



January 5th, 2023

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 11th January 2023 at 10:00 am** in **Boardroom Monaghan Row Newry** and via **Microsoft Teams**.

Committee Membership 2022-2023

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

Agenda

- 1.0 Apologies and Chairperson's remarks.
- 2.0 Declarations of Interest.
- 3.0 Declarations of Interest in relation to Para. 25 of Planning Committee Operating Protocol - Members to be present for the entire item.
- 4.0 Minutes of Planning Committee Meeting held on Wednesday 14 December 2022. (Attached).

 *Planning Committee Minutes - 14.12.2022.pdf*

Page 1

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

 *Addendum list - 11-01-2023.pdf*


Page 15

Development Management - Planning Applications for determination


- 6.0 LA07/2019/1254/F - 42 Downpatrick Road Killyleagh - Demolition of existing garage and erection of 4 No. detached dwellings with modified existing access. (Case Officer report attached).

APPROVAL

- A request for speaking rights has been received from David Worthington, Planning Consultant; Kieran Dempsey, agent and Ennis Murphy applicant, in support of the application. (Submission attached).

 *LA07_2019_1254_F.pdf*

Page 16

 *Item 6 - LA07-2019-1254-F.pdf*

Page 30

- 7.0 LA07/2021/2005/F - Lands approximately 25m northeast of 212 Concession Road and approximately 20 south west of Shelagh Youth Club Cullaville County Armagh - Erection of dwelling and garage. (Case Officer report attached).


REFUSAL

- A request for speaking rights has been received from Colin O'Callaghan, agent, in

support of the application. **(Submission attached).**

 *2021 2005 - Concession Road.pdf*

Page 32


 *Item 7 - LA07-2021-2005 - F.pdf*

Page 44


8.0 LA07/2022/0030/F - Approximately 265 metres west of No. 30 Levallyreagh Road Rostrevor - Erection of replacement dwelling and garage with associated ancillary site works. (Case Officer report attached).

REFUSAL

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

 *LA07.2022. 0030. f.pdf*

Page 46


 *Item 8 - LA07-2022-0030-F.pdf*

Page 53


9.0 LA07/2022/0751/F - Land adjacent and to the rear of 18-28 Moor Hill Newry BT34 2QJ - Proposed dwelling, garage and associated site works. (Case Officer report attached).

REFUSAL

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

 *LA07-2022-0751-F Moorhill.pdf*

Page 55

 *Item 9 - LA07-2022-0751-F.pdf*

Page 67


10.0 LA07/2022/0096/RM - Land West of No.1 Crieve Road Newry - Dwelling and garage. (Case Officer report attached).

REFUSAL

- A request for speaking rights has been received from Declan Rooney, agent and Ciaran Smith, applicant, in support of the application. **(Submission attached).**

 *crieve road LA07-2022-0096.pdf*

Page 69

 *Item 10 - LA07-2022-0096-RM.pdf*

Page 82

11.0 LA07/2022/1066/O - Lands approx. 45m South East of 33

Ardnabannon Road Castlewellan - Dwelling and Garage on a Farm. (Case Officer report attached).

REFUSAL

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

📎 *LA07-2022-1066-O 33 Ardnabannon Road farm dwelling.pdf*

Page 84

📎 *Item 11 - LA07-2022-1066-0.pdf*

Page 91

12.0 LA07/2022/0527/F 41 Windmill Road Kilkeel BT34 4LP Proposed alterations & 2 story extension to front of existing dwelling including new replacement garage with store over at rear of dwelling. (Case Officer report attached).

APPROVAL

- Addendum list

📎 *LA07-22-0527- 41 windmill road.pdf*

Page 93

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

REFUSAL

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

📎 *LA07-2022-0578-O 61 Dromore Road cluster.pdf*

Page 100

📎 *Item 13 - LA07-22-0578O.pdf*

Page 106

14.0 LA07/2022/0995/O - Between 27 and 31 Lessans Road Saintfield -New Storey and half dwelling under PPS21 CTY8. (Case Officer report attached).

REFUSAL

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

📎 *LA07-2022-0995-O 27 31 Lessans Road infill.pdf*

Page 111

15.0 LA07/2022/1115/O - 2 Rathcuan Heights Downpatrick - New Split Level Dwelling. (Case Officer report attached).

REFUSAL

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

LA07_2022_0115_O.pdf

Page 117

Item 15 - LA07-2022-1115-0.pdf

Page 124

For Noting

16.0 Historic Action Sheet. (Attached).

Planning HISTORIC TRACKING SHEET - Updated January 2023.pdf

Page 126

17.0 Planning Committee Performance Report for November 2022. (To follow).

18.0 Current appeals and decisions. (To follow)

NEWRY, MOURNE & DOWN DISTRICT COUNCIL

Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 14 December 2022 at 10.00am in the Boardroom, Monaghan Row, Newry and via Microsoft Teams.

Chairperson: Councillor D McAteer

In attendance: **(Committee Members)**

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

(Officials)

Mr C Mallon	Director of ERT
Mr A McKay	Chief Planning Officer
Mr Pat Rooney	Principal Planning Officer
Mr F O'Connor	Head of Legal Administration
Mr Peter Rooney	Legal Advisor
Ms A McAlarney	Senior Planning Officer (Teams)
Mr M Keane	Senior Planning Officer (Teams)
Ms P Manley	Senior Planning Officer (Teams)
Mr A Donaldson	Planning Officer (Teams)
Ms C Cooney	Dev. Mgt. HTPO Planning (Teams)
Ms G McEwan	Senior Environmental Health Officer
Ms S Taggart	Democratic Services Manager (Acting)
Ms L Dillon	Democratic Services Officer
Ms L Cummins	Democratic Services Officer
Ms C McAteer	Democratic Services Officer
Ms P McKeever	Democratic Services Officer

P/112/2022: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillor Devlin and Councillor Harte.

P/113/2022: DECLARATIONS OF INTEREST

There were no Declarations of Interest.

P/114/2022: DECLARATIONS OF INTEREST IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL- PARAGRAPH 25

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

Item 6 - A site visit was held on 30 November 2022 – In attendance were Councillors Burgess, Hanna, Harte, Larkin, Lewis, Murphy, O'Hare.

MINUTES FOR CONFIRMATION

P/115/2022: MINUTES OF PLANNING COMMITTEE MEETING HELD ON WEDNESDAY 16 NOVEMBER 2022

Read: Minutes of Planning Committee Meeting held on Wednesday 16 November 2022. (Copy circulated)

Councillor McEvoy asked it be noted she was not in attendance at the Planning Committee Meeting held on 16 November as indicated in the minutes.

AGREED: On the proposal of Councillor Hanna, seconded by Councillor Murphy, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 19 October 2022 as a true and accurate record.

FOR DISCUSSION/DECISION

P/116/2022: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 14 December 2022. (Copy circulated)

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

- **LA07/2021/0245/F** - Existing toilet block in the car park is to be demolished and replaced with a public beach amenity building accommodating female and male toilets, universal toilet, first aid room, lifeguard store and ground store - Land immediately west of 40 Clanmaghera Road Tyrella Beach **APPROVAL**
- **LA07/2021/2131/F** - Residential development comprising 46 no. dwellings (16 no. detached and 30 no. semi- detached) - change of house type in respect of approval P/2011/1067/F - Land adjacent and to the west of Sacred Heart Grammar School 10 Ashgrove Avenue Newry BT34 1PR **APPROVAL**

- **LA07/2022/1034/F** - Proposed extension to existing building to include replacement sales area, WC, store and upcycling workshop. Re-roof existing building and build up glass curtain walling with masonry wall and windows and provision of on site parking using existing entrance. Retention of replacement polytunnel and proposed new lean to covered cleaning area. Removal of existing polytunnel and sales area - 1 Council Road Kilkeel BT34 4NP **APPROVAL**
- **LA07/2022/1224/F** - New, multi-use, non-bitmac, compacted gravel community trails - Corry Wood Station Road Castlewellan Co. Down **APPROVAL**

DEVELOPMENT MANAGEMENT - PLANNING APPLICATIONS FOR DETERMINATION

P/117/2022: PLANNING APPLICATIONS FOR DETERMINATION

(1) LA07/2021/1935/F

As Councillors Byrne, McAteer and McEvoy were not in attendance at the site visit, they withdrew from discussions on the application and Councillor Murphy assumed the Chair.

Location:

10 Dunbrae, Chancellors Road Newry BT35 8HG

Proposal:

Construction of a storey-and-a-half detached dwelling within the curtilage of the side garden of 10 Dunbrae

Conclusion and Recommendation from Planning Official:

Refusal

Power-point Presentation:

Mr Pat Rooney, Principal Planning Officer provided Members with a short recap on the power point presentation previously presented to Committee.

Speaking rights:

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

Mr Pat McVarnock, architect and Mr Barney McKeivitt, agent were present to answer any queries from Members.

Issues raised:

- Mr McKeivitt said the fence would run at an angle resulting in 127 sq. metres of amenity space and minimum specified in the Creating Spaces document was 45 sq metres.

- Mr Rooney said when considering amenity space, it was important to note it was more than just a mathematical calculation, but it should be usable and Planning considered it was not, based on the configuration of the open space and he said it would overlook the amenity space of the existing house at No. 10 Dunbrae.
- Mr Rooney said the term usable amenity space meant it had to afford a certain amount of private residential amenity to the occupants.

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2021/1935/F on the basis that having attended the site visit, he considered the proposed application would integrate into the area. He acknowledged the site was tight, however he said there was enough amenity space and appropriate conditions could be attached to ensure maximum privacy. Councillor Burgess seconded the proposal.

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

FOR:	3
AGAINST:	3
ABSTENTIONS:	0

Councillor Murphy, as acting Chair had the casting vote and he voted against the proposal.

The proposal was lost.

Councillor Murphy proposed to issue a refusal as per Officer recommendation, Councillor O'Hare seconded the proposal.

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

FOR:	3
AGAINST:	3
ABSTENTIONS:	0

Councillor Murphy, as acting Chair had the casting vote and he voted for the proposal.

The proposal was carried.

AGREED: **On the proposal of Councillor Murphy, seconded by Councillor O'Hare it was agreed to issue a refusal in respect of Planning Application LA07/2021/1935/F as per the information contained within the Case Officer report and presented to Committee.**

Councillors Byrne, McAteer and McEvoy re-joined the meeting and Councillor McAteer assumed the Chair.

(2) LA07/2017/1261/0

(Councillor Reilly joined the meeting during discussion on Planning Application LA07/2017/1261/O)

Location:

Site abutting 20 Junction Road Saintfield

Proposal:

Proposed dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point Presentation:

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

Speaking rights:

In support

Mr Conor Fegan BL, Ms Sheila Curtin, agent and Eugene and Fainant Murray, applicants presented in support of the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

Issues raised:

- Mr Fegan confirmed the farm was jointly owned by Thomas Mageean and his brother Bernard, and he said Thomas's name had recently been formally added to the farm business.
- The applicant became a formal member of the farm business in 2018 and had been an informal member for many years prior to 2018.
- The farm was registered by DAERA as one entity.
- Mr McKay said the key issue was to decide if the application complied with CTY10 of PPS 21, which related to dwellings on a farm. Planning considered the buildings which the application sought to link with were not on the farm.
- Mr McKay said the land was let out in a conacre arrangement to the applicant and that did not typically represent a farm business, but rather a landlord/tenant arrangement which, he said the Committee had accepted in previous applications.
- Mr Fegan said Thomas Mageean's name had been formally added to the farm business in a good faith attempt to address ownership issues raised by Planning.
- Mr Fegan confirmed as Thomas Mageean was formally part of the farm business, the issue of the buildings, considered by Planning to not be part of the farm did not apply.
- Mr McKay said he had recounted the legal advice received, in his presentation to Members.
- Mr O'Connor said he could distribute hard copies of the legal advice if Members wished and he advised with reference to the DAERA position, counsel sought had indicated weight must be given to DAERA's decision.
- Mr McKay acknowledged there were huge difficulties with CTY10, but he said over the years, the interpretation of CTY10 had evolved and it was within Planning remit to interrogate the details of arrangements that existed around a farm.
- Mr McKay said simply adding a name, albeit formally, to the farm business did not satisfy planning policy and the conacre arrangement also had to be taken into consideration, however he said ultimately it was an exercise in judgement for the Members.
- Mr McKay said Planning had requested evidence to support the applicant was part of the farm business, they were not satisfied with the response received, therefore, he said it failed to comply with Policy CTY10 part C.
- Mr Fegan said it was his understanding the applicant did not take an income from the farm and the conacre issue was a red herring. He said it was clearly a case of

ownership between two brothers both of whom were involved in the farm business and he considered the evidence submitted had been sufficient.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2017/1261/O contrary to Officer recommendation on the basis that he considered all previous concerns had been addressed and the application as it was presented now fully complied with CTY10. Councillor Byrne seconded the proposal.

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

FOR:	9
AGAINST:	0
ABSTENTIONS:	0

AGREED: **On the proposal of Councillor Larkin, seconded by Councillor Byrne it was agreed to issue an approval in respect of Planning Application LA07/2017/1261/O contrary to Officer recommendation on the basis that it fully complied with CTY 10.**

Planning Officers be delegated authority to impose any relevant conditions.

(Break 11.20am – 11.30am)

(3) LA07/2019/0868/F

Location:

107 Camlough Road, Newry

Proposal:

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

Conclusion and Recommendation from Planning Official:

Approval

The Chairperson advised there were certain legal challenges in relation to Planning Application LA07/2019/0868/F and invited Mr O'Connor to apprise Members.

Mr O'Connor said a submission had very recently been received on behalf of the objectors. He said the submission highlighted complex issues and raised technical points and Members would need sufficient time to consider the content in detail and he requested Members defer Planning Application LA07/2019/0868/F to allow this to happen.

Councillor Murphy proposed, and Councillor O'Hare seconded to defer Planning Application LA07/2019/0868/F as per legal advice.

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

FOR:	6
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AGAINST: 4
ABSTENTIONS: 0

The proposal was carried.

AGREED: **On the proposal of Councillor Murphy, seconded by Councillor O'Hare it was agreed to defer Planning Application LA07/2019/0868/F to allow sufficient time to consider the late information submitted by the objectors.**

The Chairperson said Planning Application LA07/2019/0868/F had been on the June 2022 Planning Committee agenda and a late objection had been received and it had subsequently been removed from the agenda to allow legal consideration. The Chairperson expressed his dissatisfaction at objections being drip fed resulting in slowing up the planning process and he asked that going forward, all objections be submitted together, and in a timely fashion.

(4) LA07/2020/1588/F

Location:

Former St. Patrick's Primary School site, Ardglass Road Downpatrick

Proposal:

Development of petrol filling station, 1no. retail unit, 1no. hot food unit, ATM and jet wash with associated access, car parking, landscaping and site works

Conclusion and Recommendation from Planning Official:

Approval

Power-point Presentation:

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

Speaking rights:

On behalf of local residents

Councillor G Sharvin (neutral) presented on behalf of the local residents, detailing and expanding upon written statements that had been circulated to Committee Members.

In support

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

Councillor Hanna proposed to issue an approval in respect of Planning Application LA07/2020/1588/F as per Officer recommendation saying it was the redevelopment of a brown field site and all outstanding issues had been addressed. He asked that a hedgerow be planted as part of the conditions to allay local residents' concerns. Councillor Larkin seconded the proposal.

AGREED:

On the proposal of Councillor Hanna, seconded by Councillor Larkin, it was unanimously agreed to issue an approval in respect of Planning Application LA07/2020/1588/F as per the information

contained in the Case Officer report and presented to Committee.

Planning Officers be delegated authority to impose any relevant conditions, including the planting of a hedgerow to allay local residents' concerns.

