 of PPS21 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The Council considered that the appeal development would appear unduly prominent from the identified views and that the site lacked long established natural boundaries and could not provide a suitable degree of enclosure for the building to integrate into the landscape. It also considered that the dwelling would be primarily reliant on the use of new landscaping for integration, as well as failing the cross-linked requirement with Policy CTY10 for farm dwellings to visually link or be sited to cluster with an established group of buildings on the farm, an issue I have already addressed above.

17. The low elevation design, finishes and siting of the dwelling will greatly assist with its integration into the surrounding landscape and would not appear unduly prominent in the landscape from the identified views. Although the site can only avail of a single long established natural boundary, the long distance nature of the views available, already assessed above, and the fact the dwelling would be read against and perceived as part of the group of buildings on the Appellant's farm, on balance render this deficiency non-fatal in this particular instance. From the identified views the appeal development can be visually integrated into the surrounding landscape and is of an appropriate design. It would not cause a detrimental change to the rural character of the area in which it would lie. In the round the appeal development would satisfy Policies CTY13 and CTY14 read as a whole. The Council's second and third reasons for refusal are not sustained.
18. As I have found that the appeal development meets Policy CTY10, it meets CTY1 of PPS21 and the related provisions of the SPPS. The Council's first reason for refusal is not sustained.
19. As the reasons for refusal have not been sustained the appeal shall succeed. The matter of conditions remains before me. In the interests of road safety a condition requiring the provision of improvements at the existing laneway onto Killyleagh Road would be necessary prior to any other development taking place, as well as the permanent retention of those splays. I am not however persuaded of the need for a condition relating to the gradient at the existing access given the existing gradient would not require alteration to facilitate the appeal development. Whilst I have determined that the development would not rely primarily on the use of new landscaping for integration, implementation of the landscaping works would nonetheless be necessary in the interests of visual amenity. Given the long distance and limited nature of views of the new dwelling, I accept that the first available planting season after occupation would be appropriate for the carrying out of these works.

Conditions

- (1) No other development shall take place until the site access and visibility splays as shown on the approved drawing numbered 02 Rev B, stamped received by the Council on 13 August 2018 are carried out in full. The visibility splays shall be permanently retained thereafter.
- (2) All hard and soft landscaping works shall be carried out in accordance with the details shown on approved drawing No. 02 Rev 2B stamped received by the Council on 13 August 2018. The landscaping works, including the scheme of planting, shall be carried out within the first available planting season following occupation of the dwelling. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the planning authority gives written consent to any variation.
- (3) The development shall be begun before the expiration of five years from the date of this permission.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
01 Rev B	Site Location Map & Proposed Site Plan	1:2500 & 1:500	09/08/18
02 Rev B	Proposed Site Plan	1:250	09/08/18
03 Rev A	Proposed Plans	1:100	02/08/18
04 Rev A	Proposed Elevations & Proposed Section	1:100	02/08/18
05	Proposed Site Section A:A	1:200 & 1:500	07/08/18

COMMISSIONER MARK WATSON

List of Appearances

Planning Authority:- Mrs A McAlarney (NM & D DC)

Appellant:- Mr C McAuley (Agent - CMP)
Mr E Rea (Appellant)
Mr J Rea (Appellant's son)

List of Documents

Planning Authority:- 'A' Statement of Case & Appendices (NM & D DC)
'B' Rebuttal Statement (NM & D DC)

Appellant:- 'C' Statement of Case & Appendices (CMP)
'D' Rebuttal Statement (CMP)



Appeal Decision

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Appeal Reference:	2019/A0032.
Appeal by:	Mr Marc Morgan.
Appeal against:	The refusal of an application for approval of reserved matters.
Proposed Development:	Infill dwelling and garage.
Location:	Approx. 50m North West West of 53 Tullyree Road, Kilcoo, Newry.
Planning Authority:	Newry, Mourne & Down District Council.
Application Reference:	LA07/2018/0672/RM.
Procedure:	Written representations and accompanied site visit on 18 September 2019.
Decision by:	Commissioner Mark Watson, dated 10 October 2019.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. A third party objection raised issues pertaining to the principle of development, as well as potential impacts from the development on tourism, visual amenity and harm to the character of the countryside. Road safety was also raised. The appeal before me relates to a reserved matters application. The principle of development has already been granted under the outline application and these matters raised by the third party cannot be considered under this appeal. Road safety can only be considered within this appeal insofar as whether the required visibility standard for the approved access as imposed in the outline planning permission can be achieved.

Reasons

3. The main issue in this appeal is whether or not the required visibility splays can be provided in accordance with the outline planning permission.
4. Outline planning permission was granted for an infill dwelling and garage (ref. R/2014/0403/O) on the appeal site on 15 October 2015. Condition 3 of that permission stated that '*a scale plan at 1:500 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 reason for the condition was '*to ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users*'. An indicative 1:500 scale Notional Site Layout drawing showing the access details, which had been

- requested by the Council during processing of the outline application, formed part of the approved drawings for that application. That drawing showed visibility splays at the proposed access of 2m x 60m in both directions, as per the RS1 requirements. The Department for Infrastructure Roads (hereafter referred to as the Department) stated that this standard was a relaxation from the standard 80m y-distance that ordinarily would apply to a new access on the Tullyree Road.
5. During the consideration of the reserved matters application the Department measured the splays on site and considered that the submitted reserved matters did not comply with condition 3 as visibility to the nearside on the Tullyree Road (towards Newcastle) could not be achieved without third party land. The Appellant considered that the submitted 1:500 Site Plan drawing for the reserved matters application met the terms of the outline permission and that the Department had changed its position since outline planning permission was granted in stating that third party land was now required.
 6. The appeal site comprises a rectangular piece of land on the southern side of Tullyree Road. It sits slightly above road level along the frontage and slopes upwards to the south / south-west. There is no defined frontage to the site as it has been cleared. The rear south-western boundary is defined by mature trees. Sporadic hedging and a fence provide the western boundary, whilst a line of mature vegetation provides the eastern boundary. A laneway that serves several other dwellings to the south of the site runs parallel to the eastern boundary and joins with Tullyree Road adjacent and east of the site. No. 51, a one-and-a-half storey dwelling, lies adjacent and west of the site, whilst No. 53, a single storey dwelling lies on the opposite side of the laneway to the south-east of the site. The access for No. 53 joins at the mouth of the laneway there it meets Tullyree Road. There is a grass verge and a stone pillar and wall along part of No. 53's frontage to the public road. The horizontal alignment of this part of Tullyree Road is straight, whilst the vertical alignment slopes downwards to the south-east, with a sudden dip just beyond the mouth of the laneway serving No. 53 and other dwellings.
 7. Policy AMP2 of Planning Policy Statement 3 – Access, Movement and parking (PPS3) states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where two criteria are met. The first of these is relevant to the appeal development; that such access will not prejudice road safety or significantly inconvenience the flow of traffic. Development Control Advice Note 15 Vehicular Access Standards (DCAN15) provides guidance relating to requirements for new private accesses joining the public road. Paragraph 2.1 concerns visibility from the minor road, with a diagram illustrating an access and x and y-distances for visibility. It also explains how those distances are measured. The x-distance is measured along the centre-line of the minor road from the edge of the running carriageway of the priority road. The y-distance is measured along the near edge of the running carriageway of the priority road from the centre-line of the minor road. Paragraph 2.3 states that the normal requirements for the y-distance are set out in Table B of the DCAN and the notes thereto. Paragraph 4.1 states that the area within visibility splays must be cleared to provide a surface no higher than some 250mm above the level of the adjacent carriageway and once provided, must be retained and kept clear.