(5) LA07/2020/1651/F

Location:

75m north of 18 Ballinasack Road, Mullaghbawn, Newry

Proposal:

Erection of dwelling (Change of house type from that previously approved under P/2006/2002/F) (Amended description)

Conclusion and Recommendation from Planning Official:

Refusal

Power-point Presentation:

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

Mr O'Connor advised Members that given the Judicial Review application received in 2019 on the decision reached, Council had sought advice from a barrister as to the prospect of successfully defending the Judicial Review and he said the advice given pointed to three factors that would be detrimental to Council's chance to successfully defending it:

1. Look closely at the issue of commencement and decide what the threshold was in determining if commencement had taken place.
2. Consideration of Planning Policy and the importance of aligning reasoning and decision making against the refusal reasons.
3. Ensure reasons for a decision to overturn an application were recorded.

Speaking rights:

In support

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

Issues raised:

- Mr Rooney said there was a requirement by Planning to impose a time limit on a planning approval and the key issue for consideration was to determine if the development had commenced before the date imposed. He said the date appeared on the formal decision notice issued.
- Mr Rooney said he was not aware of the Planning Department extending time limit dates.

Councillor Byrne proposed to defer Planning Application LA07/2020/1651/F for a site visit. Councillor Burgess seconded the proposal.

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

FOR: 8
AGAINST: 2
ABSTENTIONS: 0

The proposal was declared carried.

AGREED: On the proposal of Councillor Byrne seconded by Councillor Burgess it was agreed to defer Planning Application LA07/2020/1651/F to allow a site visit to take place, so Members could assess the site in more detail.

(6) LA07/2021/1549/F

Location:

Unit 11 Milltown Industrial Estate Warrenpoint

Proposal:

Application under section 54 for amendment of condition 03C of planning approval LA07/2018/0244/F as follows: Manufacturing operating hours extended from 7.00 - 23.00 hours Monday to Friday to 24 Hour production, 7 days per week

Conclusion and Recommendation from Planning Official:

Approval

Speaking rights:

In objection

Mr Andy Stephens, Matrix Planning presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

In support

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

Gail McEwen, Environmental Health, was also in attendance for this application.

Issues raised:

- Mr Stephens said there were discrepancies in the findings of the acoustic studies carried out on behalf of the objectors and those of the applicants, with the objectors reporting a slightly higher level of background noise.
- Mr Stephens acknowledged Newcel had taken steps to mitigate noise levels, however he said the difficulty lay in the fact there were two applications to consider, the current one for a long established business and one that had been granted for a new housing development, which he said, given the proposed extended working hours would have an impact on the future occupants of those houses.
- Mr Delahunt confirmed the schedule of works in mitigating noise levels was 90-95% complete; an acoustic wall to the rear of the building still had to be installed, which he said, would be completed within 12 weeks of planning permission being granted.
- Ms McEwan said Environmental Health had added appropriate conditions to mitigate against any concerns and there were no active complaints.
- Ms McEwan said she did not have any concerns regarding the discrepancies in the 2 acoustic studies carried out as they had been taken at different times and from different angles.

AGREED: On the proposal of Councillor Murphy seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning application LA07/2021/1549/F as per the information contained within the Case Officer report and presented to Committee.

(7) LA07/2022/0210/F

Location:

Ground floor unit 12 Seaview Warrenpoint

Proposal:

Retention of existing outdoor customer seating area

Conclusion and Recommendation from Planning Official:

Approval

Speaking rights:

In objection

Mr Matthew McCamley and Mr Andy Stephens

In support

Written statement of support received from Julie McLarnon, applicant.

(8) LA07/2022/0226/F

Location:

This is a category 11 section 54 application

Proposal:

Ground Floor Unit 12 Seaview Warrenpoint

Conclusion and Recommendation from Planning Official:

Approval

Speaking rights:

In objection

Mr Matthew McCamley and Mr Andy Stephens

In support

Written statement of support received from Julie McLarnon, applicant.

Mr O'Connor advised Members that a late submission received from the objectors had alerted officers to certain issues that required further interrogation and he recommended Planning Applications LA07/2022/0210/F and LA07/2022/0226/F be deferred to allow time for this to take place.

Councillor Hanna proposed, and Councillor Lewis seconded to defer Planning Applications LA07/2022/0210/F and LA07/2022/0226/F as per legal advice.

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

FOR:	8
AGAINST:	0
ABSTENTIONS:	2

The proposal was declared carried.

The Chairperson expressed his dissatisfaction saying the application had already been deferred at the Planning Committee Meeting on 16 November 2022 at the request of the objector and it was grossly unfair to submit late information resulting in it being deferred again. Mr Stephens apologised for the inconvenience to all involved.

AGREED: **On the proposal of Councillor Hanna, seconded by Councillor Lewis it was agreed to defer Planning Applications LA07/2022/0210/F and LA07/2022/0226 to allow sufficient time to consider the late information submitted by the objectors.**

(9) LA07/2022/0273/F

Location:

54 Market Street Downpatrick Co Down

Proposal:

Change of use application from existing shop (Use Class A1) to proposed Amusement Arcade

Conclusion and Recommendation from Planning Official:

Approval

Power-point Presentation:

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

Speaking rights:

In objection

Mr Andy Stephens, Matrix Planning and Mr Philip Campbell (via Teams) presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

DEA Councillors Gareth Sharvin and Cadogan Enright (via TEAMS)

In support

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

Issues raised:

- Mr McKay said he assumed the type of activities available would be wide ranging and would include entertainment machines, gambling and gaming.

- Ms Gourley said it was her understanding the application was for an amusement arcade.
- Clarity sought by Members on what would be included in the arcade whether it would be a family amusement arcade or if it would contain gambling machines.
- Mr McKay said DCAN1 provided advice to prospective applicants.
- Concern expressed as to the close proximity of the proposed application to a church, a youth centre and the SE Regional College.
- Mr McKay said it was up to Members to determine how much weight to put on opposing arguments and a balancing decision was needed.

Councillor Hanna proposed to defer Planning Application LA07/2022/0273/F for a site visit. 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:	4
AGAINST:	6
ABSTENTIONS:	0

The proposal was lost.

Councillor Byrne said the application included 28 AWP slot machines and it was important to look at the proximity to local groups and also to look at the wider area with regard to DCAN1.

Councillor Larkin proposed to issue an approval in respect of Planning Application LA07/2022/0273/F as per Officer recommendation. Councillor Hanna seconded the proposal.

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

FOR:	3
AGAINST:	6
ABSTENTIONS:	1

The proposal was lost.

Councillor Byrne proposed to issue a refusal in respect of Planning Application LA07/2022/0273/F contrary to Officer recommendation on the basis that it was not compliant with points 4 and 5 of DCAN1. Councillor Murphy 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:	2
ABSTENTIONS:	2

The proposal was carried.

AGREED: **On the proposal of Councillor Byrne, seconded by Councillor Murphy it was agreed to issue a refusal in respect of Planning Application LA07/2022/0273/F contrary to Officer recommendation on the basis it was not compliant with points 4 and 5 of DCAN1.**

(10) LA07/2022/1157/F

Location:

Jane's Shore, River Quoile between A22 Killyleagh Road and A7 Belfast Road Downpatrick

Proposal:

Replacement and widening of existing walkway along Jane's shore to include a new walkway comprised of new hard-standing surface and timber boardwalks, upgraded and replacement stiles, gates, fencing and all associated site works

Conclusion and Recommendation from Planning Official:

Approval

Power-point Presentation:

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

Speaking rights:

In support

Ms Sarah McDowell (via Teams) presented in objection to the application, detailing and expanding upon a written statement that had been circulated to Committee Members.

AGREED:

On the proposal of Councillor Larkin seconded by Councillor Hanna it was unanimously agreed to issue an approval in respect of Planning Application LA07/2022/1157/F as per the information contained within the Case Officer report and presented to Committee.

P/118/2022:

HISTORIC ACTION SHEET

Read:

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

AGREED:

It was unanimously agreed to note the Historic Action Sheet

P/119/2022:

PLANNING COMMITTEE PERFORMANCE REPORT – NOVEMBER 2022

Read:

Planning Committee Performance Report – November 2022. **(Copy circulated)**

AGREED:

It was unanimously agreed to note the Planning Committee Performance Report

P/120/2022:

CURRENT APPEALS AND DECISIONS

Read:

Current Appeals and Decisions. **(Copy circulated)**

AGREED: **It was unanimously agreed to note the Current Appeals and Decisions.**

Before the meeting concluded, the Chairperson took the opportunity to thank Fearghal O'Connor for his support and commitment to the Planning Committee and the Planning Call in Panel during his years at Council and he wished him well for the future.

The meeting concluded at 1.40pm.

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 11 January 2023

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

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

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



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2019/1254/F

Date Received: 14.08.2019

Proposal: The application is for full planning permission for the demolition of existing garage and erection of 4 No. detached dwellings with modified existing access.

Location: The application site is located at 42 Downpatrick Road, Killyleagh



Site Characteristics & Area Characteristics:

The application site is located off the Downpatrick Road just on the edge of the settlement limits of Killyleagh village. The site comprises an existing now discussed car garage and forecourt with filling station canopy. The existing garage structure is formed from block with a cement render with flat roofs throughout. The former office/shop area to the north of the overall structure comprises a flat roof while the remaining roof structures are formed by corrugated metal. The site area to the east of the existing garage comprises an agricultural field access with grassland to the southern side and scrub in the north portion. A mixed native and non-native species hedgerow and timber fence forms the north site boundary while a native species field hedgerow with trees forms the south and east site boundaries. The western boundary with Killyleagh Road is formed a brick wall with two vehicular access points. There are residential properties both opposite and to the north of the site.

Site History:

F/1998/0761	10 REAR OF 42 DOWNPATRICK ROAD	Site for 2 dwellings	PERMISSION GRANTED
F/1996/0841	42 DOWNPATRICK ROAD, KILLYLEA	Alterations and extensions to existing garage and shop	PERMISSION GRANTED
F/1995/6023	42a Downpatrick Road	Proposed Service Workshop 42a Downpatrick Road K.	
F/1995/0388	40A DOWNPATRICK ROAD KILLYLEA	Extension to dwelling	PERMISSION GRANTED
F/1995/0453	40A DOWNPATRICK ROAD KILLYLEA	Extensions to dwelling	PERMISSION GRANTED
F/1994/0179	42 DOWNPATRICK ROAD KILLYLEA	Underground petrol tank	PERMISSION GRANTED
F/1992/4013	40A DOWNPATRICK ROAD KILLYLEA	Shed	PERMITTED DEVELOPMENT
F/1987/0022	MAXOL FILLING STATION DOWNPATRICK ROAD	Erection of forecourt canopy	PERMISSION GRANTED
F/1983/0347	DOWNPATRICK ROAD, KILLYLEAGH	DWELLING	PERMISSION GRANTED
F/1982/0171	42 DOWNPATRICK ROAD, KILLYLEA	DWELLING	PERMISSION GRANTED
F/1979/0068	DOWNPATRICK ROAD, KILLYLEAGH	NEW CANOPY, 6,000 GALL UNDERGROUND STORAGE	PERMISSION GRANTED

The site is located within the village of Killyleagh as designated within the Ards and Down Area Plan 2015.

The following planning policy statements are relevant to the proposal;

- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- PPS 2 Natural Heritage
- PPS 3 Access, Movement and Parking
- PPS 7 Quality Residential Development
- PPS 7 Addendum Safeguarding the Character of Established Residential Areas
- PPS 12 Housing in Settlements

Published guidance documents will also be considered such as Creating Places, DCAN 8 'Housing in Existing Urban Areas' and DCAN 15 and Parking Standards.

Consultations:

NI Water – Objects - NI Water comment as follows

No pre development enquiry submitted to NIW. Due to foul sewer network capacity constraints the applicant needs to submit a Wastewater Impact Assessment application to NIW to ensure this development can be served without having any detrimental effect on the existing network, customers or the environment.

DFI Roads – No objections subject to conditions

Environmental Health – notes the former use as a petrol filling station as PRA has been submitted to NIEA – Land air and soil

DAERA -NIEA – Land Air and Soil – no objections subject to conditions and informatives.

DAERA -NIEA – Water Management Unit – No objections

DAERA -NIEA – Natural Heritage Division – No objections subject to a condition and informatives

SES -No objection

Objections & Representations

In line with statutory requirements neighbours have been notified on 04.10.2019 and again with amended plans on 17.08.2020, 19.10.2021, 11.01.2022 and 12.04.2022 reducing the

scheme from 4 apartments and 6 semi-detached dwellings down to 4 detached dwellings. The application was advertised in the Down Recorder and Mourne Observer on 04.09.2019 and again in the Down Recorder on 26.08.2020.

A total of 25 objections have been received from more than 6 people from different addresses. A summary of the main issues include:

- Right of way its width to take vehicular traffic and access to lands to the rear of the site
- Objects to any building work that will obstruct or decrease the right of way
- Accuracy of plans
- Sufficient information from the plans to make a proper assessment including levels and Finished floor levels and cross sections
- Separation distances
- Layout – impact on privacy, overlooking, provision of amenity space
- Scale of the proposal
- Landscaping in relation to the proposal – planting belt in relation to PPS 7
- Impact on the character of the area
- Ecology in relation to protected species
- Noise
- Contaminated land
- Retaining structures
- Design of houses
- Should be retained as commercial premises

This is a summary of the main issues of concern, all letters have been read in full and are available to read in full on the planning portal.

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.

In relation to housing in settlements, the Strategic Planning Policy Statement for Northern Ireland 2015 (SPPS) provides advice to planning authorities engaged in preparing new area plans. Whilst advocating increased housing density without town cramming, its provisions do not conflict with extant regional policy in respect of proposals for dwellings within settlements.

PPS 7 -Planning Policy Statement 7 Quality Residential Environments

PPS7 sets out planning policy for achieving quality in new residential development. Policy QD1 of PPS7 states that residential development should draw on the positive aspects of the surrounding area's character and appearance. Proposals' layout, scale, proportions, massing and appearance should respect the character and topography of their site. It also states that proposals for housing developments will not be permitted where they would result in unacceptable damage to the local character, environmental quality and residential amenity of the area. Developments should not be in conflict with or cause adverse impacts upon adjacent land uses. Notwithstanding the strategic objective of promoting more housing in urban areas, paragraph 1.4 of PPS7 states that this must not result in town cramming.

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

The proposal was originally submitted to redevelop the site by knocking down the existing garage and associated canopy on the site and proposing 6 apartments and 4 semi detached dwelling in their place. This scheme was deemed to be unacceptable and was out of character with the area in terms of overdevelopment of the site, separation distances, ridge height, streetscape, amenity space and parking. The agent then amended the plans on a number of occasions and this resulting scheme of 4 detached dwellings is the basis on which this assessment is considered.



The proposal comprises the development of 4 dwellings, with 3 dwellings located and fronting onto Downpatrick Road and a further single detached dwelling, set back into the site also fronting onto Downpatrick Road. The amended plans have reduced the amount of development on site, showing a simpler form than the larger apartment buildings with the elevational treatments changed to reflect dwellings instead of apartments. There is no established building line with the road itself, while Nos 38 and 40 have a similar building line to each other, No 40a is set back from No 40 and the garage building on the site was forward of this and close to the road. Therefore the actual pattern of development has no overall uniform or established pattern of built form in terms of layout, however, all buildings along this part of the road address the frontage of the road. The three dwellings proposed along the frontage are all set to a similar building line, set back approx. 13m from the footway, accessed via private roads with 2 incurtilage car parking spaces per dwelling. The fourth dwelling is accessed by a private road which runs through the centre of the site which branches onto both a right of way and site 4. The development does not of itself have any significant impact on the character of the area.

On balance and taking into account the improvements in the overall layout and overall reduction in numbers of both apartments and dwellings, the development is considered appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. The proposal respects the development pattern and the size of dwellings proposed does not offend the DSD Space Standards as detailed within Annex 3 of PPS7 Addendum Safeguarding the Character of Established Residential Areas. The proposal satisfies criteria QD1(a) of PPS7 and Policy LC1(A-C) of PPS7 Addendum.

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

There are no features of archaeological or built heritage.