8. The Department and Appellant held differing views on what constituted the edge of the running carriageway along the site frontage, which had implications for the visibility splays in terms whether third party land would be necessary. The required splay y-distance and what would actually be available under each of the two parties' interpretations were measured at the site visit in the presence of representatives of the Appellant and Department. Using the Appellant's interpretation of the edge of the running carriageway, the measured available nearside splay was 2m x 54.5m, but I would accept that if the verge to the front of No. 53 Tullyree Road was cut low and maintained as such it is likely that the 60m y-distance could be achieved. Using the Department's interpretation of the edge of the running carriageway the nearside splay would only be achievable to a standard of 2m x 43.5m, with part of the stone wall at No. 53 restricting the full 60m y-distance required.
9. The Appellant and his party put the disparity between his assessment and that of the Department down to roadworks that had taken place to repair parts of Tullyree Road. The Appellant considered that the Tullyree Road had been inadvertently widened along the site frontage through the laying of excess tarmac, which had been further facilitated with the clearance of the vegetation along the site frontage by the Appellant within the last year, in preparation to build. The elected representative attending the site visit stated that he recalled being involved with the outline planning application and had visited the site then. He agreed with the Appellant that the road was now wider than at the time of the site meeting for the outline application. If accepting the Appellant's interpretation it would place the actual edge of the running carriageway in line with a piece of cracked tarmac that has been damaged by heavy vehicles, which would mean that the Tullyree Road edge would suddenly narrow across the site frontage just after the laneway between No. 53 and the site but then widen again thereafter.
10. Even with the site frontage having been cleared in the past year and any road improvements that have taken place, including the rectangular patched area pointed out to me during the site visit, in my judgement the Department's on-site assessment of what represents the edge of the running carriageway is an accurate one. Whilst repairs may have been undertaken on the road, I am not persuaded that they widened the road to the degree that would account for the difference in measurements between the parties. I am reinforced in this opinion by the fact that when viewed from the frontage of No. 53, the existing roadside verge along that section of road still broadly lines up with that along the appeal site frontage itself. I therefore agree that the measurements for the splays should be taken from the edge of the running carriageway as identified on site by the Department.
11. The Appellant pointed to the previously approved 1:500 scale Notional Site Layout drawing which formed part of the outline approval. That drawing stated that the on-side (nearside) splay of 2m x 60m was achievable within the verge. However, I note that the drawing did not include the detail of the pillar and wall at No. 53. Condition 3 of R/2014/0403/O required submission at reserved matters stage of a 1:500 scale plan to be submitted showing the access to be constructed and other requirements in accordance with the attached form RS1. The RS1 form itself gave the stated visibility standards and stated that the access position should be as indicated on the 1:500 scale plan. Note 1 on the RS1 refers to the area within the visibility splays being cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and the requirement to retain them

and keep them clear thereafter. This requirement was also stated on the Notional Site Layout drawing 02. The first informative on permission R/2014/0404/O stated that *'the Reserved Matters application shall be broadly in line with the site layout plan Drawing No. 02 bearing the date stamp 24 Oct 2014, although this site layout plan will require minor amendments for Transport NI'*. Taking these as a whole, whilst the Notional Layout Drawing was accepted at the time of granting outline permission, it was still anticipated that further details / minor amendments would likely be required at reserved matters stage. Thus the Notional Site Layout drawing was caveated by the Department at that time and did not in itself form the definitive access drawing for the approved development.

12. The Appellant pointed to the negotiations with the Department at the time of the outline application and that the Roads officer at the time, now since retired, considered that the splays could be achieved without 3rd party land. The Appellant provided the documentation detailing correspondence with the Council and Department pertaining to the outline application. This was reinforced by the Appellant's party, including an elected representative who had first-hand knowledge of the outline application being processed. The papers include a response from the Department case officer on 13 January 2015 which stated that Transport NI *'is satisfied that the standards for a safe well designed access can be achieved within the site outlined in red'*. I note that the site as outlined in red on the stamped approved Site Location Map for R/2014/0403/O shows visibility splays in excess of the 60m y-distance. The same case officer revisited the site twice with colleagues to confirm that the access was acceptable. Whilst no site inspection notes of that case officer are available and whilst the Notional Site Layout drawing was accepted at that time, what is on the ground does not fully accord with that drawing, even if as the Appellant stated, nothing on the ground has changed. In any event the opinion of one officer is not the determining factor but the decision made by the Department and Council. I cannot reconcile the Department's assessment of the outline application with that provided now for the reserved matters subject of this appeal and my own observations on site.
13. I note that the submitted 1:500 scale Site Plan drawing for the reserved matters application subject of this appeal includes the wall and pillar at No. 53, with the 2m x 60m nearside splay clearing those features without impediment. However, this is due to the end of the y-distance being placed into the road slightly, rather than at its edge, regardless of where the dotted line marking the road edge on that drawing is shown. I also note that the position of the x-distance has not been measured along the centre-line of the minor road from the edge of the running carriageway of the priority road, but rather approximately 1m to the south-east of that centre-line, in effect moving the entire splay south-eastwards from where it should be measured from.
14. The Appellant referred to there being instances where the edge of the running carriageway has become 'fluid' having been altered through repairs. He provided two examples where the Department accepted that the road had been widened. The first, at land between No. 29A and 31 Bavan Road, Mayobridge (ref. P/2012/0924/F) where the public road had been widened by approximately one metre and another at land adjacent to and due south of 7 Ryan Road, Mayobridge (ref. LA07/2018/1362/F) where widening of the public road had also taken place. Whilst the Department accepted that in those particular cases widening of the carriageway had taken place and that the required visibility splays could be fully

achieved, the same is not the case in respect of the appeal site. Whilst I note the importance of consistent decision making in *North Wiltshire DC v Secretary of State for the Environment and Clover* (1992) 3 PLR 113, as quoted by the Appellant, that judgement does not bar a decision taker from departing from a previous position provided reasons are provided. Whilst I have had regard to the previous outline permission, including the approved Notional Site Layout drawing, it does not appear to correspond with what is on the ground or with the 1:500 scale Site Plan submitted as part of the reserved matters application.

15. Whilst the Appellant raised issues with the Council's handling of the reserved matters application, including not addressing a request for the application to be brought before the full Planning Committee, those matters are between the parties. The Appellant considered that if the appeal were to fail it would challenge the viability of the outline permission, but that is not a matter for this appeal. Although I have no doubt the Appellant purchased the site in good faith and at considerable expense, believing the splays were in-situ, I do not accept the proposition that visibility of 2m x 60m on the nearside can be achieved at the proposed access point without the use of third party land, which the submitted reserved matters drawing does not include. As such I find that the appeal development does not comply with the terms of condition 3 of outline planning permission R/2014/0403/O and a safe access cannot be achieved, contrary to Policy AMP2 of PPS3.
16. The Council and Department have sustained the sole reason for refusal, which is determining. The appeal must fail.

This decision relates to the following drawings submitted with the application:

DRAWING NUMBER	TITLE	SCALE	DATE
01	Location Map	1:2500	24/04/18
02	Site Plan	1:500	06/12/18
03	Site Plan (Landscape)	1:500	24/04/18
04	Dwelling Floor Plans	1:100	08/02/19
05	Dwelling Elevations	1:100	08/02/19
06	Garage Elevations & Floor Plan	1:100	24/04/18

COMMISSIONER MARK WATSON

List of Appearances

Planning Authority:-

Mrs C Moane (NM & D DC)
Mr R Loughlin (DFI Roads)
Mr J Killen (DFI Roads)

Appellant:-

Mr M Bailie (Agent)
Mr M Morgan (Appellant)
Mr V Morgan (Appellant's father)
Cllr. W Clarke (Supporter)**List of Documents**

Planning Authority:-

'A' Statement of Case & Appendices (NM & D DC)

Appellant:-

'B' Statement of Case & Appendices (M Bailie)
'C' Rebuttal Statement (M Bailie)

Third Parties:-

'D' Objection Statement (Mrs T & Dr D Jackson)
'E' Objection Rebuttal (Mrs T & Dr D Jackson)



Appeal Decision

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Appeal Reference:	2019/A0012
Appeal by:	Ms. A Dunford
Appeal against:	The refusal of full planning permission
Proposed Development:	Two storey detached dwelling.
Location:	Land adjacent to and north of 104 Burren Road, Burren.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne and Down District Council.
Application Reference:	LA07/2018/1273/F
Procedure:	Hearing on 20 th August 2019.
Decision by:	Commissioner Damien Hannon, dated 22nd October 2019.