In terms of landscape features, the layout shows buffer planting along the southern boundary. This boundary is on the edge of the settlement with open countryside beyond. Paragraph 4.28 of PPS 7 states that 'The integration of development at the edges of settlements is also important and buffer planting, generally of indigenous species (around 8-10 metres in depth), will be required to help assimilate and soften its impact on the countryside. The planting belt shown on the plan is 5 metres in addition to the existing hedge. It is noted that views of the site are fairly well screened from the south by the existing hedgerow there at present and additional planting will help strength this boundary. At the other side of the indicated 'right of way' another hedge is proposed to the northern boundary which will run along the southern boundary of site 4's rear garden. While the buffer planting does not meet the specified guidance of PPS 7 of being 8-10m, based on the site specifics of this site, it is deemed this 5m buffer would be acceptable.

The proposal complies with QD1(b).

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

Criterion (c) of PPS 7 seeks to ensure that adequate provision is made for private open space. Paragraph 5.19 of Creating Places (CP) supplements policy on this issue and refers specifically to 'back garden provision'. It indicates that this should be calculated as an average space standard for the development as a whole and should be around 70 sqm per house or greater. In assessing the level of private amenity provision appropriate on a particular site, the standards in CP are guidelines to be weighed with other relevant factors such as the particular context of the development. While it is noted that site 1's amenity is less than the provisions of the other three dwellings, it is deemed that it meets the guidance of over 70m² while the other remaining properties are well above average provision of private amenity space to the rear of dwellings. While the objector's comments regarding amenity space of site 1 are noted, on balance the proposal satisfies Policy QD1 (c).

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

The proposed development is not of a scale that neighbourhood facilities are required.

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

The site is located within the settlement limits of Killyleagh, there are no issues with regard to walking and cycling and provision of public transport is already in place.

The proposal does not offend QD1 (e).

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

The proposal can provide for 2 car parking spaces for each proposed dwelling. The three properties fronting onto Downpatrick Road are accessed via private roads to serve parking which is in close proximity to each dwelling. The proposal complies with QD1 (f) and Parking Standards.

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

Given the amendments to the design of the dwellings materials and finishes include painted rendered walls, slate roof, uPVC windows, these would all be deemed acceptable.

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

The overall development has been assessed against Creating Places guidance. The amended design of the dwellings is now more in keeping with the character of the area. The protection of the privacy of the occupants of residential properties is an important element of the quality of a residential environment and is a key consideration where new development is proposed adjacent to existing properties.

Concerns were raised by the neighbour next door at No 40a about the impact of the development on her property and amenity. Site 1 is sited approx. 31m from the front elevation of no 40a and site 2 is further away. Creating Places (CP) suggests good practice indicates that a separation distance of around 20m or greater between the opposing rear first floor windows of new houses is generally acceptable. CP also states that where the development abuts the private garden areas of existing properties, a separation distance greater than 20m will generally be appropriate to minimise overlooking. This is a front to rear relationship which is considered a sufficient distance so as to not cause any residential amenity issues.

In terms of site 4 type D, this is the closest property to the objector at 40a. This relationship is a side to side relationship. While it is noted that the dwelling is sited in close proximity to the common boundary it has a similar relationship to the common boundary as No 40a. The agent has amended House Type D by handing the house type which allows for the bathroom to be nearest to 40a and not a bedroom. This also moves the sunroom away from the boundary with 40a. Frosted glass has been indicated on the window on the northern gable of the proposed dwelling with the nearest upper floor window being a bathroom (while the plans do not indicate this as frosted glazing a condition could ensure this window should have obscure glazing and retained as such). According to the provided section the ground levels are below the level of 40A. In terms of the internal relationship of the dwellings within the site,

there is over 20m separation distances between the three dwellings at the front of the site and the one at the back.

This is an urban setting and it is acknowledged that there will always be some degree of overlooking within this context, however, given the side by side relationship, set on lands lower than 40a, with no windows in the gable of the objector's property and an ensuite frosted glass window in the gable wall of the proposed dwelling, on balance it is concluded that the design and layout will not create conflict and it is considered that the proposed development would not have an adverse impact on the neighbouring property at 40a in terms of overlooking, loss of light, overshadowing, noise or other disturbances which would be so significant that it would warrant refusal of the application. In terms of noise which was raised as an issue Environmental Health have no objections to the proposal in terms of noise. The objector's concerns have been considered but would not have determining weight in this instance.

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

The layout has been designed in a manner which would not lead to an unsafe environment for residents.

The proposed development complies with the requirements of PPS 7 (QD1).

APPS 7

Consideration must also be given to the Policy LC1 of Addendum to PPS 7 which states that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites to accommodate new housing, where all the criteria set out in Policy QD1 of PPS 7, and all the additional criteria set out below are met:

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

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

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

In consideration of the above the proposal would comply with criteria (a) of Policy LC1 of PPS7 Addendum: Safeguarding the Character of Established Residential Areas. Criteria (a) requires that the proposed density is not significantly higher than that found in the established residential area. While the proposed density is higher than what is currently on the site in terms of the number of buildings, when account is taken of the dwellings at Ansfield Ave opposite the site, and the overall reduction in the units on the initial scheme, the proposal would comply with (a). It has been established that the pattern of development is in keeping with the overall character of the area and would comply with part (b). The dwelling units would comply with Annex A of APPS 7 and would therefore comply with part (c).

Policy DES 2 – Townscape (Planning Strategy for Rural NI)

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

The proposal involves the demolition of an existing vacant former garage and petrol filling station within the settlement limits of the village of Killyleagh. In consideration of SP 18 and DES 2 of PSRNI and following these amendments which are deemed to be acceptable, it would be difficult to argue that given the design proposal put forward, would not make a positive contribution to the townscape along this part of Downpatrick Road, thus the proposal would meet this aspect of the policy.

PPS 2 – Natural Heritage

Policies NH 1, NH 2, Nh5 and NH6 are relevant to the proposal.

The proposal is subject to the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) (known as the Habitats Regulations).

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

The agent submitted a biodiversity checklist with walk over completed by an ecologist. The ecologist found no evidence of priority species on site or within the 25m buffer. The garage to be demolished was assessed by the ecologist to have negligible bat roost potential (BRP), as were the juvenile trees to be felled.

The objector raised an issue with regard to breeding newts. NED note the recommendation from the ecologist to install newt barrier fencing along the northern boundary line, the agent is aware of this suggested mitigation action. NED are content that as the pond is not directly on site and provided mitigation is implemented, there will be no adverse impact to potential breeding newts.

Therefore, (NED) having considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to a condition.

Policy NH 6 – AONB

Overall the proposal would not offend AONB Policy NH6 of PPS2 which considers new development the designated AONB. The proposal respects local architectural styles and patterns of which there is variation. Hedges and trees are to be retained and materials, design and colour of dwellings are deemed to be acceptable.

PPS 3 – Access, Movement and Parking – Policies AMP 2 and AMP 7

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.

Policy AMP 2 Access to Public Roads

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Department's published guidance. Consideration will also be given to the following factors:

- the nature and scale of the development;
- the character of existing development;
- the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement;
- the location and number of accesses; and
- the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.

Policy AMP 7 Car Parking and Servicing Arrangements

Development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic.

Beyond areas of parking restraint identified in a development plan, a reduced level of car parking provision may be acceptable in the following circumstances:

- where, through a Transport Assessment, it forms part of a package of measures to promote alternative transport modes; or
- where the development is in a highly accessible location well served by public transport; or
- where the development would benefit from spare capacity available in nearby public car parks or adjacent on street car parking; or
- where shared car parking is a viable option; or
- where the exercise of flexibility would assist in the conservation of the built or natural heritage, would aid rural regeneration, facilitate a better quality of development or the beneficial re-use of an existing building

Proposals involving car parking in excess of the Department's published standards or which exceed a reduction provided for in a development plan will only be permitted in exceptional circumstances. In assessing car parking provision, the Department will require that a proportion of the spaces to be provided are reserved for people with disabilities in accordance with best practice. Where a reduced level of car parking provision is applied or accepted, this will not normally apply to the number of reserved spaces to be provided.

DFI Roads have been consulted as part of the proposal have offer no objections subject to conditions. It is considered that there is sufficient room for parking and for two in curtilage car parking spaces on the site.

Other Matters

In relation to the right of way which has been raised by a number of the objectors. The plans indicate a right of way has been retained as part of the scheme. The planning system operates in the public interest and does not exist to protect the private interests of one person against the activities of another (SPPS paragraph 2.3). The private right of way becomes a civil matter with regard to both parties and as the objectors are aware of and have commented on the application they have not been prejudiced in any way. The lands to which the objectors refer are located outside the settlement limit, the correct process to have these lands designating as development land is the Local Development Plan it is not something to be determined through an objection to a planning application. No determining weight is attached to the objectors concerns regarding the private right of way.

Contaminated lands

Due to the previous activities at the application site (Garage/petrol pumps) may have caused the land to be affected by contamination, Regulation Unit (NIEA) were therefore consulted as part of the process. They requested a Preliminary Contaminated Land Risk Assessment (PRA) in order to identify whether this development would have significant adverse impacts on the water environment. A Contaminated Land Risk Assessment and Outline Remediation Strategy report was provided by Pentland Macdonald Limited (PML) in support of the application. PML conclude that the site presents potential risks (reduced quality soils, reduced quality groundwater and ground gas presence) to human health receptors and as such outline remediation measures have been presented. A Detailed Remediation Strategy report is not presented for this development and is required. A Groundwater Monitoring Plan and a Piling Risk Assessment are also recommended for production prior to the commencement of the proposed development. On this basis the Land and Groundwater Team within the Regulation Unit (RU) have no objections to the development provided Conditions and Informatives are placed on any Planning Decision Notice, as recommended.

NI Water

The application is subject to Planning Committee agreement on imposition of a negative planning condition to address NIW concerns.

Conclusion

The application has been assessed against the relevant planning policies and material considerations including objections and taking into account the input of the Councils consultees, it is determined that the proposal is acceptable in planning terms. The density is in keeping with the area and the details and layout of the proposed dwellings, amenity space, parking, design, form, proportion, materials, finishes and boundary treatments are in keeping with the SPPS, PPS7, PPS7 Addendum.

Recommendation:

Approval

As per the Scheme of Delegation, as the applications has attracted six or more material planning objections from different addresses and the recommendation is for approval then the application will be presented to the Planning Committee.

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

Site location plan – 1910-05

Existing topographical survey – 1910-01

Proposed Site layout plan – 1910-02REV M

Proposed Site Sections – 1910-13-REV E

Proposed Plans, Elevations and Section - House Types B and C – 1910-12

Proposed Plans, Elevations and Section - House Type A -1910-10

Proposed Plans, Elevations and Section - House Type D -1910-14A

Landscaping Proposals – 21-033 L101 REV B

Conditions:

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

Reason: Time Limit.

2. The development hereby permitted shall take place in strict accordance with the following approved plans: 1910-05, 1910-02REV M, 1910- REV E, 1910-10, 1910-12, 1910-14A, 21-033 L101 REV B.

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

3. All hard and soft landscape works shall be carried out in accordance with landscaping Plan **21-033 L101 REV B**, prior to the **occupation** of any part of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planting 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: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

4. The development hereby permitted shall not **commence** until a Detailed Remediation Strategy informed by a Detailed Quantitative Risk Assessment and Remedial Options Appraisal is presented which addresses all unacceptable risks to receptors. This strategy should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. This strategy must be submitted in writing and agreed with the Planning Authority and should identify all unacceptable risks on the site, the remedial objectives/criteria and the measures which are proposed to mitigate them (including maps/plans showing the remediation design, implementation plan detailing timetable of works, remedial criteria, monitoring program, treatment methods, authorisations required etc).

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

5. The development hereby permitted shall not be **occupied** until the remediation measures as described in the Detailed Remediation Strategy submitted under Condition 4 have been implemented to the satisfaction of the Planning Authority. The

Planning Authority must be given 2 weeks written notification prior to the commencement of remediation work in order to inform the Land & Groundwater Team within the NIEA Regulation Unit.

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

6. The development hereby permitted shall not **commence** until the Planning Authority receive in writing for agreement a groundwater monitoring programme. This programme shall detail the monitoring points, sampling and analytical programme, monitoring frequency and programme pre, during and post development. This monitoring programme will complete when there are demonstrable no impact to water receptors.

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

7. 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. This Condition only applies if a piling foundation is being used at the site. 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://webarchive.nationalarchives.gov.uk/20140329082415/http://cdn.environment-agency.gov.uk/scho0501bitt-e-e.pdf>

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

8. The development hereby permitted shall not **commence** until all fuel storage tanks (and associated infra-structure) are fully decommissioned and removed in line with current Guidance for Pollution prevention (GPP 2) and the Pollution Prevention Guidance (PPG27) and the quality of surrounding soils and groundwater verified. Should any additional contamination be identified during this process, Conditions 5 and 6 will apply.

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

9. 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 Land Contamination: Risk Management (LCRM) guidance. In the event of unacceptable risks being identified, a Remediation Strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction. This strategy should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance.

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

10. After completing the remediation works under Conditions 5, 6, 8 and 9 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 Land Contamination: Risk Management (LCRM) guidance. 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. The Verification Report should also ensure to verify fully any waste management movements from the subject site in relation to remediation works undertaken.

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

11. **No development activity shall take place**, including ground preparation or vegetation clearance until newt barrier fencing has been put in place along the northern boundary line between the site and the property located at 40a Downpatrick Road, to prevent any newts from entering the construction zone.

Reason: To protect newts and their place of refuge.

12. The upper floor ensuite window on side elevation of House Type D as shown on plan 14A shall be glazed in obscure glass. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

Informatives

1. This decision relates to planning control and does not cover any other approval which may be necessary under other legislation.
2. Public water supply within 20m of your proposal, the Developer is required to consult with NIW by means of a Pre Development Enquiry (PDE) to determine if there is capacity to serve this proposal. Application to NIW is required to obtain approval to connect. Foul sewer within 20m of the proposal, the Developer is required to consult with NIW by means of a pre-development Enquiry (PDE) to determine if there is capacity to serve this proposal application to NIW is required to obtain approval to connect. Surface water sewer within 20m of your proposal, the Developer is required to consult with NIW by means of a Pre Development Enquiry (PDE) to determine if there is capacity to serve this proposal. Application to NIW is required to obtain approval to connect.
3. All demolition and construction activities should be undertaken in line with best practice guidance. Demolition and construction activities should pay due regard to the current standards; BS 5228-1:2009+A1:2014 and BS 5228-2:2009+A1:2014 A2:

4. The purpose of the Conditions 4 to 10 is to ensure that any site risk assessment and remediation work is undertaken to a standard that enables safe development and enduse of the site such that it would not be determined as contaminated land under the forthcoming Contaminated Land legislation i.e. Part 3 of the Waste and Contaminated Land Order (NI) 1997. It remains the responsibility of the developer to undertake and demonstrate that the works have been effective in managing all risks.
5. Regulation Unit recommends that the applicant consult with the Water Management Unit in NIEA regarding any potential dewatering that may be required during the development including the need for a discharge consent. Discharged waters should meet appropriate discharge consent conditions. Further information can be obtained from:
<https://www.daera-ni.gov.uk/articles/regulating-water-discharges>
6. The applicant should ensure that the management of all waste materials onto and off this site are suitably authorized through the Waste and Contaminated Land (Northern Ireland) Order 1997, the Waste Management Licensing Regulations (Northern Ireland) 2003 and the Water Order (Northern Ireland) 1999. Further information can be obtained from:
<https://www.daera-ni.gov.uk/articles/waste-management-licensing>
<https://www.daera-ni.gov.uk/topics/waste/waste-management-licensing-exemptions>
<https://www.daera-ni.gov.uk/articles/regulating-water-discharges>
7. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
8. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development,

Case Officer

C. Moane

Date 21/12/2022

Authorised Officer

A.McAlarney

Date 21 December 2022

Summary for Committee

LA07/2019/1254/F - 42 Downpatrick Road Killyleagh - Item 6



Scottish Provident Building
2 Donegall Square West
Belfast
BT1 6JH

T: 028 9091 5410
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Ref: **Date: 04 January 2023**
Title: 42 Downpatrick Road, Killyleagh
Subject: Summary for Committee Meeting on
11 January 2023

My name is David Worthington, I am a Chartered Town Planner representing the applicant. The agent in this application is Kieran Dempsey who will be with me, as will Ennis Murphy one of the directors of the applicant company.