Decision

1. The appeal is allowed and full planning permission is granted, subject to the conditions set out below.

Reasons

2. The main issues in this appeal are the impact of the proposal on the character and environmental quality of the area and on the residential amenity of neighbouring occupiers.
3. The appeal site is located within the settlement limit of Rostrevor/Burren as designated in the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP). The BNMAP, which operates as the statutory Local Development Plan relevant to the appeal site, contains no provisions specific to the appeal proposal. Furthermore, no conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and any retained policies regarding issues raised by this appeal. Consequently, the relevant policy context is provided by the retained Planning Policy Statement 7 - Quality Residential Environments (PPS 7) and the Second Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas (the Addendum). Guidance in the document entitled 'Creating Places: Achieving Quality in Residential Environments, May 2000, (Creating Places) is also material to consideration of this appeal.
4. No. 104 Burren Road currently accommodates a two storey detached dwelling, a detached carport and garage and an enclosed yard. It lies within the settlement of Burren and within an 'established residential area' as defined in Annex E of the Addendum. It is proposed to build a detached dwelling in the space currently occupied by the existing yard and to provide car parking and hardsurfacing in the area between the proposed dwelling and the appeal site's Burren Road frontage.

The scheme involves retention of a 2.4m high wall that forms the boundary between the appeal site and the adjoining detached dwelling to the north, No. 106.

5. Policy QD 1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. It further states that in established residential areas, proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. All residential development is required to conform to a number of stated criteria. Policy LC 1 of the Addendum requires compliance with three additional criteria.
6. Objection was raised on the grounds that the proposal would result in unacceptable damage to local character, environmental quality and residential amenity and would thereby offend various criteria in policies QD 1 and LC 1. The Council stated that the appeal site's plot size of some 0.05 ha would be significantly lower than the 0.12ha average for the area. It was argued that, as a consequence, the appeal site would fail to respect its surrounding context and would thereby offend criterion (a) of Policy QD 1.
7. A plot size of 0.12ha may be representative of the houses fronting Burren Road in the immediate vicinity of the appeal site. However, I do not take this as representative of its surrounding context which I consider to include a much wider area comprising a mix of house types including higher density, recently constructed dwellings. In these circumstances and given the screening impact of the appeal site's substantial road frontage vegetation, I do not judge that the proposed dwelling, when viewed on passing along Burren Road, would appear out of character with its surrounding context. Criterion (a) would be complied with.
8. Criterion (c) requires adequate provision to be made for public and private open space and landscaped areas as an integral part of the development. It was conceded that the proposal incorporated adequate rear garden area to comply with guidance in 'Creating Places' (some 140m²). Furthermore, sufficient amenity space to serve the existing dwelling at No. 104 would be retained. The Council argued that the proposal did not make adequate provision for landscaped areas as the front garden area would be substantially hardsurfaced for car parking. It is proposed to retain the site's substantial existing frontage vegetation and this could be secured by condition. Furthermore, the hardsurfaced area would be set back some 3m from the road frontage and retained vegetation, together with new proposed planting would ensure that only fleeting and filtered views of this area would be available through the proposed gates. Given that an adequate quantum of amenity space is proposed and that hardsurfaced areas would be softened and substantially screened by planting, I conclude that criterion (c) would be complied with.
9. The proposal incorporates design features including a hipped roof, sections of mounne granite and a first floor square 'box window surrounded by zinc. The Council stated that these design features would appear 'out of place' as they were not present in dwellings in the surrounding area. They argued that consequently, the proposal would offend Criterion (g) of Policy QD 1 which requires that the design of development draws upon the best local traditions of form, materials and detailing. I am not persuaded by the evidence submitted that the use of mounne granite would be in conflict with a policy requiring the design of development to draw upon the best

- local materials. The surrounding area exhibits a wide range of design solutions including the use of hipped rooves. Additionally, notwithstanding the fact that views of the building would be substantially screened and softened by site frontage vegetation, I do not consider the first floor square box window surrounded by zinc, although a modern solution, to be an incongruous element in the overall design or inappropriate to its surroundings. I do not consider that these design elements, either individually or collectively would render the overall design one that would fail to draw upon the best local traditions of form, materials and detailing. Criterion (g) would be complied with.
10. Criterion (h) of Policy QD 1 seeks to ensure that development proposals, because of their design and layout, will not create unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance. It is proposed to retain the 2.4m high existing boundary wall between the appeal site and No. 106 thus preventing any overlooking from ground floor windows. Furthermore, the only first floor window in the elevation facing No 106 lights a bathroom. The fitting of obscure glazing, which can be secured by condition, would mitigate any potential overlooking.
 11. There would be a distance of more than 5m between the side elevation of the proposed dwelling and the nearest window of No. 106. This distance would allow sufficient space between buildings to allow adequate light percolation and together with the hipped roof design would ensure that occupants of No. 106 would not suffer any unacceptable negative impact through over dominance. As only oblique views of a limited section of the rear garden of No. 106 would be afforded from first floor bedroom windows of the proposed dwelling, there would be no unacceptable impact on the private amenity space enjoyed by the occupants of No. 106. In these circumstances, I conclude that the design and layout would not create conflict with adjacent land uses and that criterion (h) would be complied with.
 12. I further conclude that the proposal would cause no unacceptable damage to local character, environmental quality or residential amenity and the Council's first reason for refusal based on Policy QD 1 of PPS 7 is not sustained.
 13. Criterion (a) of Policy LC1 of the Addendum requires that the proposed density is not significantly higher than that found in the established residential area. As stated above, I consider the relevant established residential area to comprise a mix of house types including higher density, recently constructed dwellings. I also concluded that the proposed dwelling would not appear out of character with its surrounding context. Based on the evidence submitted and my own observations, I judge the density of the proposal to be within the parameters of residential density displayed in the surrounding residential area and certainly not significantly higher. In these circumstances I conclude that criterion (a) would be complied with.
 14. Having concluded that the proposal would have no unacceptable impact on local character or environmental quality, I further conclude that the pattern of development would be in keeping with the overall character and environmental quality of the established residential area and that consequently criterion (b) of Policy LC1 of the Addendum would be complied with. The proposal would meet all the criteria of Policy LC1 and the Council's second reason for refusal based thereon is not sustained. I was presented with no persuasive evidence to establish that restriction of entitlements regarding extension or enlargement pursuant to the

Planning (General Permitted Development) Order (Northern Ireland) 2015 should be restricted in this case.

15. In the absence of sustained objection, the appeal succeeds.

Conditions

- (1) The first floor window in the elevation facing No. 106 Burren Road shall be permanently fitted with obscure glazing.
- (2) The dual entrance including visibility splays illustrated in drawing 1:100 scale Site Layout numbered 03 shall be provided prior to occupation of the dwelling and thereafter permanently retained.
- (3) The scheme of landscaping illustrated in drawing 1:100 scale Site Layout numbered 03 including retention of existing vegetation and new planting, shall be carried out during the first planting season after the dwelling is occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the council gives written consent to any variation.
- (4) The development shall be begun before the expiration of five years from the date of this permission.