We are attending to ask for the application to be approved.

We support and agree with the Council's planner's reasoning and accept the conditions that are proposed.

Through the application process we have tried to respond to all the issues that have been raised by the Council, consultees and objectors as a result of which the application has been subject to a series of alterations to reach the form of development that is currently proposed.

It is worth highlighting a number of points raised by the planning officer in the report.

The development site is located in the urban area of Killyleagh, as a result there is a presumption in favour of development. Planning policy is clear in relation to housing development in urban areas: it should not cause unacceptable damage to residential amenity. This means that proposals may be visible from existing properties but must not cause the loss of privacy by overlooking.

As noted by the case officer the proposal has taken considerable account of the neighbouring dwelling in its positioning, the height of its ground floor levels below those of the adjoining house and including the deliberate positioning of non-inhabited rooms with frosted glass windows on the second floor adjacent to the boundary to protect its amenity.

Overall therefore, the proposal does not cause unacceptable damage.

The proposal was also adapted to incorporate the private right of way that allows access to the rear of the site. This right of way is to agricultural land outside the settlement, as such it is not development land; the right of way therefore facilitates agricultural access.

Finally the proposal incorporates buffer planting in accordance with PPS 7 on its boundary with the countryside.



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In respect to sewage services, the planners are proposing a condition to ensure the proposal is appropriately serviced in a manner acceptable to NI Water. This is wholly appropriate, NI Water has its own legislation that manages new connections to the sewage network. That legislation exists separately to planning and NI Water should not be permitted to delay planning permissions in those circumstances. The proposed planning condition is entirely appropriate in these circumstances.

Accordingly the proposal is appropriately located in an urban area, it meets the requirements of the planning policy framework, the issues raised by third parties have been largely met and the consultees are satisfied.

We therefore ask the Committee to approve the application.



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

Application Reference: LA07/2021/2005/F

Date Received: 09.11.2021

Proposal: Erection of dwelling and garage

Location: Lands approximately 25m north-east of 212 Concession Road and approximately 20 south west of Shelagh Youth Club Cullaville

Site Characteristics & Area Characteristics:

The application site is a small plot which is part of a larger field, located off the Concession Road, Crossmaglen. The site is located in the southern tip of the field, just to the north of number 212 Concession Road. The site lies opposite Shelagh Youth Club.

The site is located outside any settlement limits designated in the Banbridge/ Newry and Mourne Area Plan 2015. Concession Road is a Protected Route.

Date of Site Visit: 24/01/2022; 09/08/2022



Site History:

LA07/2016/0283/F

- Rear of 210 Concession Road Culloville Crossmaglen BT35 9JD
- Retention of 1 dwelling as built
- Permission Refused

P/2012/0225/F

- 50 metres east of no.210 Concession Road Cullaville
- Proposed Manager's house to existing shop and filling station complex
- Permission Refused

P/2011/0165/F

- 50 metres east of no 210 Concession Road Culliville Co Armagh BT35 9JD
- Manager House and detached garage (domestic) to shop and filling station complex.
- Permission Refused

P/2007/0355/RM

- Adjacent and north-east (to the rear) of 210 Concession Road, Culloville, Crossmaglen
- Erection of bungalow
- Permission Granted

P/2003/1422/O

- Adjacent and north-east (to the rear) of 210 Concession Road, Culloville
- Site for single storey dwelling
- Permission Granted

P/1995/0889

- 70 Metres North-east Of No 210 Concession Road Crossmaglen Newry
- Erection of bungalow
- Permission Granted

P/1977/0748

- Clonalig, Crossmaglen
- Proposed Youth Club with Attached Games Area
- Permission Granted

Planning Policies and Material Considerations:

Banbridge Newry Mourne Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21 - Sustainable Development in the Countryside

Planning Policy Statement 3 – Access, Movement and Parking

Building on Tradition

Consultations:

DFI Roads – No objections in principle to the proposal. The A37 is a PROTECTED TRAFFIC ROUTE and Planning must be satisfied that this application falls within the exceptions listed in the policy relating to accesses onto protected routes. If this application does not fall within the exceptions listed, then it should be REFUSED.

NI Water – No objections

Objections and Representations:

Neighbours were notified of the proposal 22.11.2021 and 18.08.2022. The proposal was also advertised in local press on 24.11.2021.

No objections or representations have been submitted for consideration.

Consideration and Assessment:

Strategic Planning Policy Statement (SPPS)

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

Planning Policy Statement 21 – Sustainable Development in the Countryside

Policy CTY 1 states a range of types of development which in principle are considered to be acceptable in the countryside.

Planning permission will be granted for a dwelling at an existing cluster, in line with Policy 2A – *new dwellings in existing clusters* - provided all the following criteria are met:

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

The cluster of development lies outside of a farm. It consists of four or more buildings (excluding ancillary buildings).

The cluster includes 3 dwellings – numbers 210, 210A and 212 – along the laneway off Concession Road. Shelagh Youth Hall sits on the roadside opposite the site.

- *The cluster appears as a visual entity in the local landscape*
The cluster is located off the Concession Road and is accessed via laneway. It is not considered the cluster appears as a visual entity in the local landscape. On approach from the south, the three dwellings noted above are shielded from view by a row of mature trees and are only partly visible. These dwellings do not read with the youth centre located on the opposite side of the road, given the rising field and range of trees which shield the youth centre from view entirely along the Concession Road (photo below).
On approach from the north-west along Concession Road, views of the cluster in the local landscape are extremely limited.

On approach from south/east:



On approach from north/west of site:



- *The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads;*
The Shelagh Youth Centre is considered a social/community building which is associated with the cluster. The site is therefore considered to meet this criterion.

Shelagh Youth Centre opposite 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 site is bounded to the south by residential dwelling number 212 Concession Road. To the north of the site is open agricultural land. The existing laneway serving dwellings beyond the site (222A and 214) runs between the application site and the youth centre. The site is therefore not bounded on at least two sides with other development in the cluster.

The site is not considered to provide a suitable degree of enclosure, as it is part of a wider field. Any development would be heavily reliant on planting to offer any degree of enclosure along the northern, north-eastern and north-western boundaries. The proposal therefore fails this policy criterion.

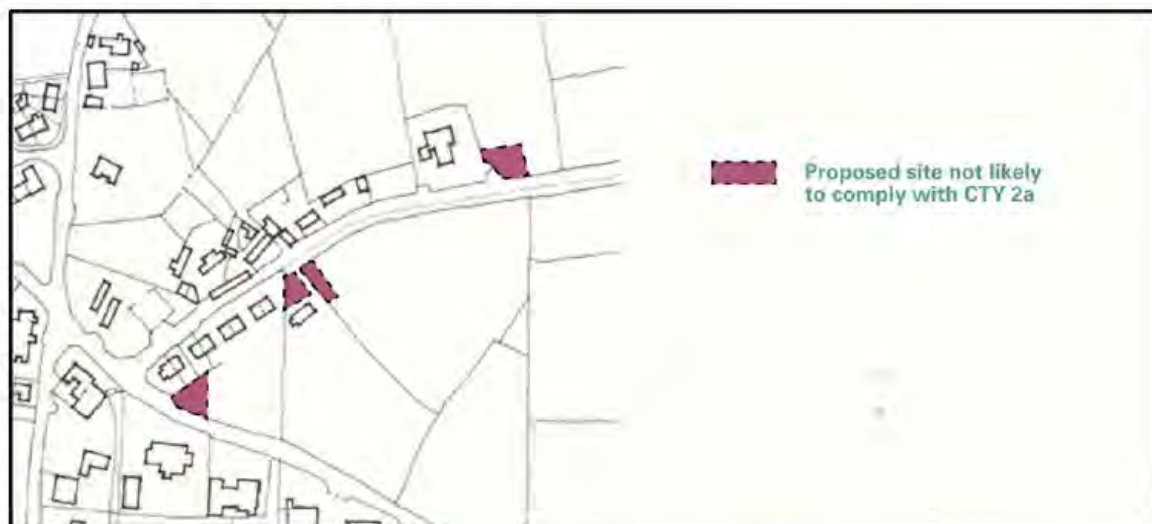


- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and*

Building on Tradition outlines that it is not acceptable to extend the extremities of a ribbon by creating new sites at each end. The siting of the proposal to the northeast of a ribbon is therefore not considered acceptable. It extends a ribbon and does not 'round off' or consolidate the cluster.

To approve an application at the site would significantly alter the existing character of a large, open agricultural field and would visually intrude into the open countryside on approach from the Concession Road.

Excerpts from Building on Tradition, re CTY 2a consideration – plots outlined in purple are not likely to comply with CTY 2a:



- *Development would not adversely impact on residential amenity.*
The proposed development is not considered to adversely impact on residential amenity.

It is considered that the proposal fails to meet all of the requirements of Policy CTY2a and does not represent one of the specified types of development considered acceptable in principle in the countryside within Policy CTY 1 of PPS 21.

Additional information from the agent:

The nominated agent provided the Council with a number of supporting statements (received 9th November 2021 28th February 2022, 20th April 2022 and 7th September 2022) to outline how the proposal met the relevant policy tests.

The agent's responses included the following:

- *The cluster is well defined in the context of the wider countryside area and along this stretch of the Concession Road. The cluster as a visual entity is emphasised by the presence of shared characteristics, namely the traditional stone walls mirrored along the staggered crossroads. These visual ties can be seen along the southeast boundary of the proposed development, at the entrance to 224's laneway and along the site boundary of the youth club.*
- *The proposed site is clearly integrated into the surrounding cluster due to the presence of associated buildings and vegetation. It is also submitted that the presence of mature foliage further contains the proposed development within the visual entity.*
- *The youth club does in fact bound the proposed site on its northeast side. The Council and PAC have been willing to allow a consideration of the characteristics of the proposed development in light of the test requirements of CTY 2a. A willingness to deviate from the black letter of the policy has been shown. The narrow laneway, with a width of approx. 4.9m, lies to the northeast of the site towards the youth club. It is submitted that the youth club has the effect of bounding in the proposed site and effectively ensuring it is consolidated within the one visual entity, especially on the basis that it flows directly into the laneway.*

Other decisions referenced:

- *LA11/2020/0903/O – the application was looked at in the context of the cluster as a whole and the road, which bound the eastern border of the site, was deemed to sufficiently bound the site.*
- *LA11/2019/0807/O – the proposed site provides a suitable degree of enclosure and is bound at two sides with no. 58 and no. 55, which are other developments in the cluster. In this instance, the council did not see the roadway between the site and no. 55 as preventing the dwelling at 55 from sufficiently bounding the property.*
- *LA07/2018/0300/O – planning permission was approved due to the nature of the site in its consolidation of the cluster and its relation to the staggered cross-roads.*
- *LA09/2019/0837/O – the road had the effect of creating a boundary to the proposed dwelling for the purpose of CTY2a.*

Appeal decisions

- *2010/A0202 – the proposal complied with the policy's broad overall intent in that it would round-off and consolidate an existing cluster of development without changing the area's character.*
- *2012/A0237 and 2014/A0075 – the PAC regards the essential thrust of the policy as a critical consideration in determining compliance with policy, as well as the letter of the particular policy.*
- *2017/A0147 - overriding material considerations such as the design, composition of the appeal site and its actual relationship with neighbouring development would allow for approval, despite conflict with the letter of the policy.*
- *2021/A0010 – the PAC found that where the proposal did not strictly comply with the fourth criterion of Policy CTY2a, the application should be approved as it complied with the thrust of the policy.*

Corbett V Cornwall Council [2022] EWCA Civ 1069

- *The Court of Appeal held that the term 'immediately adjoining' in the policy could have a variety of meanings, and Cornwall's interpretation had been reasonable. The Court*

of Appeal held that 'it is a concept of planning policy. It requires the exercise of planning judgement on the particular facts of the site and proposal in hand'.

Council consideration of rebuttal:

- As noted above, it is not considered that the cluster appears as a visual entity in the local landscape.
- As noted above, it is not considered that the proposal provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.
- The Planning Authority are not convinced by the supplementary evidence submitted that the youth club bounds the proposed development. There is a clear visual break between the two, by the presence of the laneway which runs alongside the eastern boundary of the site.
- The agent has outlined a number of applications where the decision-maker has acknowledged a degree of flexibility be applied in relation to policy. These applications outlined by the agent across the supporting statements submitted do not stand on all fours with this application.

It is not appropriate or good practice to compare applications, as each application must be assessed on its own merits. The Planning Department remain of the opinion that the proposal does not meet all of the essential criteria of the policy. It cannot therefore be considered acceptable.

Policy CTY8 – Ribbon Development

Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

The application site does not represent a small gap within an otherwise substantial and continuously built-up frontage and therefore is not an exception to the policy. The granting of a dwelling on the application site would add to a ribbon of development along Concession Road, contrary to Policy CTY 8.

CTY 13 – Integration and Design of Buildings in the Countryside

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.

The site benefits from its distance from the main Concession Road. It is not considered the building would be a prominent feature in the landscape. Views of the site would be limited considering the level of built development along the laneway and Concession Road on approach from north-west. On approach from the south, a row of mature trees and rising nature of the roadside field also shield the site from view.

The ancillary works would integrate with their surroundings. It has been noted that along this laneway, there are a range of architectural styles and designs present. The design of the proposed dwelling is considered appropriate for the site and its locality.

The site does not provide a suitable degree of enclosure for the building to integrate into the surrounding landscape. The proposal would be reliant on the use of new landscaping for demarcation and integration, as it is a portion of open field.

The proposal is therefore considered contrary to criteria b) in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.

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 an area.

The proposed new dwelling is not considered unduly prominent in the landscape. The impact of ancillary works would not damage rural character.

The proposal results in a suburban style build-up of development when viewed with existing and approved buildings along this laneway. The proposal would add to a ribbon of development along Concession Road.

The proposal is therefore considered contrary to criteria b) and d) of CTY 14.

CTY 16 – Development relying on non-mains sewerage

The application complies with this policy. A condition should be included to ensure a copy of a consent to discharge be submitted prior to commencement of the development.

Annex 1 – Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking

Planning permission will only be granted for a development proposal involving access onto Protected Routes in the following cases:

- a) A Replacement Dwelling – where the building to be replaced would meet the criteria set out in Policy CTY 3 of PPS 21 and there is an existing vehicular access onto the Protected Route.
- b) A Farm Dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.
- c) A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development set out in Policy CTY 7 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.
- d) Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

The proposed access is to be obtained from a Protected Route - Concession Road.

The proposal does not meet any of the above categories for exemption, including category d) – as the development doesn't meet other policy criteria for development in the countryside.

DfI Roads have advised that Planning must be satisfied that the application falls within the exemptions listed in the policy. As the application does not fall within the exemptions listed, DfI Roads have advised that this application should be refused.

Recommendation:

Refusal

Refusal reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:
 - the cluster does appear as a visual entity in the local landscape;
 - the identified site does not provide a suitable degree of enclosure and is not bounded on at least two sides with other development in the cluster; and
 - the proposed development will not be absorbed into the existing cluster through rounding off and consolidation and will significantly alter the existing character, and visually intrude into the open countryside.
3. The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, add to a ribbon of development along Concession Road.
4. The proposal is contrary to Policy criterion b) of Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.
5. The proposal is contrary to criterion b and d of Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

6. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy AMP 3 of Planning Policy Statement 3 Access, Movement and Parking, in that the proposed development does not fall within the exceptions listed in policy.

Case Officer: E.Moore 14/11/2022

Authorised Officer: C Cooney 15th November 2022

LA07/2021/2005/F – Erection of Dwelling and garage – Lands approximately 25m northeast of 212 Concession Road and approximately 20m south west of Shelagh Youth Club, Cullaville Armagh

The refusal reasons given by officers overlap extensively i.e. if it is accepted the site is an acceptable rounding off opportunity, this will address Policies CTY 2a, CTY 1, CTY 8 and CTY 14 of PPS 21 and also the Protected Routes Policy of PPS 3 (AMP 3) – Reasons 1, 2, 3, 5 and 6. The other planning and environmental issues concern the site's means of enclosure. If it is accepted that the site does in fact round off the cluster, then the manner in which Policy CTY 13 is applied changes materially and the issues laid out in the 4th refusal reason will not be determining.