This decision approves the following drawings received by the Council on 22 August 2018:-

- 1:1250 scale Location Plan numbered 01.
- 1:100 scale Existing Site Layout numbered 02
- 1:100 scale Site Layout numbered 03.
- 1:100 scale Floor Plans numbered 04
- 1:100 scale East Elevation & South Elevation numbered 05
- 1:100 scale West Elevation & North Elevation numbered 06
- 1:100 scale Road Elevation numbered 07

COMMISSIONER DAMIEN HANNON

2019/A0012**List of Appearances**

Planning Authority:-

Mr Gareth Murtagh
Mr Sean Maguire

Appellant:-

Mr Colin O'Callaghan
Ms Amie Dunford
Mr Tom Delahunt
Mr M Dunford.**List of Documents**

Planning Authority:-

COU 1 Statement of Case

Appellant:-

APP 1 Statement of Case

Third Parties:-

T1 Statement of case



Appeal Decision

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Appeal Reference:	2019/A0014
Appeal by:	Mr Christopher Brown
Appeal against:	The refusal of outline planning permission.
Proposed Development:	Replacement Dwelling and Detached Garage
Location:	Adjacent to and west of 40 Ballygorian Road, Hilltown, Newry, BT34 5TD
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/1412/O
Procedure:	Written representations and accompanied site visit on 25 September 2019
Decision by:	Commissioner Rosemary Daly, dated 9 October 2019

Decision

1. The appeal is allowed and outline planning permission is granted, subject to the conditions set out below.

Reasons

2. The main issues in this appeal relate to the principle of a new dwelling in the countryside and the visual impact of the development on the rural character.
3. The appeal site is located in open countryside around 1 mile northwest of Hilltown. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the statutory local development plan for the area where the appeal site is located. In the plan the site lies in the countryside and within the Mourne Area of Outstanding Natural Beauty (AONB). The Council's reasons for refusal raise no concern in respect of the site's location in the Mourne AONB, the concerns appear to relate to the local impact of the development on the surrounding area of countryside.
4. The BNMAP offers no specific policy or guidance in respect of single dwellings in the countryside. Regional planning policy as set out by the Strategic Planning Policy Statement for Northern Ireland (SPPS) therefore must be considered. The SPPS indicates that the provisions of Planning Policy Statement 21 Sustainable development in the Countryside (PPS21) are retained and will continue to apply until such times as a new development plan is in place for the council area.
5. Policy CTY1 of PPS21 relates to development in the countryside and sets out a range of types of development which in principle are considered to be acceptable in the countryside that will contribute to the aims of sustainable development. One type of development is a replacement dwelling in accordance with Policy CTY3. This policy also states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristic of a dwelling and as a minimum all external structural walls are substantially complete.

6. The appeal site comprises a large field with road frontage onto the Ballygorian Road. The field runs back some 250 metres down to an existing dwelling. Access to this dwelling is taken via an established lane. The lane is shared with another detached storey and half dwelling and a separate farm complex. The Council raised no dispute that the dwelling to be replaced exhibits the essential characteristics of a dwelling.
7. The Council had considered the proposal, in the context of the off site replacement location at the road side part of the site. This had been indicated on the site location map. This off site location raised many concerns for the Council in respect of its impact on the character of the area due to lack of integration and ribbon development. However at the appeal site visit the appellant stated they would be willing to place the offsite replacement dwelling further back on the site.
8. At the appeal site visit a new siting area was agreed between the Council and appellant. The Council accepted that this siting would be reasonable and would negate their concerns in respect of the proposal. It was agreed that such siting could be ensured by the use of a planning condition. The siting area is as indicated by the cross hatched area on the site location map PAC1.
9. To further assist the integration of the dwelling the appellant also accepted that a ridge height restriction of 7.5 metres above existing ground level would be reasonable. A condition requiring details of ground levels is necessary in order to assess the height of the proposed replacement dwelling on the existing ground level. Furthermore it was accepted that a landscaping plan showing proposed planting of site boundaries and retention of the existing mature trees around the dwelling to be replaced should be provided with the reserved matters application. These conditions I consider are reasonable and necessary for this proposal.
10. Planning permission (P/2013/0616/O) was granted for the replacement of the subject dwelling on 28 October 2013. Condition 4 of that decision required that the building to be replaced to be demolished. However in this instance the Council consider when applying the primary characteristics of vernacular buildings, as set out in Annex 2 Vernacular Buildings of PPS21, that the building should be retained as part of the landscape character. The Council suggested that rather than a planning condition to seek the demolition of the subject building that a condition requiring the building not to be used for human occupation would be a more suitable way to manage the accumulation of dwellings on the site. At the appeal site visit the appellant agreed that this suggested condition would be acceptable. Whilst the dwelling to be replaced is not visible from the road side I accept it shares many of the primary characteristics of vernacular buildings and it should be retained as a feature of the landscape in this area. Notwithstanding no policy changes since the previous decision I consider the Council's revised approach to this matter to be reasonable. The suggested planning condition is necessary in this instance.
11. A condition requiring the design of the dwelling to be in accordance with the Department's Design Guide for Rural Northern Ireland is not necessary as design matters will form part of the Council's assessment at the reserved matters application stage. The proposal will be accessed directly onto an existing private lane and does not represent an intensification of that lane. Therefore matters in respect of the provisions of details showing the upgrade of the access are not necessary.
12. On the basis of the revised siting location, combined with other planning conditions relating to the height and landscape details for the dwelling, the Council stated they no

longer held the concerns as stated by the decision notice. Accordingly subject to conditions the reasons for refusal in respect of regional policies in the SPPS and PPS21 are not sustained and outline planning permission is granted.

Conditions

- (1) Except as expressly provided for by Condition 2 and 3 the following reserved matters shall be as approved by the Council – the design, external appearance and means of access thereto
- (2) The dwelling shall be sited in the hatched area as indicated on attached site location map entitled PAC1.
- (3) The ridge height of the dwelling shall not exceed 7.5 metres above existing ground level at the lowest point within its footprint.
- (4) No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels have been submitted and approved by the Council.
- (5) The dwelling coloured green on the attached plan numbered PAC1 shall not be used for human habitation once the approved dwelling is occupied.
- (6) No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme showing trees and hedgerows to be retained and planted around the boundaries of the site and the location, numbers, species and sizes of trees and shrubs to be planted within the site. The scheme should incorporate the retention of the existing mature trees around the dwelling to be replaced (coloured green on the attached location map (PAC1)). Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation.
- (7) The development shall be begun before the expiration of five 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.
- (8) Application for approval of the reserved matters shall be made to the Council before the expiration of three years from the date of this decision.

This decision relates to Site Location Map Scale 1:1250 annotated as PAC1 and as attached.

COMMISSIONER ROSEMARY DALY

2019/A0014

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List of Appearances

Planning Authority:- Gareth Murtagh, Newry, Mourne and Down District Council

Appellant:- Cormac McKay, Agent
Christopher Brown, Appellant

List of Documents

Planning Authority:- "A" Statement of Case Newry Mourne and Down District Council
"A1" Comments Newry Mourne and Down District Council

Appellant:- "B" Statement of Case Cormac McKay Architectural Services
"B1" Comments Cormac McKay Architectural Services



Appeal Decision

corrected decision

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Appeal Reference:	2019/A0011
Appeal by:	Ellen Brennan
Appeal against:	The refusal of outline planning permission
Proposed Development:	Proposed 2 dwellings on an infill site under Policy CTY 8 of PPS 21.
Location:	Land between 84 Cumber Road and 80 Drumnaconagher Road, Crossgar.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne and Down District Council.
Application Reference:	LA07/2018/1417/O
Procedure:	Written representations and accompanied site visit on 8 th August 2019.
Decision by:	Commissioner Damien Hannon, dated 28 th October 2019.

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and its impact on visual amenity and rural character.
3. The Ards and Down Area Plan 2015 (ADAP) is the relevant statutory development plan but contains no policies specific to proposals for residential development in the countryside. Furthermore, there is no conflict between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and retained policy regarding issues raised by this appeal. Consequently, Planning Policy Statement 21 - Sustainable Development in the Countryside (PPS21), provides the relevant policy context.
4. Policy CTY 1 of PPS 21 sets out a range of types of development which in principle are considered to be acceptable in the countryside. The appellant argued that the proposal was acceptable as the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8 of PPS 21.
5. Policy CTY 8 states that permission will be granted 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. The appeal site comprises a rectangular plot with a frontage of some 230m onto Cumber Road. It is bounded by to the north east by the curtilage of 80 Drumnaconagher Road and to the south west by the curtilage of 84 Cumber Road.

80 Drumnaconagher Road is set within a substantial plot with a frontage onto both the Drumnaconagher and Cumber roads and accommodates a series of outbuildings. While 84 Cumber Road is set within a more restricted, triangular plot, it nonetheless accommodates a detached garage and appears as spacious with a road frontage in excess of 80m.

6. The dwellings at 84 Cumber Road and 80 Drumnaconagher Road and their associated outbuildings constitute an otherwise substantial and continuously built up frontage for the purpose of Policy CTY 8. There is a gap of more than 180m between buildings within these curtilages. Notwithstanding the size, scale, siting and plot size within the relevant frontage, I conclude, having observed the area, that the gap, which the appeal site forms part, could accommodate more than two dwellings in a manner that would respect the existing development pattern along the frontage. My attention was drawn to a recently approved gap site along Drumnaconagher Road. The gap in this case was much smaller than that of the appeal site and I consequently do not regard the two as comparable. In this context therefore, I consider that the separation distance between the relevant buildings does not equate to a small gap site, set out in Policy CTY 8 as acceptable in the countryside. I conclude that the proposal would add to existing ribbon of development in conflict with Policy CTY 8 of PPS 21.
7. Policy CTY 1 goes on to state that other types of development in the countryside will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. No such case was advanced, the Council's objection in principle is upheld, and its first and second reasons for refusal based on Policies CTY 1 and CTY 8 of PPS 21 respectively, are sustained.
8. I accept that a substantial part of the appeal site has limited agricultural value and that residential development would provide a more economically viable alternative use. I am also mindful that either of the proposed dwellings would prove more accessible than the appellant's current dwelling, which is located at the end of a long and steep lane. However, none of these factors either individually or cumulatively would outweigh the objection to the proposal in principle that I have found upheld. The Council's reasons for refusal, which I have found sustained are determining in this case and the appeal fails.

This decision is based on the 1:2,500 scale Ordnance Survey extract received by the Council on 8th December 2018 and numbered 01 by them.

COMMISSIONER DAMIEN HANNON

List of Appearances

Planning Authority:-	Ms Annette McAlarney
Appellant:-	Ms Ellen Brennan Mr Gerry Tumelty Mr Mark McKinney

List of Documents

Planning Authority:-	COU 1 Statement of Case
Appellant:-	APP 1 Statement of Case APP 2 Rebuttal



Appeal Decision

Park House
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T: 028 9024 4710
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Appeal Reference:	2019/A0017
Appeal by:	Mr James Morgan
Appeal against:	The refusal of full planning permission
Proposed Development:	Alterations and extension to dwelling in substitution to approval LA07/2016/0646/F
Location:	87 Head Road, Ballymartin, BT34 4PU
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/1635/F
Procedure:	Written representations and Commissioner's site visit on 2 October 2019
Decision by:	Commissioner Rosemary Daly, dated 7 October 2019

Decision

1. The appeal is allowed and full planning permission is granted.

Reasons

2. The main issues in this appeal relate to the impact of the proposal on:
 - a. the built form and appearance of the existing property; and
 - b. the appearance and character of the surrounding Area of Outstanding Natural Beauty (AONB).
3. The Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the statutory local development plan for the area where the appeal site is located. In the plan the site lies within the countryside and within the Mourne AONB. The BNMAP offers no specific policy or guidance in respect of extensions or alterations to dwellings. Regional planning policy as set out by the Strategic Planning Policy Statement for Northern Ireland (SPPS) therefore must be considered. The SPPS indicates that the provisions of the addendum to Planning Policy Statement 7: Residential Extensions and Alterations (aPPS7) is retained and will continue to apply until such times as a new development plan is in place for the council area. The SPPS also retains the provisions of Planning Policy Statement 2 Natural Heritage. This document is relevant to the appeal development given its location in the Mourne AONB.
4. Policy EXT 1 Residential Extensions and Alterations of the aPPS7 states that planning permission will be granted for a proposal to extend or alter a residential property where a number of criteria are met (criteria a–d). The Council's concerns only relate to criterion (a). This criterion requires that the scale, massing, design and external materials of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and

character of the surrounding area. The headnote of Policy EXT 1 also states that guidance set out in Annex A will be taken into account when assessing proposals against the above criteria.

5. The appeal site is located in the open countryside and is set within an existing complex of buildings associated with the dwelling at 85 Head Road. This property is a rectangular, single storey dwelling set back and down a lane. The appeal property is a detached two storey dwelling. Planning permission (LA07/2015/0169/F) was granted on 4 April 2016 for the retention of the appeal dwelling. On the 1 August 2016 planning permission (LA07/2016/0646/F) was then granted for alterations and extension to the approved dwelling. This permission granted the design principle of a side extension, with a gable end onto the front elevation of the dwelling. It also incorporated a single storey, flat roof, porch projection over the front doorway and single storey side door entrance to the building's south gable.
6. The appeal proposal is in substitution of the scheme as approved under application LA07/2016/0646/F. It retains the 2 storey extension and the side porch as already approved. The appeal development relates to a 14% (from 176.6 m² to 203.7 m²) increase in the floor area of the LA07/2016/0646/F approved scheme. This includes a single storey rear return and a double height projection over the front porch. The proposal does not involve any change to the overall height or length of the dwelling. The elevational finishes remain the same as approved and the roof tiles match the existing dwelling.
7. The Council consider that the proposed extension and alterations when added to the already approved extension will increase the overall bulk, scale and massing of the dwelling. The proposed double height gable front porch projection is not out of context in the overall form, scale and massing of the building. It reflects a smaller subordinate scale to the other gable projection on the front elevation. The porch, at double height, appears as an integral part of the property both functionally and visually. It does not dominate the front elevation of the dwelling. The single storey rear extension to the rear of the property is also subordinate to the main dwelling. It is not large or prominent in the context of the size and scale of the existing property. The extension will not significantly add to the bulk, scale and massing of the existing dwelling. Accordingly I do not find the proposed extension and alterations to be unsympathetic with the built form and appearance of the existing property. The proposal therefore does not fail to meet this requirement of criterion (a) of Policy EXT1 of the aPPS7.
8. The second requirement of criterion (a) is that the property does not detract from the appearance and character of the surrounding area. As already noted the surrounding area is within the Mourne AONB. Policy NH6 of PPS2 also relates to development in an AONB. It states that planning permission will only be granted where development is of an appropriate design, size and scale for the locality and comply with additional criteria.
9. The Council notes that the site's location in an AONB places a higher standard on proposals to ensure that they respect the character of such areas. The Council stated that the additional features when added to the previously approved extension to the property will have a detrimental impact on the character of the surrounding area and the AONB. However the evidence presented by the Council

does not substantiate exactly how the proposed design will have a detrimental impact on the surrounding character of this area in the Mourne AONB. The dwelling is positioned at a lower level than the road. It is nestled within the landform and surrounded by other buildings. To see the front of the dwelling, in its entirety, you must drive down and around the neighbouring single storey dwelling. The Council provided a photograph of a critical view from Head Road to the north east. When assessing the proposed extension and alterations to the dwelling from this view, the topography, stone walls and other building means that only the upper part of the roof line is visible. This aspect of the dwelling is unchanged especially as the proposed rear extension will be single storey and will not be seen, in its entirety, from the noted critical viewpoint at Head Road.