There are no concerns with the size of the proposed dwelling and garage, its visual / physical impact, or the standard of the access that is proposed. The issues primarily relate to the subject of rounding off. A cluster has been officially acknowledged by officers, albeit not the full extent of the cluster.

Officers considered only part of the cluster – the part that lies along the private lane, leading to Sheelagh Youth Club, but do not allude to the fact that O'Neills Filling Station is another part of this cluster also – the analysis has been that the cluster lies along a private lane but in actual fact the cluster is much larger and straddles both sides of Concession Road also. Policy CTY 2a does not exclude development on the opposite side of the road to the application site. Because this part of the cluster has not been referred to in the analysis of the proposal, then the judgement of whether the cluster appears as a visual entity needs to be revisited. We are hopeful members, with their local knowledge will recognise the filling station is part of the cluster.

The distance from the youth club to the licensed premises is 160 metres. As one walks from one to the other, the application site is the only un-developed site along this side of the lane. It is opposite, but no further into the countryside than the youth club, so the proposal categorically does not extend development into the open countryside, contrary to the refusal reasons given by officers. When standing in the youth club car park, the filling station is visible, and the application site is visible, at the end of the line of three dwellings that lead up to the youth club (but not past the youth club). In short, as the site does not lie beyond any building, in any direction, then it can be considered to be rounding off development standing on the site, one feels surrounded by development on at least two sides.

Officers feel the site lacks suitable means of enclosure, creating a conflict with Policy CTY 13. But officers accept there are no issues with integration, such is the nature of the critical viewpoints. So, if the means of integration is adequate, then the site's means of enclosure is not as critical, and Building on Tradition, which is relied upon in officers' assessment, advises applicants to look to sites with at least two and preferably three boundaries in place. The applicant has surpassed this minimum requirement.

Officers correctly point out that it is not normally acceptable to extend the extremities of a ribbon of development. However, they do not mention the exceptions to this general approach, which include infill sites and the rounding off of existing clusters (as in this case, where the ribbon is not actually extended). Unlike frontages for infill sites, ribbon developments can straddle both sides of a road or lane, and the crux of this case is that the proposal does not extend past the youth club with which the dwelling will cluster. Clearly the presumption against ribbon development cannot apply within a ribbon that is inside an existing cluster, provided (as is the case here) the cluster is not extending outwards, past the last building, into the countryside.

Officers suggest that when viewed from Concession Road the cluster will extend into the countryside. That argument is undermined by the planning department's other argument that the cluster does not appear as a visual entity in the landscape, because the site is well screened from Concession Road and the youth club is not visible from there. In relation to the concerns about means of enclosure, officers do not mention that the only place from which this purported flaw is apparent is at the end of the

LA07/2021/2005/F – Erection of Dwelling and garage – Lands approximately 25m northeast of 212 Concession Road and approximately 20m south west of Shelagh Youth Club, Cullaville Armagh

lane, past the youth club. This part of the lane is not public hence members may require to visit the site to see this at first hand.

In relation to Policy CTY 14 of PPS 21, because the dwelling will actually consolidate development around the cluster with twin focal points of Sheelagh Youth Club and O’Neills Filling Station, then it has to be judged in terms of the visual entity of all the developments in between the aforementioned focal points. The consolidation of this wider cluster is accepted in policy and because the site lies at a focal point and does not extend further back from the lane than the next house or further along the lane than the youth club it does not actually encroach into the countryside.

Officers do not accept that the site is bounded on at least two sides by other development within the cluster (because there is a gravel track separating the site from the youth club). Policy CTY2a requires that “the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;”. A strict reading of the policy does not actually preclude the granting of permission for a dwelling which is bound by a road or laneway, as the letter of policy prescribes that it be bound on at least two sides with “other development in the cluster”. The legal definition of ‘development’ as per Section 23(1) of the Planning (Northern Ireland) Act 2011 is “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land”. The laneway present to the north east of the site is an engineering operation which has been constructed on the land and so constitutes development.

The applicant has presented precedents that show how in some cases even a two-lane public road was accepted by this Council as not formally separating a site from the cluster, but these examples have not been rebutted by the planning department. Whilst the applicant is not relying solely on these precedents, precedent is always an important material consideration but has not been accepted as such – the argument has been set aside on the basis that it is not good practice to replicate precedents. But to fail to respect precedents introduces an argument of administrative fairness and consistency in decision-making, and creates the impression that it is only “good” precedents that will be respected with “bad precedents” ignored. Whereas officers feel it is not appropriate to compare applications, it is believed the opposite is true, because a public authority is compelled to assess applications equitably and with a high degree of consistency.

Officers dismiss examples cited where the decision-maker has itself cited a degree of flexibility to be applied in relation to policy. Even if the cases differ, as has been suggested by officers, officers have not acknowledged or realised that it is unfair and inconsistent to apply a policy with flexibility in some cases but not others. This issue needs to be made clear so that there is certainty all applicants are being treated equitably.



Comhairle Ceantair
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agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0030/F

Date Received: 21.12.2021

Proposal: Erection of replacement dwelling and garage with associated ancillary site works

Location: The application site is located approximately 265 metres west of No. 30 Levallyreagh Road, Rostrevor

Site Characteristics & Area Characteristics:

The site outlined in red extends to include an existing building, portion of an existing laneway, and then cuts across a field along a hard-cored surface to adjoin the Levallyreagh Rd.

The application site is located 265 metres west of No. 30 Levallyreagh Road, Rostrevor. The application site is located at the end of a shared laneway approx. 280m from Levallyreagh Road. This laneway serves another dwelling No. 34 and farm buildings located 60m east of the dwelling to be replaced.

The existing building to be replaced is single storey, with window and door openings present albeit in a dilapidated state. There is no roof although different rooms are evident. The site surrounds itself are quite open although due to the setback distance the dwelling to be replaced cannot be seen from the roadside. A new access is proposed from Levallyreagh Road, approx. 100 south of No. 26 Levallyreagh Road (Image 1). An informal agricultural access exists as seen in image 1. The track is undefined in terms boundaries and consists of grass and gravel. The agricultural track runs from the roadside to the west towards the rear of the roadside field and cuts through into the adjoining field and runs north along existing field boundaries to meet the existing laneway.

The application site is located 1.7 miles north east from Rostrevor. The surrounding area is countryside with residential dwellings dispersed along the roadside, off private laneways and farm buildings are also prevalent in the area.



Image 1 Application Site

Site History: No relevant planning history

Planning Policies & Material Considerations:

This planning application has been assessed under the following planning policies:

- Banbridge, Newry and Mourne Area Plan 2015,
- Strategic Planning Policy Statement (SPPS) for Northern Ireland,
- PPS21 - Sustainable Development in the Open Countryside,
- PPS 2 Natural Heritage,
- PPS3 - Access, Movement and Parking,
- PPS 15 Planning and Flood Risk,
- DCAN 15 - Vehicular Access Standards,
- Building on Tradition Sustainable Design Guide.

Consultations:

DFI Roads DFI Roads considers the application unacceptable as submitted. Insufficient detail is available on transportation issues. Should Planning Service be minded to progress the application towards an approval DFI Roads require the following points to be addressed:

1. DFI Roads will require access from the proposed dwelling to existing substandard access laneway to be permanently and properly closed up and demonstrated on 1/500 scale drawing, as the existing access could still be used by the applicant and the proposed access would be considered remote than the remaining existing access to the public road.
2. The existing access is considered substandard and would require sightline of 2.0m x 60m to be acceptable to the Department in terms of intensification.

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

The above information was requested from agent on 8 June 2022 via email with a timeframe for submission of 17 June 2022. No amended plans have been received and the supporting information submitted via email has not satisfactorily addressed the issues or concerns.

NI Water Approved with standard conditions

Objections & Representations:

One neighbour notification was issued on 11 November 2022. The application was advertised in the local press on 19.01.2022. No third party representations were received.

Consideration and Assessment:

Proposal

The application seeks consent for a replacement dwelling and garage and new vehicular access from Levallyreagh Road, Rostrevor. The access proposed is 150m south of the existing access, which is substandard. The existing access is to remain as it is and will not be stopped up.

The Banbridge, Newry and Mourne Area Plan 2015

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

Strategic Planning Policy Statement (SPPS)

As there is no significant change to the policy requirements for the proposal following the publication of the SPPS and it is arguably less prescriptive the retained policies of PPS21 will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS. Furthermore paragraph 6.78 of the SPPS requires that the supplementary guidance contained within the 'Building on Tradition' a Design a Sustainable Design Guide for the NI countryside' is taken into account in

assessing all development proposals in the countryside.

PPS21 - Sustainable Development in the Open Countryside

Policy CTY1 states that a range of types of development are acceptable in principle in the countryside. This includes replacement dwellings if they are in accordance with Policy CTY3. The existing building displays essential characteristics of a dwelling – doors and windows openings, front storm porch and room divisions are visible and the building is reasonably intact with the exception of the roof which is gone. I consider the building is eligible for replacement under CTY 3.

SITING – The replacement dwelling should normally be sited within the established curtilage of the existing building. The site layout shows that the proposed dwelling is sited in the established curtilage of the existing dwelling to be replaced. I consider this acceptable. The existing building to be replaced is set back 300m from the public road. This existing building to be replaced is not visible from the roadside due to the undulating topography and set back distance.

DESIGN – The design is a linear dwelling with small projections to the front (3m) and rear (1.5m) on the right hand side. The proposed dwelling measures 23m long, 9.1m wide and 6m ridge height. A first floor is provided with two bedrooms, dressing room and shower etc. A double garage is proposed with storage space on a first floor. Finishes include smooth render, natural roof slate, UPVC rainwater goods, windows and doors. Parking is to the rear adjacent to the garage which is tucked behind the building line of the proposed dwelling. A landscaped front and rear garden will be located to the north and south. I consider the design acceptable.

ACCESS – The plans indicate the proposed replacement dwelling and garage will use a portion of the existing laneway from the immediate site, however will then cut across a field to create a new separate entrance on to the Levallyreagh Road approx. 150m south of the existing access lane access/entrance.

The existing laneway entrance/access is to remain unaltered and is not to be closed up. The dwelling to be replaced cannot be occupied at present or even with minor modification, therefore policy requires that current visibility splays of 2.4m by 60m are required. The existing access is substandard, the agent has indicated that the existing access cannot be brought up to standard due to ownership issues.

Policy requires that in cases where the existing access is substandard improvements are required, without the same, intensification of the existing access cannot be permitted. In this case there is a solution to improve a substandard access serving another dwelling and farm buildings which would lead to planning gain.

The issue regarding this access relates to land ownership that may, or may not, be resolved with the relevant land owners in due course.

The reason for refusal outlined by DFI Roads above is due to the fact the applicant, while proposing a new access, can still access and use the existing substandard access, thus resulting in intensification in its use.

The Planning Dept consider it is not possible to attach enforceable conditions that deal with the issues, that compel the applicant to use the new access proposed, rather than the existing substandard access, without the existing access being closed up. As such the application is recommended for refusal on this aspect.

The proposed access will create a new stretch of laneway cutting across an agricultural field (with no landscaping) and new access point, which would be visually prominent and not integrate with the surroundings within this rural area and AONB. Policy recommends new access driveways should run unobtrusively. It is considered cutting across fields in the manner proposed is not acceptable.

SERVICES – There are a number of dwellings nearby with all necessary services and therefore it is anticipated that these can be extended to the site without significant adverse impact on the environment or character of the locality. The application form indicates that foul sewage will be disposed of using a septic tank and soakaway. No evidence has been submitted to demonstrate that this will not create or add to a pollution problem as required under policy CTY16. Therefore, it would be necessary to impose a negative condition in the event of approval that evidence of consent to discharge be submitted to and agreed in writing by the planning authority prior to the commencement of development. As the matter can be dealt with by condition, the failure to submit information on sewage treatment would not warrant refusal under CTY16.

CTY 13 - Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character

These policies assess new buildings in terms of their design, visual integration and maintaining rural character in the countryside. I consider the proposed dwelling and garage will not result in a prominent feature in the landscape. The proposed dwelling and garage will be set back a considerable distance from the roadside and at a lower location than the roadside which will aid integration. I consider the proposed dwelling and garage are unlikely to be visible from surrounding viewpoints due to the topography of the area and setback distance.

The proposed dwelling and garage will not result in a suburban style build-up of development when viewed with existing and approved buildings. I consider the design of the proposed dwelling and garage are acceptable. In terms of the new access the proposal is contrary to criterion D of CTY 13 and E of CTY 14 in that the ancillary works comprising the new stretch of laneway, which cuts across an agricultural field and new access onto the Levallyreagh Road will damage the rural character of the area.

Planning Policy Statement 2 – Natural Heritage

Policy NH6 states planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of appropriate design, size and scale for the locality and where additional criteria are met. It is considered

that the proposed site and design of the dwelling is acceptable. However, the proposed access arrangements are not considered appropriate within this AONB for the reasons already discussed.

In respect of natural heritage having account the condition of the subject structure (no roof) and extent of the proposals and site constraints it is considered a Bio Diversity checklist or any other ecological information is not required in this instance.

Recommendation: Refusal

Refusal Reasons:

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

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

The proposal is contrary to Policy CTY 1 and CTY13 and CTY 14 of Planning Policy Statement 21; Sustainable Development in the Countryside and Policy NH6 of PPS 2 in that the ancillary works do not integrate with their surroundings and will damage the rural character.

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

Case Officer Signature: Clare McCoy

Date: 17-11-22

Authorised Officer Signature:

M Keane

Date: 17-11-22

LA07/2022/0030/F - Erection of replacement dwelling and garage with associated ancillary site works - Approximately 265 metres west of No. 30 Levallyreagh Road Rostrevor (Mr & Mrs Patrick Burns)

53

- 1) Permission is sought for a replacement dwelling. There are no concerns regarding the principle of a new house nor with the design of the house. This refusal centres on the applicant's inability to close a pre-existing access, that is de-facto redundant (as a means of accessing this dwelling) by virtue of him having constructed, at considerable expense, a new lane with a new access point, within his own farm.
- 2) Until the applicant purchased the lands to the south, the only way into this site was via a shared laneway that led to a third party's farm. Buying land to the south enabled the applicant to construct his own internal access 12-18 months ago. The applicant proposes to use the new access for the dwelling but does not wish to relinquish his original, separate, agricultural right of passage into his farm. There will be no inter accessibility however.
- 3) The planning issues here overlap extensively: If it is accepted the access is sited and designed sensitively, or does not involve development requiring planning permission (because it already exists) then the proposal cannot conflict with Policy CTY 1 of PPS 21, thereby overcoming the first and second reasons for refusal. The third refusal reason cites two policies: CTY 13 and 14 of PPS 21. It is said that the new access is a form of ancillary work that does not integrate with its surroundings. Again, the "new" access is actually already in place. Albeit it is an agricultural entrance only, it is laid out in stone and hard core and can be availed of to serve the new dwelling. Because no physical works are required, there are no "ancillary works" to assess against Policies CTY 13 and 14 of PPS 21 hence reasons 1-3 require significant clarification and Members need to be advised how something that is already in place can be described as being likely to have an adverse impact (when no more works are needed). Members should note that planning permission was not needed for the lane, as it was constructed under agricultural permitted development rights.
- 4) In describing the site, officers acknowledge the lane that is to be availed of is already in place. This undermines subsequent concerns alleging that a new access **will have** an adverse impact on visual amenity. The applicant does not propose to finish this laneway with concrete or tarmac, so it is unclear what additional visual impact will arise or what new operations are proposed that will purportedly undermine the character of the area. It is stated that the new access has no boundaries and consists of grass and gravel. In fact, it is a stoned laneway that is sufficient to enable the applicant to travel in and out of his farm, and will serve his new dwelling in time but for now it serves his farm also.
- 5) Officers' assessment is that the pre-existing access will remain as it is and will not be stopped up. However, it is essentially redundant, operationally, to the occupiers of the new dwelling (but not to the farm). Members deserve an explanation to why officers feel an applicant would construct a new lane, only to keep on using an old access that is contested with third parties, and which is less convenient and of a poorer quality not to mention away from the prevalent direction of travel from the house. Members also deserve to know why the arguments the applicant has presented (which have not been rebutted) about precedents already created have been given no weight.
- 6) Permission should only be refused where planning conditions cannot satisfactorily regulate development. In this case, the applicant has a perfectly acceptable solution: he seeks enough time to enable him to construct the proposed garage only (not the dwelling). That would preserve his permission. If he was allowed to retain the garage, and nothing else, until he closes the pre-existing access, then he will not be prejudicing road safety. The old dwelling is in poor condition. The applicant's children are infants, and the dwelling will not be built in the medium term. The purpose of the application is simply to preserve his replacement opportunity, otherwise the original dwelling will have fallen down and the opportunity of a site for his child will be lost. To protect himself, the applicant just needs to be able to commence this development, but to preserve it he must commence it lawfully hence he cannot close an access that he does not legally own.
- 7) The applicant has gone to great lengths to construct an alternative access, which is now in place and which can serve the new dwelling without necessitating use of the original access. But, until such times as the new dwelling is constructed, the applicant is unable to forfeit his established right of passage, on the original lane, as that would impede his farm. Assuming the applicant was allowed to commence his development, with a condition that site traffic must use the recently constructed access only (which has been verified as safe by DfI Roads) then there is no risk to road safety in consenting to this application with a condition phasing the development, hence members need to know where the risk lies and why compromise or a phased approach will not suffice. Since site traffic could use the recently constructed access, one really must ask why officers worry that someone would

LA07/2022/0030/F - Erection of replacement dwelling and garage with associated ancillary site works - Approximately 265 metres west of No. 30 Levallyreagh Road Rostrevor (Mr & Mrs Patrick Burns)

54

use the old access. Officers suggest they feel a responsibility but surely if a decision notice advised an applicant they should not use the old access because it is unsafe, and informs them that they should use the access they rely upon for this planning application, how could officers accept any responsibility for the subsequent, unlawful, use of this access?