10. The Council argued the proposal will result in a dwelling greater in overall size than the neighbouring properties located in the surrounding sensitive landscape. The property at 85 Head Road is a modest single storey dwelling. However, I noted at my site inspection this was not the only building around the appeal property as it is set within the context of a larger complex of outbuildings. Furthermore when viewed from Head Road, as noted by the Council as a critical viewpoint, there appears to be a variety of scale, design and massing of other buildings in the area. This includes single storey, two storey and storey and a half dwellings.
11. The appeal site's position set low in the landscape means the appeal building is therefore restricted from open views by the surrounding natural landform and built development, including buildings and stonewalls. The proposed extension and alterations will bring minimal change, if any, to the appearance of the roof line of the building. Whilst the dwelling has been subject of previous extensions and alterations I have not been persuaded that what is now proposed is excessive in terms of scale, bulk and design within its surrounding context. Whilst the proposal on the appeal site is close to the entrance of the Silent Valley Mountain Park, a well know landmark in this part of the AONB, the proposal to further increase the size of the appeal dwelling will not detract or have any impact on its setting or appearance. Furthermore I have not been persuaded that the development will detract from views of Silent Valley or any other intrinsic feature of the Mourne AONB or the character of the surrounding area.
12. As the property has already received planning permission for an extension I do not find it necessary to restrict the appellant's permitted development rights. In any case the recent approved extensions and alterations, along with the appeal proposal will already limit the potential to extend this appeal property in accordance with the provisions of permitted development in accordance with the Planning (General Permitted Development) Order (Northern Ireland) 2015. The area is characterised by stone wall boundaries and formal landscape features are not apparent to any great extent in the surrounding area. Such planting would draw more attention to the presence of the property on the landscape. A planted landscape belt is not necessary along the eastern boundary as the building already benefits from screening by existing natural and manmade features.
13. As I have found the proposed extension and alterations to the dwelling will not detract from the built form and appearance of the existing property; or the appearance and character of the surrounding area in this part of the Mourne AONB the Council's reason for refusal is not sustained.

This decision relates to the following drawings:

- Drawing 01 Site plan & Site Location Map Scale 1:500 and 1:2500 dated Newry, Mourne and Down District Council received 26 October 2018; and
- Drawing 02 Floor plans and elevations Scale 1:100 dated Newry, Mourne and Down District Council received 26 October 2018.

COMMISSIONER ROSEMARY DALY

List of Documents

- | | | |
|----------------------|------|-----------------------------------------------------------|
| Planning Authority:- | "A" | Newry, Mourne and Down District Council Statement of Case |
| Appellant:- | "B" | Appellant Statement of Case |
| | "B1" | Comments |



Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
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Appeal Reference:	2019/A0052
Appeal by:	Gary Madgwick
Appeal against:	Refusal of Outline Planning Permission
Proposed Development:	Removal of the old remains of the four properties and building one new split level house with integral garage and parking.
Location:	1-4 Clay Road Shrigley, Killyleagh.
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2018/1677/O
Procedure:	Written Representations and Accompanied Site Visit on 3 rd October 2019
Decision by:	Commissioner Helen Fitzsimons on 21 st October 2019

Decision

1. The appeal is dismissed.

Claim for Costs

2. A claim for costs was made by Newry, Mourne and Down District Council against Gary Madgwick. This claim is the subject of a separate decision.

Reasons

3. The main issue in this appeal is whether the proposed development is acceptable in principle in the countryside.
4. The appeal site is located outside any settlement limit and lies in the countryside as designated by The Ards and Down Area Plan 2015 (ADAP), the local development plan which operates for the area. ADAP offers no specific policy or guidance pertinent to the proposed development. The Strategic Planning Policy Statement for Northern Ireland (SPPS) retains a number of Planning Policy Statements (PPSs) one of which is PPS 21 'Sustainable Development in the Countryside'.
5. Policy CTY 1 of PPS 21 states that 'there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.' It continues that 'other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement'. One of the stated exceptions is a replacement dwelling in accordance with Policy CTY 3 of PPS 21. Policy CTY 3 states that planning permission will be granted for a dwelling house on a farm where

the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

6. The appeal site comprises an area of overgrown land adjacent to Clay Road. Although the appellant did not submit a statement of case or attend the accompanied site visit his Design and Access Statement is contained within the background papers and is before me. There is no dispute that at one time the appeal site contained a number of modest cottages, however, the evidence suggests that they were destroyed in a fire in 1973. All that remains are the foundations and floor. Such features do not exhibit the essential characteristics of a dwelling as set out in Policy CTY 3 of PPS21.
7. Policy CTY 3 also makes provision for cases where a dwelling has recently been destroyed, for example, through an accident or a fire, and says that planning permission may be granted for a replacement dwelling. The fire which destroyed the appeal structures occurred some forty six years ago and was not recent. The appeal proposal does not benefit from those provisions in Policy CTY 3 of the PPS.
8. As there is no structure which displays the essential characteristics of a dwelling, there is no support for the appeal proposal in Policy CTY 3 of PPS 21 and it is not one of the exceptions set out under Policy CTY 1 of the PPS. I was given no overriding reasons why the development is essential and could not be located in a settlement'. The appeal proposal is not acceptable in principle in the countryside and the Council has sustained its first and second reasons for refusal based on Policies CTY 1 and CTY 3 of PPS 21.

This decision is based on the 1:2500 scale Site Location Plan

COMMISSIONER HELEN FITZSIMONS

2019/A0052

Attendances

Planning Authority:- Ms C. Cooney

List of Documents

Planning Authority: - C1 Written Statement and appendices



Cost Decision

Park House
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Appeal Against: 2019/A0052
Location: 1-4 The Hill Clay Road Shrigley Killyleagh
Claim by: Newry Mourne and Down District Council
Claim Against: Gary Madgwick
Decision by: Commissioner Helen Fitzsimons 21st October 2019.

Decision

1. A partial award of costs is made.

Reasons

2. Paragraph 12 of the Commission's Costs Award Guidance states that the Commission will normally award costs only where all of four stated conditions are met. The stated conditions are as follows:-
 - The claim relates to a relevant type of appeal
 - The claim is timely;
 - The party against whom the award is sought has acted unreasonably; and
 - The unreasonable behaviour has caused the party claiming costs to incur unnecessary or wasted expense
3. The claimant submitted the costs award claim for this appeal under Section 58 of the 2011 Planning Act, one of the types of appeal for which a costs claim can be made. As the claim was submitted immediately after the accompanied site visit to which the claim relates it was submitted in a timely manner and the first two conditions are met.
4. The claimant argues that the respondent had acted unreasonably in not submitting a statement of case or attending the accompanied site visit, and this in turn has caused the claimant to incur wasted expense.
5. It was not unreasonable behaviour for the respondent to exercise his statutory right and lodge an appeal against the refusal of his application for outline planning permission. However, in lodging his appeal the respondent indicated that his preferred procedure was by Written Representations and an Accompanied Site Visit. There is the expectation that the claimant in carrying out its public duties should defend its position by way of a written statement. Although it is best practice, there is no obligation on the respondent to submit a written statement.
6. A letter and e mail dated 10th July 2019 were sent to the respondent notifying him of the appeal arrangements. Details of the time and date of the site visit were

published on the Commissions website. The respondent could have but did not notify the Commission that he would not be attending the site visit whereupon the Commission could have asked the Council if they still wished to attend. I agree with the Council that this course of action by the respondent was unreasonable behaviour which incurred a wasted expense.

Order

7. It is hereby ordered that Mr Gary Madgwick shall pay to Newry, Mourne and Down District Council the partial award of costs incurred in attending the site visit on 3rd October 2019.
8. On receipt of this order the claimant may submit details of those costs to the respondent with a view to reaching agreement on the amount . If the parties are unable to agree , the claimant may refer the matter to the Taxing Master of the High Court for a detailed assessment.

COMMISSIONER HELEN FITZSIMONS

2019/A0052

Documents:-

Claimant:- Statement of Case C1

Respondent:- Response R1



Appeal Decision

Park House
87/91 Great Victoria Street
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T: 028 9024 4710
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Appeal Reference:	2019/E0010
Appeal by:	Mr Kieran Campbell
Appeal against:	The refusal of a Certificate of Lawfulness of Existing Use or Development.
Proposed Development:	Use of building as two separate residential properties.
Location:	1A & 1B Greenhill Park Newcastle.
Planning Authority:	Newry, Mourne and Down District Council
Application Reference:	LA07/2019/0277/LDE
Procedure:	Written Representations with Accompanied Site Visit on 10 October 2019.
Decision by:	Commissioner Pamela O'Donnell, dated 28 October 2019.

Decision

1. The appeal is allowed and a certificate of lawfulness of existing use is attached.

Reasoning

2. The main issue in the appeal is whether the use of the building as two separate dwellings has been, on the balance of probability, continuous for a period of five years prior to the date of the application.
3. Section 169 of the Planning Act (Northern Ireland) 2011 provides for applications for certificates of lawfulness of existing use or development (LDC). A LDC is a statement specifying if an existing use or development was lawful at a particular date. In accordance with section 169 (2) of the Act, a use or operation is lawful for planning purposes if (a) no enforcement action can be taken in respect of it and (b) it does not constitute a contravention of any of the requirements of any enforcement notice then in force.
4. Taking enforcement action is defined in section 131 (2) of the Act. This section also defines 'a breach of planning control' (against which it is possible to take enforcement action) as the carrying out of development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted. A breach of planning control becomes immune from enforcement action if no such action has been taken within certain time limits. There is no current enforcement notice in force on the appeal site nor is there planning permission for the use described above. In accordance with Section 132 (2) of the Planning Act, no enforcement action may be taken after the end of the period of 5 years beginning with the date of the alleged breach. The onus is on the Appellant to establish that the above specified use is lawful, that is, immune or beyond the 5 year period wherein enforcement action can be taken.

5. The application for the LDC is dated 11 February 2019. The material date for the purpose of this appeal is therefore 11 February 2014. The application sought to certify that the use, as two separate dwellings, was lawful on 11 February 2019 as it is allegedly immune from enforcement action. The Council refused to certify that the appeal building was lawfully used as they considered the information provided by the Appellant to be insufficient.
6. The appeal site is situated on the corner of Greenhill Park and Tullybrannigan Road in Newcastle. It comprises what once would have been a detached dwelling, but at present it is sub-divided into two dwelling units internally and externally, both with separate driveways, amenity space and postal addresses. The interior of the building including the fittings and fixtures in the kitchens and bathrooms are not modern but of some vintage.
7. Ariel photography of the site was submitted dating from October 2005 to December 2016. The photographs illustrate sub-division of the site externally from October 2005 as the fence demarking the separate amenity space can be observed. The 'streetview' photographs dated December 2008 show two separate driveways. The contemporaneous letter from Land & Property Services (LPS) states that "... I write to confirm that the semi-detached houses situated at 1A & 1B Greenhill Park Newcastle have been valued as separate hereditaments on the valuation list for rating purposes from their initial valuation in December 1996". This evidence reflects that which was recorded in a Departmental Case Officer's Report relating to planning application R/2008/0155/F for the 'demolition of existing dwellings with a two storey apartment block' on the appeal site. As part of that application, LPS were consulted regarding the rating history of the site. The reply, dated 29th January 2008, indicates that Nos 1A & 1B Greenhill Park were first valued in 1996 and each were described as detached bungalows. Their values, as separate properties in 1996 and 2008, were also provided. Of note, when referring in general terms to the sub-division and intensification of the site at that time, the case officer concludes (seemingly from the LPS information only) that enforcement action could not be pursued given that the then timeframe for taking such action had time expired. Whilst some of this evidence pre-dates the requisite timeframe for the purposes of this appeal, the evidence in the round helps to piece together a historical timeline of the appeal site.
8. A letter from Ms J Wiltshire has also been provided wherein she states that she lived at No 1B Greenhill Park from November 2015 until December 2018. She also advises that before she lived there a man named 'John' resided in the property but sadly passed away. She goes on to say that a Miss D Andrews and her partner lived in No 1A for two years and before them, a young man called Mr Moorcroft lived there for five years. She also provides her private phone number should any further information be required. In addition, Ms Wiltshire has provided letters from various agencies addressed to her at No 1B, with dates in 2017 and 2018. Another letter addressed to Mr D Wiltshire c/o No 1A Greenhill Park dated November 2018 was also advanced. Whilst I accept that most of this evidence has not been corroborated, there is no direct evidence from the Council to counter it for example by contradiction or by specifying any dormant periods in this timeframe they may have been aware of.

9. In addition to the above, the Appellant has provided a copy of a receipt from Mourne Fuels in respect of oil delivery to a Mr C McKee in No 1A. This records dates from October 2018 to April 2019. Furthermore, a shorthold tenancy agreement between Mr Mc Kee and the Appellant details a term of 12 months tenancy in No 1A from 22nd June 2018. The Council did not query the conflicting evidence provided whereby Mr Mc Kee's tenancy coincides with that of Mr Wiltshire. In any case, I note that the letter to Mr Wiltshire is addressed 'care of' No 1A so it is plausible that he did not reside there at that time. During my site visit, both 1A and 1B were occupied.
10. The onus of proof in an LDC application is firmly on the applicant. The applicant's own evidence does not need to be corroborated by "*independent*" evidence in order to be accepted (*FW Gabbitas v SSE and Newham LBC [1985] JPL 630*). If the Council has no evidence of its own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate "*on the balance of probability.*"
11. Whilst one would have expected to see rate bills and a full suite of tenancy agreements to cover the requisite timeframe, it is acknowledged that the Appellant only acquired the building in 2018. As such, it is unlikely he would have any older tenancy agreements. Despite providing a phone number, I am unaware from the evidence provided if the Council ever made contact with Ms Wiltshire in order to test her evidence or made any inquires with LPS about rates billing within the pertinent timeframe. In the absence of any counter-balancing argument, I must accept her evidence regarding the tenancies. Although it is indefinite about exact timeframes, it is precise in detailing the names of tenants. While there is no tenancy agreement to cover the period from December 2018 to February 2019 in respect of No 1B (some three months), the information from Ms Wiltshire, along with the more recent tenancy agreement for No 1A broadly covers the required timeframe.
12. Although there is some shortfall in the timeframe as outlined above, the fitting and fixtures inside the building are of some age which would suggest a non-recent internal sub-division. The given address at the time of the planning application in 2008 was '1A and 1B Greenhill Park' and the LPS information affirms separation into two residential properties in 1996 and 2008. In addition, the apparent acceptance by the then Planning Authority of immunity from enforcement action in 2008/9 and the photographic evidence, which spans a period of around 10 years, is fairly compelling. In respect of the Council's evidence alleging that No 1A had been used as a holiday let prior to the submission of the application for the LDC, this was not disputed. In any event, such an occurrence does not rule out the use of 1A as a separate residential unit. As alluded to at the site visit, any concerns regarding an alleged material change of use to holiday accommodation lies outside the remit of this appeal. All in all, in the evidential context provided, I find it more probable than not that the use as two separate dwellings has been continuous for a period of five years prior to the date of the application for the LDC.