- 8) DfI Roads opined that the proposed access would be considered more remote than the remaining existing access to the public road (suggesting there might be a temptation to continue using it). That opinion borders on the perverse. For anyone leaving the new dwelling, the prevalent direction of travel is towards Rostrevor given its proximity to the main road network and the closer proximity to services. Accordingly, it would be physically taking a driver out of his / her way to use the original access, making it unnecessary if not irrelevant to traffic associated with the new dwelling.
- 9) The rationale for refusal is based upon the speculative premise that the applicant might be tempted to use the old access, subsequent to the occupation of the new dwelling, in an emergency. Members will hopefully see there is a practical solution available that meets planners' requirements, and does not force the applicant to cease use of the original access until it is absolutely necessary. We call upon Members to recognise the practical solutions the applicant has put forward e.g.
 - a) A commitment / condition precluding the applicant from using the old access upon occupation of the new dwelling. It could also dictate that site traffic must use the recently constructed access; OR
 - b) A condition could be applied to ensure that no more than the garage is constructed on the site, before the access is permanently closed (worst-case even the garage foundations). That would leave the applicant with the ability to commence his development, thereby preserving his replacement opportunity – this is a fairly straight forward and pragmatic solution and the applicant hopes Members can press planners to explain why neither of these solutions will suffice.
- 10) We hope Members will determine this as they see it, not on the basis of what might happen later i.e. the unforeseen. We hope Members will press for an explanation as to how works that have been permitted under legislation could conceivably render a subsequent application inappropriate when no action can be taken against them? And Members can hopefully judge whether in the event an applicant signals his intention to cease the use of a substandard access, and creates an alternative access, is it really in the public interest or the interests of road safety to refuse a subsequent application that relies upon a superior access, fully under the applicant's control, than the hypothesis that he might forget this new access and use the old one in an emergency (that forces him to travel away from the prevalent direction of travel)?
- 11) In relation to the original access, as an access for the new dwelling, it would be of no benefit to an applicant, due to third parties' legal interests, and with only agricultural use possible it would be an inhibiting factor to any commercial lender; it is contrary to the prevalent direction of travel; it is a poorer surface than the newly-created lane; and a new dweller would be likely to encounter third parties and farmers if they sought to continue using that, whereas with this proposal none of these constraints will emerge.
- 12) Officers recorded that the applicant's supporting information "has not satisfactorily addressed the issues or concerns". If the applicant's arguments were not rebutted, then there is no evidence they have been fully considered or even acknowledged hence we hope Members can press officers to explain these gaps.
- 13) In short, no new works are required for the access and as there is no development there is nothing in this regard to offend planning policy. Officers need to explain to members how a lane that is in place already "will damage the rural character of the area" – we hope Members will see the merit in the applicant's common-sense approach of resolving these issues by way of planning condition.
- 14) We appreciate that use of the original access would be unsafe and contrary to Policy. However, we also hope that all parties can see the new lane makes it unnecessary for visitors to the proposed dwelling to use the old lane, and we can also confirm that all that exists is an agricultural right of way – this does not equate to the right to use a third party's lane to access an abandoned dwelling. As there is only one lawful means of access to this dwelling the original access' standard is simply a red herring in this debate and we believe this issue can be dealt with by way of restrictive condition.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0751/F

Date Received: 21.04.2022

Proposal: Proposed dwelling, garage and associated site works

Location: Land adjacent and to the rear of 18-28 Moor Hill, Newry
BT34 2QJ

1.0 Site Characteristics and Area Characteristics

1.1 The application site is located outwith any designated settlement development limit as defined within the Banbridge, Newry and Mourne Area Plan 2015 (Map 3/01 Newry and Mourne District). The application site has been screened using online tools for any historic and natural environment designations. There are no known historic or natural environment features identified. The application site is located 0.44 miles (approximately) east of the Settlement Development Limit of Newry.

1.2 The application site is located in a vacant field, the red line is part of a larger field. The application site is accessed via a field gate along the Common School Road. The application site rises from the Commons School Road up towards the rear of the site with varying grass mounds located within the application boundary. Further, there is a massing of vegetation towards the rear and western aspect of the application site. The supporting planning statement submitted by the Agent sets out how this vegetation is to be retained.

Image 1 Extract from the Site Location Plan (drw P01)



Image 2 Photograph towards the application site from the Commons School Road



Image 3 Extract from the Proposed Layout P02A



Image 4 Extract from Elevations Drw P02A



1.3 The application submitted is a full application for the erection of a dwelling house, garage and associated site works under PPS 21 Policy CTY 2a New Dwellings in Existing Clusters. This is assessed below.

2.0 Planning Policies and Material Considerations

2.1 This planning application has been assessed against the following policies:

- Banbridge, Newry and Mourne Area Plan 2015

- Strategic Planning Policy Statement for Northern Ireland
- Building on Traditional Sustainable Design Guide
- PPS 3 Access, Movement and Parking
- DCAN 15 Vehicular Access Standards
- PPS 21 Sustainable Development in the Open Countryside

3.0 Site History

3.1 The table below highlights planning applications contained within the red line application site and immediately adjoining the application site. Further, within the supporting planning statement received via the Agent reference has been made to application LA07/2018/0300/O for a site for dwelling upon which within the case officers report highlights the perceived cluster.

3.2 Planning History Table

Planning Reference	Address	Proposal	Status
P/2005/0867/O	Opposite 7&9 Commons School Road Newry	Site for dwelling and garage	Refused
P/2005/0866/O	Opposite 7 Commons School Road, Newry	Site for dwelling and garage	Refused
P/2006/0035/F	24 Moor Hill Road, Newry	Alteration and extension to dwelling	Approved
P/1996/0034	Commons School Road, Newry (Immediately East of its junction with Moor Hill Road)	Erection of dwelling	Approved
P/1992/1083	Commons School Road (80 metres North and East of Junction with Moorhill Road) Newry	Site for dwelling	Approved
P/1992/1082	Commons School Road (60 metres north east of junction with Moor Hill Road) Newry	Site for dwelling	Approved
P/1989/6027	Moorhill Road	Housing Moorhill Road	Pre-Application Enquiry – Refuse
P/1975/0285	Moorhill, Ballincraig, Newry	Proposed Use of Land for erection of new builders store and office accommodation	Approved
P/1973/0187	Moorhill, Ballynacraig, Newry	Proposed use of land for erection of store	Refused

4.0 Consultations

4.1 The following were consulted in relation to the proposed application:

- NI Water – Initially responded with the recommendation to refuse the application. Following the rectification by the Agent on the means of foul sewage disposal, an amended P1 form was submitted and uploaded to the portal. A re-consultation was issued to NI Water who responded with commentary regarding discharge consent to be obtained from NIEA.
- DFI Roads – No objections to the proposal
- Environmental Health – Initially responded to set out they have concerns due to the application site being positioned near a commercial yard. In its current location occupiers may experience noise disturbance and it would be recommended to relocate the dwelling further away from the commercial yard to minimise potential noise impact. Following a revised drawing being submitted via the Agent a re-consultation was issued and a response received which set out that subject to conditions Environmental Health would have no objections.

5 Objections and Representations

5.1 11 neighbours were identified to be notified with regards to this application. The application was advertised in the local press on the 31st May 2022 and 1st June 2022. No objections have been received to date (28.11.2022).

6 Assessment:

This is a Full application for a dwelling in the countryside on the basis of Policy CTY2a of PPS21- New Dwellings in Existing Clusters (as referred to by the nominated agent).

Banbridge/ Newry and Mourne Area Plan 2015

6.1 Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is Banbridge, Newry and Mourne Area Plan 2015 as the Council has not yet adopted a LDP. The application site is located out with any defined settlement limit as designated in the Banbridge Newry and Mourne Area Plan (Map 3/01 – Newry and Mourne District). There are no specific policies in the Plan regarding the proposed use therefore this application will be assessed against regional planning policy.

Strategic Planning Policy Statement 2015

6.2 As there is no significant change to the policy requirements for the proposal following the publication of the SPPS and it is arguably less prescriptive the retained policies of PPS 3, and PPS 21 will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS.

Building on Tradition Sustainable Design Guide for Northern Ireland

6.3 Paragraph 6.78 of the SPPS requires that the supplementary guidance contained within the 'Building on Tradition' a Design a Sustainable Design Guide for the NI countryside' is taken into account in assessing all development

proposals in the countryside. Section 4 sets out relative information and guidance on clusters in line with CTY2a. Section 6 on New Builds as well as the various design principles throughout the document are relevant to the proposal. Section 6 highlights how buildings can be designed to respect the natural landscape and contours as well as guidance on site boundaries.

PPS 3 Access Movement and Parking

6.4 Policy AMP 2 of PPS 3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety. Paragraph 5.16 of Policy AMP 2 makes reference to DCAN 15 which sets out the current standards for sightlines that will be applied to a new access onto a public road. DFI Roads were consulted with regards to the proposed development and are content with the proposal as presented.

PPS 21 Sustainable Development in the Countryside

6.5 Policy CTY1 states a range of types of development which in principle are considered to be acceptable in the countryside one of which is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;

Policy CTY 2a New Dwelling in Existing Clusters

6.6 Planning permission will be granted for a dwelling at an existing cluster of development provided ALL the following criteria are met:

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

As stated in policy, and as is well established at appeal, a proposal is required to meet all 6 of the listed criteria.

In respect of the first 3 criteria, namely:-

- *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 Agent has referenced in the supporting planning statement application LA07/2018/0300/O, which identified a cluster within proximity to the application site. the red line of this previous application is shown below. The Case Officer on the particular case set out *there are approximately 33 dwellings that read together as a visual entity in the local landscape, the extent of which was roughly defined on the drawing below.*

Image 5 Extract from Case Officer Report Application LA07/2018/0300/O



The Planning Department have no reason to dispute that there is a cluster within proximity to the application site and that this cluster appears as a visual entity within the landscape. Furthermore, the Planning Department do not dispute the Case Officer setting out that this is not a *typically laid out cross-roads, ... in this instance, it is accepted that this is an existing cluster of development.*

The Planning Department do not dispute nor contest the Case Officer Report from application LA07/2018/0300/O nor the relative information set out in the Agent's supporting planning statement with regards to this cluster. However, it should be noted that the majority of the application site on this current application is out-with said cluster upon which the assessment within this report demonstrates.

In respect of criteria 4:-

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

Image 6 Extract of Drawing P02A (as submitted with this application).



The above image shows the application with a building to the north (highlighted in red).

It is acknowledged the site is bounded by several residential properties along Moorhill Rd to the west, and a larger irregular shaped commercial compound to the north. This compound appears to be largely made up of storage containers, although also includes several buildings.

Accordingly, it is accepted the site is bounded on 2 sides with other development that is within the cluster. The properties to the far side of the Commons School Rd (No.7 and 9), to the south of the site, do not bound the application site for the purposes of policy. This point is well established at appeal.

In respect of criteria 5:-

- *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*

The Planning Dept consider the lands comprising the application site (including access, driveway, dwelling and garage), do not represent rounding off and consolidation of the cluster given its disposition in relation to the existing buildings within the vicinity. Rather, the proposed dwelling and garage would present as new development projecting out beyond the existing cluster, particularly when viewed from Commons School Rd.

When approaching the application site travelling along the Commons School Road it is considered the application site would appear as a separate entity to the cluster and would provide a limited degree of enclosure from this aspect.

Within Building on Tradition page 71 sets out *it is not acceptable to extend the extremities of a ribbon by creating new sites at each end*. In essence, this proposal

intends on extending the ribbon east of the defined cluster and would therefore be contrary to policy.

The mature planting which runs along the western and northern boundary of the application site effectively mark the edge of the cluster as per building on tradition, whereby it exemplifies a *line of mature trees* (page 69). The same can be applied for the mature hedging which ... *binds development ... from the rest of the cluster. This means it is not part of the single visual entity that constitutes the main cluster and as a result no new sites can be recommended in or around development ...*

Although a single dwelling on this site might not significantly alter the existing character of the cluster as a whole, it is considered the proposed development would nevertheless visually intrude into the open countryside for the reasons outlined above, and as such fails this key policy requirement.

In respect of the last criteria:-

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

The proposed dwelling is located within a vacant field and is to be surrounded by retained dense vegetation. The proposed dwelling is located approximately 35m from the nearest residential dwelling thus there is an adequate separation distance. In terms of dwelling type the dwelling proposed is single storey with a maximum ridge height of 5.2m. The materials of the dwelling proposed include:

- Roof – Natural Slate
- Walls – Smooth painted render, natural stone where shown
- Rainwater Goods – PVC Gutters
- Windows and Doors – Black PVC

The dwelling is to be accessed via a new access and driveway from the Commons School Road. It is considered that the proposal would not adversely impact residential amenity.

In summary, it is considered the proposed development does not meet ALL of the criteria of Policy CTY2a, which are critical, and as such is contrary to Policy CTY2a of PPS21 when read as a whole.

CTY 13 Integration and Design of Buildings in the Countryside

6.7 CTY 13 states that: *A new building will be unacceptable where:*

- (a) *it is a prominent feature in the landscape; or*
- (b) *the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or*
- (c) *it relies primarily on the use of new landscaping for integration; or*

- (d) ancillary works do not integrate with their surroundings; or*
- (e) the design of the building is inappropriate for the site and its locality; or*
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or*
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.*

The application site will be accessed via the Commons School Rd, whereby the lands rise steadily from this road.

When travelling west along the Commons School Rd it is considered a dwelling and garage on the application site would be a prominent feature in the landscape given the lack of long established natural boundaries and consequent lack of enclosure for the proposed buildings. While it is noted the western and northern boundaries include mature planting, the site for the dwelling and garage will rely primarily on the use of new landscaping to the entire eastern boundary for integration, regardless of its backdrop.

It is noted the design and height of the house are modest in design and the single storey nature will not create an inappropriate incongruous dwelling type within the context of the surrounding dwellings.

However it is considered the proposals are contrary to this policy for the reasons stated.

CTY14 Rural Character

6.8 CTY 14 states that: *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.*

Given that the application does not meet the policy requirements of CTY 2a it is therefore considered that the application would be contrary to CTY 14 in that the proposed dwelling would be unduly prominent in the landscape and would result in suburban style build-up within the surrounds through the extension of the cluster unnecessarily, and would further erode the rural character. The creation of a new access onto the Commons School Road would further create adverse impacts and thus damage rural character whilst adding to a ribbon of development.

Summary

6.9 to conclude it is considered the proposals are contrary to policy CTY1, CTY2a, CTY13 and CTY14 of PPS21.

7.0 Recommendation – Refusal

a. Drawings in which the application relates to P01 and P02A

Reasons:

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

2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the development would not be absorbed into the cluster and would create an extension of a cluster and not consolidation.

3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that:

- the dwelling and garage will be a prominent feature in the landscape, and
- the site relies primarily on the use of new landscaping for integration.

4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that:

- The proposed dwelling would be unduly prominent in the landscape;
- The proposal would result in a suburban style build-up of development when viewed with existing and approved buildings in the locality;
- The proposal would not respect the traditional patterns of settlement exhibited in the area.
- The proposal would add to a ribbon of development along Commons School Road

<p>Case Officer Signature: Roisin McGrane</p> <p>Date: 29.11.2022</p>
<p>Appointed Officer Signature: M Keane</p> <p>Date: 29-11-22</p>

LA07/2022/0751/F - Proposed dwelling, garage and associated site works - Land adjacent and to the rear of 18-28 Moor Hill Newry

- 1) Officers accept there is a cluster of development here. Only one criterion of Policy CTY 2a is contested. The application has rightfully been referred to the Committee, which tends to be less slavish than officers when a proposal complies with the spirit, thrust and intent of the Policy (and examples of the PAC taking this approach have been provided).
- 2) Referral to the planning committee has been requested so we can ascertain how it can be that application LA07/2018/0300/O was approved - in this same cluster - but yet officers now argue this proposal lies outside the cluster. In approving that outline application officers made an assessment of the extent of this cluster (blue hatching on attached slide). We have coloured the application site with green shading on the same slide. The site is materially and substantially within the same geographical cluster that officers have already defined at this locus, so Members need to be informed how the aforementioned proposal complied with Policy CTY 2a yet this does not.
- 3) All other planning concerns are side-issues, not fundamental in their own right, if compliance with CTY 2a is recognised - whether in spirit or in full.
- 4) In the very recent [appeal 2021/A0010](#), permission was initially refused because a site was bounded on only one side by other development within the cluster. The PAC commented that: There is no development to the east and the appeal site is physically separated from the development to the north and south due to the roads. *The appeal proposal does not strictly comply with the policy in relation to the fourth criterion. Although the proposal does not strictly comply with the fourth criterion, I consider that the proposed development would meet the thrust of the policy.* Meeting the thrust of the Policy was sufficient to secure approval at the Planning Appeals Commission so Members will hopefully be able to seek guidance as to why this approach should not prevail in this case.
- 5) If the PAC is content to determine an appeal on the basis of compliance with *Policy CTY2a of PPS21 when read as a whole*, (meaning it is one of the range of types of development which in principle are considered to be acceptable in the countryside) Members will, no doubt, ask themselves whether the PAC would take the same position in the event this refusal was challenged. If the PAC is expected to apply the same standard it has already set, refusing this application would serve no useful purpose, and we hope Members are now reassured that the Policy must be read as a whole here, with no need to get unnecessarily bogged down in finer details.
- 6) Officers acknowledge the applicant's argument drew in its consideration of the aforementioned decision nearby: *The Case Officer on the particular case set out there are approximately 33 dwellings that read together as a visual entity in the local landscape, the extent of which was roughly defined on the drawing* (included overleaf / attached). The fact the cluster has approximately 33 (but maybe more and maybe less) dwellings means that it is appropriate to define the cluster "roughly". If it is appropriate to define the cluster "roughly" Members will require officers to explain the need to refuse the application if there is going to be no detriment to the overall character and environmental quality of this area.
- 7) Officers stated that *it should be noted that the majority of the application site on this current application is out-with said cluster*. We would argue the majority does not actually lie outside the cluster, because the house can be sited inside the hatched area (with just its garden straying outside it).
- 8) Officers reported that *"within Building on Tradition page 71 sets out it is not acceptable to extend the extremities of a ribbon by creating new sites at each end. In essence, this proposal intends on extending the ribbon east of the defined cluster and would therefore be contrary to policy"*. On the one hand it is indicated that the cluster is being extended by way of ribboning, but yet officers do not feel the dedicated policy on ribbon development has been offended and we hope this sufficiently reassures Members to have regard to the development to the south, which already extends the ribbon beyond this site.
- 9) Officers state that *"although a single dwelling on this site might not significantly alter the existing character of the cluster as a whole, it is considered the proposed development would nevertheless visually intrude into the open countryside"*. Undue weight has been placed upon the limited extension into the countryside, because the site is surrounded on three sides by other development within the cluster meaning the Policy's

minimum has been surpassed (there is actually other development across the road, to the immediate south also – which is relevant even if the applicant does not have to rely upon it now). In essence, the site is surrounded on three sides by other development, and it does not extend further to the east than the development with which it is surrounded.

- 10) Officers accept the existence of the cluster, and accept also that the site reads with the cluster. We hope officers can explain why these attributes do not ameliorate any concerns over “prominence” or “integration”. It is not the case that the dwelling will breach the sky line. Since it is set to the northern side of the holding, and is hemmed in between a builder’s depot to the north and residential development to the west, Members require guidance upon how the proposal can conceivably fail to integrate with its surroundings, in these circumstances.
- 11) Officers have adopted the most literal of interpretations in this instance. The real problem is that officers feel the site is encroaching into the countryside. Any undeveloped field in a cluster is, by literal definition, outside the cluster of buildings if it is only immediately bounded on two sides by other development (this is the Policy’s minimum requirement – sites do not have to be bounded on all four sides). The proper judgement required in this situation is the judgement as to whether the proposal is rounding off or consolidating the cluster, or whether it is extending the cluster outwards into the countryside. This particular proposal is not extending the cluster north, south or west. It is not even extending the cluster to the east, because the development to the north and south extends further east than this site does.
- 12) In simple terms, this proposal is indifferent to the development of an undeveloped fourth quadrant at a rural crossroads which would also, by literal definition, extend into the countryside but yet which is an accepted typology.
- 13) Officers opine the dwelling will be a *prominent feature in the landscape given the lack of long established natural boundaries and consequent lack of enclosure for the proposed buildings* but given that the site has established buildings to the side and rear (Building on Tradition confirms two is the minimum number of boundaries that should be in situ) and given enclosure is provided to the rear of the site (when viewed from the south or east [it cannot be seen from the north or west]) there is no substance to this refusal reason.
- 14) Officers state that “*given that the application does not meet the policy requirements of CTY 2a it is therefore considered that the application would be contrary to CTY 14 in that the proposed dwelling would be unduly prominent in the landscape and would result in suburban style build-up*”. The decision rests with Members, who must simply satisfy themselves that if CTY 2a is complied with then, based upon what officers reported, the proposal does not actually offend Policy CTY 14 because this is a type of build-up that is permitted and because the surrounding buildings screen views towards the proposal (ensuring it is not prominent).
- 15) The applicant would be prepared to modify the design of the dwelling if requested, or move it slightly, but as the refusal recommendation is regarded as extreme, members are respectfully requested to consider this matter further rather than risk an unnecessary planning appeal.
- 16) The Policy is permissively worded. It states when permission will be granted, not where it will be denied. Criterion 5 is the contested one. Even at that, officers acknowledge that a single dwelling on this site will not significantly alter the existing character of the cluster as a whole. Their concern is that development will “visually intrude” into the countryside. This is where judgement is required: if the degree of visual intrusion into the countryside is insignificant clearly there is no reason to withhold permission. The cluster is extending in the order of 4% of its area and a significant part of this 4% is garden area, not the building itself, so in reality the degree of visual intrusion into the countryside is miniscule and Building on Tradition shows that this is permissible in its series of examples.
- 17) In closing, we would reiterate that the site is surrounded on three sides by other development whereas Policy only asks that it should be immediately bounded on at least two sides – which has been complied with. If the development to the south is taken into account and is recognised as forming part of the cluster, then there is no question this proposal does not break out and extend the cluster into the open countryside.
- 18) If the Committee is not sufficiently persuaded, we would invite Members to the site themselves or to consider whether reducing the curtilage to the site would resolve the issues. The applicant is open to suggestions and we are happy to take any questions Members may have.



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0096/RM

Date Received: 05.01.2022

Proposal: Dwelling and Garage

Location: The application site is located land west of No.1 Crieve Road, Newry

Site Characteristics & Area Characteristics:

The application site is located west of 1 Crieve Road, Newry and adjacent and east of an NIE substation. The site has been cleared and the ground levels altered during the processing of the application (Images 1 & 2).



Image 1 Application site (3 March 2022 prior to alterations to levels within site)



Image 2 application site (16 August 2022 site levels altered)

Properties on the Crieve Road vary in style although generally speaking to the west side of the road are largely characterised by large detached two storey properties with generous front/rear gardens exist (Image 3).



Image 3 West side of Crieve Road, Newry

The east side of the road is largely characterised by single storey detached dwellings with generous front/rear gardens (image 4), with the exception of no.3 which is 2 storey.



Image 4 East side of Crieve Road, Newry

The Rathfriland Road is located approx 10m west of the application site. There are varying houstypes along this road including semi-detached two storey dwellings



Image 5 Rathfriland Road, Newry

and detached two storey and one ½ storey dwellings (image 5).

To the rear of the application site is an embankment (images 1 and 2) approx. 9m high, with Knockdarragh, a large residential development of detached two storey dwellings located above.

To the north of the application site is Hollywood Grove which is defined by a mix of detached two storey properties (Image 6). The surrounding area is predominately residential with the exception of a petrol filling station and shop 0.2miles to the north,



Image 6 Hollywood Grove, Newry

Site History:

LA07/2020/0227/O Erection of dwelling
Permission granted 12 May 2021

P/2013/0054/O Site for single detached two storey dwelling.
Permission refused:

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since adequate sight distance of 45 metres is not available, on the public road, at the proposed access in accordance with the standards contained in the Department's Development Control Advice Note 15.

Planning Policies & Material Considerations:

- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge / Newry and Mourne Area Plan 2015 (BNMAP)
- PPS 3 'Access, Movement and Parking'
- PPS 7 'Quality Residential Environments'
- PPS 7 Addendum 'Safeguarding the Character of Established Residential Areas'
- PPS12 'Housing in Settlements'
- DOE 'Creating Places, achieving quality in residential developments'

Consultations:

DFI Roads	No objection subject to conditions
NIE	<p>Required at least a two-meter clearance be kept to allow the applicant and future occupants of the development to access the rear of the building to carry out required maintenance as access via the substation is not feasible.</p> <p>The plans have been amended to reflect this.</p> <p>NIE advised OPP conditions still apply. These included:</p> <ol style="list-style-type: none"> 1. <i>Installs Triple glazed windows with help mitigate against the noise impact of the NIE Networks substation. The plans include triple glazing.</i> 2. <i>Positions trees and hedgerows so they can be maintained in order to minimise the impact they may have on overhead lines. The plans reflect this.</i> 3. <i>Use shallow root trees to ensure that roots do not impact underground cables present on this site. The plans reflect this.</i> 4. <i>Use appropriate plant machinery during construction to ensure no damage is caused to either overhead lines or underground cables.</i> 5. <i>Put in place a suitable buffer between the development and the palisade fencing enclosing the substation to prevent access. The plans include a 2m buffer.</i> 6. <i>Allow NIE Networks continued access to the equipment on this site for maintenance and fault reasons.</i>

NI Water Standard response – Approval

Objections & Representations:

Seven neighbour notifications were issued on 23 February 2022. The application was advertised in the local press on 2 February 2022. One third party representation was received.

The third party representation outlined concerns in relation to the removal of trees and landscaping between the rear of the application site and 44 Knockdarragh, behind and above application site. Concerns were also raised that a piece of land to the rear of the application site and between 44 Knockdarragh could be claimed within the development of this dwelling, when this land is not owned by the applicant. I have checked the application drawings – proposed site layout 1736 02 Rev E and it is clear this strip of land is not included within the site and the trees and landscaping (outside the redline of the site) referred to by a third party is to remain.

Note: Amendments were sought from the agent on 7 April 2022 requesting a fundamental re-design on the basis that the Planning Department consider:

- The proposed dwelling is out of keeping with this predominantly residential area. The agent was advised there is no context for this form and design in this residential area and the reliance of the petrol filling station and respite centre which are non-residential is misplaced.

- The footprint of the dwelling and garage is too large for the site and results in overdevelopment.
- The design of the parking area with a large area of parking and hard standing to front is poor quality, it needs to be amended with the amount of hardstanding significantly reduced.
- The site has a minimal area of usable private amenity space, again due to the large footprint, this needs to be amended to have soft planting areas and usable garden areas to both the front and rear.

The agent submitted an amended site plan 1736 02 Rev E which altered the following:

- Provision of a 2m buffer between the garage and the palisade fence of the substation to alleviate concerns of NIE regarding access.
- The home office to the rear of the site is removed and replaced with a raised planter.
- The parking arrangement at the front has been amended and additional landscaping adjacent to the entrance gate.

No amendments to the design of the dwelling were submitted, a rebuttal statement has been submitted in relation to the concerns raised by the Planning Department, this will be covered in more detail in the assessment and consideration section of this report.

Consideration and Assessment:

Note: This report is based upon the following plans 1736 01, 1736 02 Rev E ,1736 03 Rev A and 1736 04.

Proposal

This application seeks reserved matters consent for the construction of a dwelling and garage. The dwelling proposed is two storey with a flat roof, while the double garage is single storey. Parking for two vehicles is accessed via a new entrance from Crieve Road. A 1.8m smooth render high wall with planting dispersed is to be constructed along the front (north) and side (east) boundary. 1m – 2.5m high gabion retaining walls are to be built along the western boundary extending to the rear boundary (south).

Regional Development Strategy 2035

RG8 of the RDS aims to manage housing growth to achieve sustainable patterns of residential development. It aims to provide more high quality accessible housing within existing urban areas without causing unacceptable damage to the local character and environmental quality or residential amenity of these areas.

The principle of a dwelling on this site is acceptable under the previous application LA07/2020/0227/O for erection of a dwelling. I consider the proposal is acceptable in relation to the regional housing policy of the RDS.

The Strategic Planning Policy Statement (SPPS) for Northern Ireland

There is no significant change to the policy requirements for residential development following publication of the SPPS, the retained planning policies are PPS7 Residential Environments, PPS7 Addendum, PPS12 and DCAN8. These policies will be given consideration in determining the proposal in accordance with paragraph 1.12 of the SPPS.

With regard to housing in settlements the SPPS offers clarity on issues such as good design, impact on residential amenities and the need to provide adequate amenity space, all relevant to this application. Paragraph 6.137 of the SPPS identifies the need to deliver increased housing without town cramming and promotes the importance of new housing respecting local character (*my emphasis*). Paragraph 4.27 states that Planning Authorities will reject poor design, particularly proposals that are inappropriate to their context, including schemes that are clearly out of scale, or incompatible with their surroundings (*my emphasis*).

Banbridge, Newry and Mourne Area Plan 2015

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan, so far as material to the application, and to any other material considerations. The site is located within the settlement limits of Newry (NY01), on land regarded as white-land. Given there are no specific requirements within the BNMAP applicable to this application, the previous outline approval and retained policies of PPS7 (including addendum) and PPS12 will be given weight in determining this application.

Outline Planning Conditions

The principle of constructing a dwelling on this site has already been accepted at outline application stage noted under the site history section of this report. The application currently under consideration seeks reserved matters approval for the dwelling. Those reserved matters include the siting, design and external appearance of the dwelling as well as details relating to access, landscaping and restrictions relating to the adjacent electricity substation. The acceptability of those reserved matters are considered below together with other considerations material to the application.