COMMISSIONER PAMELA O'DONNELL

**PLANNING ACT (NORTHERN IRELAND) 2011: SECTION 169
CERTIFICATE OF LAWFULNESS OF EXISTING USE OR DEVELOPMENT**

The Planning Appeals Commission hereby certifies that on 11 February 2019 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate would have been lawful within the meaning of section 169 of the Planning Act 2011 for the reasons set out in the appeal decision to which this certificate is attached.

Signed:

Commissioner Pamela O'Donnell
28 October 2019

FIRST SCHEDULE

The use of the building as two separate residential properties as shown on the Location Map @ 1:1250, Site Plan @ 1:500 and Floorplan and Elevations (all Drawing No A1-05 apart from existing ground floor plan) and Drawing PAC1 detailing Existing Floor Plan.

SECOND SCHEDULE

Nos 1A and 1B Greenhill Park, Newcastle

Notes:

(1) This certificate is issued solely for the purpose of section 169 of the Planning Act 2011.

(2) It certifies that the use described in the First Schedule taking place on the land described in the Second Schedule was lawful on the specified date and, thus, was not liable to enforcement action under Article 68 of the Planning (Northern Ireland) Order 1991.

(3) This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner and occupier liable to enforcement action.

2019/E0010

List of Appearances

Planning Authority:- Ms C Moane (Newry, Mourne & Down District Council)

Appellant(s):- Mr E Morgan (Agent)

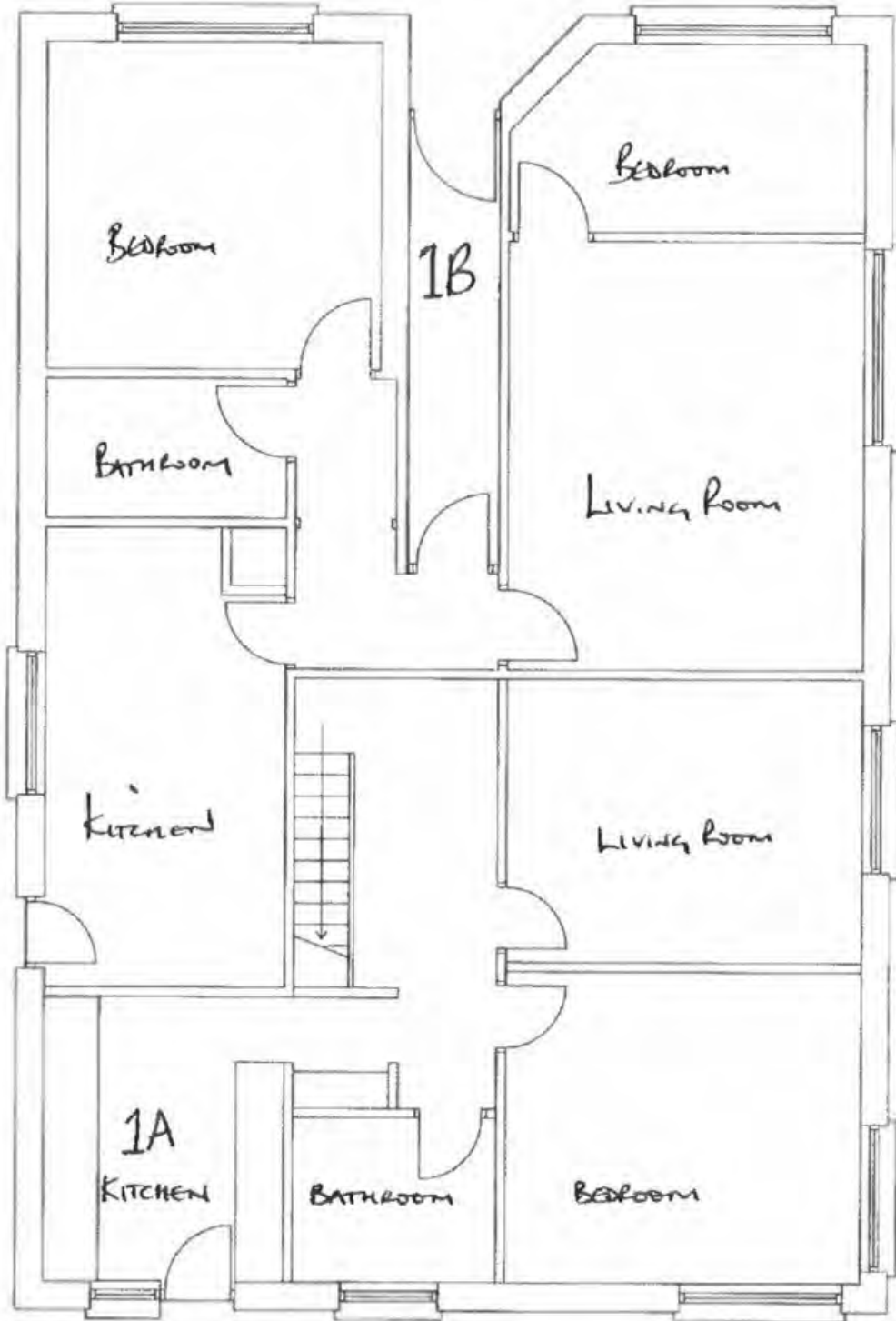
List of Documents

Planning Authority: - "A" Statement of Case

Appellant(s):- "B" Statement of Case and appendices
"C" Rebuttal

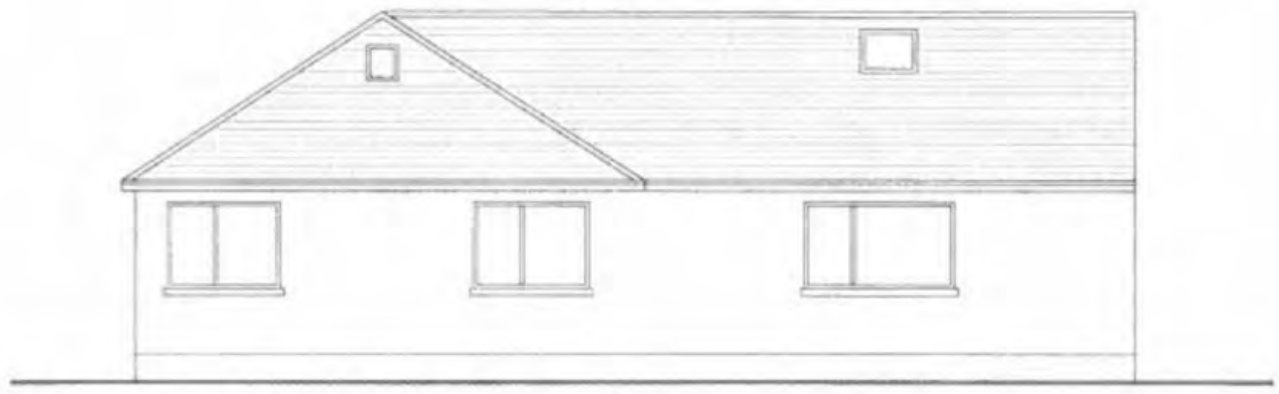
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PAC 1



Existing Floor Plan

a



Existing Front Elevation