The outline approval attached specific conditions which required:

- Ridge height no greater than 6.5m above FFL.
- Underbuilding no greater than 0.3m between FFL and existing ground level.
- Triple glazed windows.
- Trees and landscaping positioned so that no impact on overhead cables.
- Use of shallow root trees to ensure no impact on underground cables.
- Suitable buffer between development site and palisade fencing of substation to allow access.

I consider the proposed scheme meets the requirements of the above conditions.

Planning Policy Statement 7 – Quality Residential Environments

Planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment and subject to conforming with the criteria listed in A-I of QD1.

The proposal is considered to fail criteria A and C of Policy QD1 detailed below:

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

The Planning Authority consider that this proposal fails to respect the surrounding context and character of the area in terms of layout, scale, proportions, massing, form, appearance and landscaped areas.

Para 4.8 of PPS 7 states *'the Department considers that analysis of context is particularly important for infill housing, backland development or redevelopment schemes in established residential areas. Whilst such development can usefully contribute to housing supply, great care will be needed to ensure that the individual or cumulative effects of such development proposals do not significantly erode the character and amenity of existing areas, for example through **inappropriate design or overdevelopment**'* (my emphasis added).

It is considered the design of the proposed dwelling which includes a large bulky block with flat roof is inappropriate, out of keeping with and is alien to the character of this wider residential area. While it is noted the overall height is less than 6.5m it is considered the scale, massing and appearance of the building are unacceptable for the reasons listed.

Also, the footprint of the building which is shown below is considered unduly excessive and results in over-development of the site. The result of this large footprint is to appear crammed in to the site, with little spacing to the respective boundaries to either side and rear. The issue of usable private amenity space is covered further below.



There is no room for any future extension, and as a result of the close proximity of the dwelling to the side and rear boundaries, retaining walls are being proposed, rather than respecting the former existing ground levels on site.

Para 4.13 states *particular care will be necessary in preparing layout proposals on sloping sites in order to minimise the impact of differences in level between adjoining properties, existing or proposed. The use of prominent retaining walls within and at the margins of sloping sites will be unacceptable (my emphasis).* 1m – 2.5m high gabion retaining walls are to be built along the western boundary extending to the rear boundary (south), the planning authority consider this is poor quality and unacceptable.

The size of the dwelling proposed including its footprint is that excessive the only space left for the double garage proposed is in front of the dwelling and building line immediately adjacent to the roadside which is considered poor quality and again indicative of the over-development of the site.

The supporting document and emails submitted by the agent refers to Carrickore Respite Centre 250m south of the site, Windsor Day Centre 210m west of the site and Wards Rockmount Petrol Filling Station 320m north of the site as the buildings upon which have informed the contemporary design of the proposed dwelling. The Planning Authority consider the proposed design is out of keeping and alien to this area. The agent's reliance on other non-residential buildings spread along the Rathfriland Road is misplaced, there is no context for the proposed form and design in this predominately residential area.

In summary, the proposed design of the dwelling is considered to be out of keeping with the character of the area, poor quality boundary treatments and minimal open space areas have resulted due to the large footprint and overall the dwelling is too large for the site and is an example of overdevelopment. The proposal fails to meet criteria A.

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

There are no impacts on features of archaeological or built heritage.

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

Given the nature and scale of the development public open space is not a requirement. However, the proposed development is required to have a level of private open space areas to the rear and landscaped areas to front which soften the site boundaries and provide visual interest. The provision of usable private amenity space within the site was raised as a concern with the agent. The changes the agent made in terms of the landscaped area to front provides an improved visual appearance, however, the removal of the home office and inclusion of a raised planter does not go far enough to alleviate the concerns of usable rear amenity space. Image 7 below shows the site in the surrounding context, with the green areas indicating the existing rear gardens enjoyed by the properties in the surrounding area.



Image 7 Rear open space areas in surrounding context



Image 8 Green areas highlighted to show minimal open space within application site

Whilst the two drawings are at a different scale, Image 7 clearly shows the provision of substantial areas of usable amenity space to the rear of existing properties. In many cases the areas of amenity space exceed that recommended. By contrast Image 8 shows the proposed dwelling and the size of rear amenity space being proposed, which is considered minimal and inadequate. The pockets of amenity space indicated and roof terrace are noted, however it is considered insufficient provision of usable private amenity space is provided within the curtilage of the site. The footprint of the dwelling is such that there is no space for an area of usable private amenity space to the rear, with the building extending up to the rear boundary, whereby it is considered the development proposed does not create a quality and sustainable form of development. Criteria C of policy also states planted areas will be required along the site boundaries to soften the visual impact and assist its integration. As stated, it is proposed to construct a substantial retaining wall along the side and rear boundaries of the site as a result of the proximity of the building to these respective boundaries which is at odds with this policy requirement and is considered to be poor quality response to the site and development.

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

Given the nature, location and scale of the proposal, there is no requirement for the applicant to provide local neighbourhood facilities.

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

Given the nature, location and scale of the proposal, there is no requirement for the applicant to provide a movement pattern.

f) Adequate and appropriate provision is made for parking;

The scheme has an adequate level of space for parking and the manoeuvring of vehicles. DFI Roads have no objection.

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

While the layout, design, and associated scale, mass and appearance of the proposed dwelling are considered unacceptable the finishes/materials proposed, including self coloured white render finish with sedum/gravel roof, aluminium triple glazed windows, timber doors, aluminium rainwater goods, are considered acceptable. Criterion G is met.

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

The design and layout of the proposed dwelling are considered to be designed in such a way to avoid any unacceptable impact on any adjoining property in terms of overlooking, loss of privacy, overshadowing or loss of light. The respective levels of neighbouring properties are also noted. Criteria H is met.

- i) *The development is designed to deter crime and promote personal safety;*
The proposal complies with this criterion.

I am content that the proposal will not give rise to crime or antisocial behaviour and it should promote personal safety in the same regard as the existing dwellings. Criteria I is met.

Addendum to Planning Policy Statement 7 - Safeguarding the Character of Established Residential Areas

Annex E of the Addendum defines established residential areas as normally taken to mean residential neighbourhoods dominated by medium to low density single family housing with associated private amenity space or gardens. The Planning Authority consider that the application site is located within an Established Residential Area.

Policy LC1 of Addendum to PPS 7 states that it is an amplification of Policy QD1, seeking to strengthen existing policy criteria in PPS 7 to ensure that the quality of these established residential areas are maintained, if not enhanced. In established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

- a) *the proposed density is not significantly higher than that found in the established residential area;*
The proposal is for one dwelling, it is not considered this is significantly higher than the existing density of the area. The proposal complies with criteria A.
- b) *the pattern of development is in keeping with the overall character and environmental quality of the established residential area; and*
The Planning Authority consider the proposed development fails to respect the existing pattern of development in terms of its layout, form and scale and would erode the overall character and environmental quality of the established residential area. The proposal fails to comply with criteria B.
- c) *all dwelling units and apartments are built to a size not less than those set out in Annex A.*

The proposed dwelling is to be built to a size not less than those set out in Annex A of Policy LC 1.

PPS12 Housing in Settlements

The RDS and SPPS repeats the themes of the planning control principles (PCPs) listed in PPS12. The PCPs are material considerations to decisions on individual planning applications for housing development in settlements. They include:

- PCP1 *increased housing density without town cramming* – The application site is suitable for the development of dwelling as identified by the outline planning permission. However, there are concerns in relation to the proposed scheme in this established residential area as the scale, form and layout of the proposed dwelling fails to respect that of adjacent housing and represents overdevelopment of the site thus eroding the local character of the area.
- PCP2 *good design* – The design of the scheme fails to successfully respect the context of the area in that the proposal is clearly overdevelopment of the site and incompatible with the context.
- PCP3 *sustainable forms of development* – the use of sites like this within the urban footprint is more sustainable than one-off housing developments outside development limits and is therefore encouraged. There are local facilities and services available in the city centre at walking distance from the site. The proposal accords with this PCP.
- PCP4 *balanced communities* – the residential element is small scale and therefore this planning control principle is not directly relatable to the proposed development. The developer will not be required by condition to provide any social housing as the proposed residential element is small scale.

Recommendation: Refusal

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Strategy for Northern Ireland and Policy QD1a of Planning Policy Statement 7: 'Quality Residential Environments' in that the development does not respect the surrounding context and is inappropriate to the character and topography of the site in terms of its layout, scale, proportions, massing and general appearance.
2. The proposal is contrary to the Strategic Planning Policy Strategy for Northern Ireland and Policy QD1c of Planning Policy Statement 7: 'Quality Residential Environments' in that inadequate provision is made for usable public and private open space and landscaped areas as an integral part of the development.
3. The proposal is contrary to the SPPS and Policy QD1 of PPS7 Quality Residential Environment's in that the development constitutes over-development and will not create a quality residential development.
4. The proposal is contrary to the Strategic Planning Policy Strategy for Northern Ireland and Planning Policy Statement 7, Policy LC 1 in that the development fails to meet criteria (b) of the policy:
(b) the pattern of development is in keeping with the overall character and environmental quality of the established residential area.

Case Officer Signature: Clare McCoy

Date: 8 November 2022

Authorised Officer Signature:

M Keane

Date: 08-11-22



Reference	LA07/2022/0096/RM
Location	West of 1 Crieve Road
Proposal	Dwelling and garage

Response to Refusal Reasons

This application is being refused by The Planning Authority as they have considered the proposal inappropriate to the character and topography of the site in terms of its layout, scale, proportions, massing and general appearance. The Department have also considered the provision of usable private open space and landscaped areas are inadequate within the development. As a result, the Departments considers this proposal to represent overdevelopment of the site and one which is considered out of keeping to the overall character of the established residential areas.

In terms of design, the Department have restricted this to solely residential buildings within the area. However this is contrary to the retained policy. Annex E of PPS 7 states that *For the purposes of this Addendum ... established residential areas are normally taken to mean residential neighbourhoods ... These areas may include buildings in commercial, retail or leisure services use,...* The principle of non-residential buildings being considered within the character and context of a site has been established by the Planning Appeals Commission in appeal **2015/A0190**. The commissioner in this case emphasised that non-residential buildings formed part of the character of an area and overturned the council's decision as similar design elements were found on non-residential buildings within several hundred meters of the proposal.

We would understand if this proposal was an infill site within small cul de sac or housing estate with only one or two house types, however as seen by the images on the screen, this is a site which incorporates a dual frontage onto both Rathfriland Road and Crieve Road and a significant back drop of vegetative bank with two storey dwellings visible on top, therefore a unique opportunity to provide an innovative and architecturally interesting building on a busy thoroughfare which sees 1000s of vehicle movements per day.

We feel the Departments refusal based on the contemporary design are unreasonable and should in fact be promoting this type of innovation, originally and intuitive. We are in a different era of architecture, therefore we do not feel the applicant should be restricted to architecture from the 70s. We feel the Department should be encouraging good design, originally and intuitive. This is something the council, and indeed this committee, through the approvals of various unique contemporary designs.



I wanted to highlight that buildings to the rear tower above and dwarf this particular site. I would also like to draw the committees attention to the considerable amount of commercial plant which front directly onto the Crieve road and Rathfriland road which already has an extremely dominant impact in this streetscene.

The first example, a proposal some of the members may be aware of is the contemporary replacement dwelling in Newcastle. Another contemporary building approved by the planning officers was no.2 Riverside Park. In approving these it was noted that a variety of building types were noted within the area and that these could include non-residential buildings.

The Councillors will now see another building shown on the screen now which is located on the Harbour Road in Kilkeel, and finally another recent example of a contemporary building approved by the Planning Officers in Rostrevor. I'm sure there are many more examples there however these are just a small sample.

It is these buildings which will be looked upon in years to come that will represent the architecture of this time.

With regards to scale, proportions and massing we do not feel these are at an unacceptable level. Due to the size of the plot the applicant could in-fact remove the rear extension then proceed to construct a similar 2-storey extension using their permitted development rights. Moreover, the footprint to plot coverage of the site is 24%. The ERA coverage ranges between 11% to 38% plot coverage.

In terms of usable open space, the applicant has provided in excess of 140sqm of private amenity space, well in excess of the minimum recommended standard suggested within Creating Places.

The Department consider this proposal to constitute over development of the plot and not create a quality residential environment. However, I believe I have outlined today how the plot coverage is similar to those dwellings found within the area. Moreover, Appeal decisions **2019/A0162** and **2019/A0133** both consider overdevelopment as the inability of a development to provide amenity space, bin storage, clothes drying facilities and in curtilage parking. As established above, this proposal can adequately provide all of the above, therefore it cannot be considered over development.

For the reasons outlined today, We respectfully request the Committee overturn the case officer recommendation and approve this application.

Newry, Mourne and Down District Council



The site subject of this application is located at the junction of the Kilmegan Road and the Ardnabannon Road and comprises an island of land surrounded on all three sides by roads (Kilmegan road to the west, Ardnabannon Road to the north and a private access along the eastern side.) The site sits below the Ardnabannon Road and has hedging along all boundaries. There is a small wooden garden shed in the southern point of the site. The site is accessed off the private shared drive off the Kilmegan Road.

The site is not within any settlement development limits as defined in the Ards and Down Area Plan 2015 and is located within the AONB.



Site History:

No recent or relevant planning history.

Planning Policies & Material Considerations:

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

Consultations:

Rivers Agency was consulted and responded with a generic response raising no objections. They note that the site is traversed at the west by a watercourse which is designated under the terms of the Drainage (Northern Ireland) Order 1973, and is known to DfI Rivers as: 'Whistlebane Bog Drain'. The site may be affected by undesignated watercourses of which we have no record.

Under 6.32 of the Revised Policy PPS 15 FLD 2, it is essential that an adjacent working strip is retained to facilitate future maintenance by DfI Rivers, other statutory undertaker or the riparian landowners. The working strip should have a minimum width of 5 metres, but up to 10 metres where considered necessary, and be provided with clear access and egress at all times.

DFI Roads were consulted and initially sought amendments. Upon receipt of these amendments, they have responded with no objections subject to submission of detailed plans and compliance with the RS1 at any Reserved Matter stage. **They emphasise that access, sight visibility splays and forward sight distance (where applicable) are a pre-commencement condition.**

DAERA were consulted given the nature of the proposed development. They responded stating that the Farm Business ID has been in existence for more than 6 years, having been awarded in 1992. Their response states that the farm business has claimed payments through the Basic Payment Scheme or Agri Environment Scheme in each of the last 6 years and they note that the application site is located within an unmapped area.

NI Water have responded with no objections.

Objections & Representations

The application was advertised in the local press which expired 12.08.2022; neighbour notification expired on 08.08.2022. To date there have been no representations received in relation to the proposed development.

Consideration and Assessment:

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

Planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

- a) The farm business is currently active and has been established for at least 6 years;
- b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and

- c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
 - demonstrable health and safety reasons; or
 - verifiable plans to expand the farm business at the existing building group(s).

The farm business in question appears to be currently active and established and the farm has been active since 1992.

DAERA confirms that the farm business was established in 1992. **Point A of CTY 10 has been met.**

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

Criteria (c) requires the proposed dwelling to be visually linked or sited to cluster with an established group of buildings on the farm. The proposed site is positioned across the Kilmegan Road from the main farm dwelling and associated farm sheds. It is not considered therefore that the proposed dwelling, would, if approved, be visually linked and sited to cluster with an established group of buildings on the farm and therefore is not compliant with Criteria C of CTY 10.

While CTY 10 does state that exceptionally consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out farm. Given that the blue line extends around land further to the south of no. 33 Ardnabannon Road, there is considered opportunity for an alternative site for a farm dwelling which would visually cluster and be linked to the farm buildings.

The agent has stated that the application site is acceptable as there is extensive screening of the site through mature hedging and so a dwelling on the site proposed would integrate more than a new dwelling to the south of the farm at no. 33. Officers would consider that a substantial degree of this vegetation would need to be removed to facilitate even a modest sized dwelling and amenity area. No material weight is being attributed to this argument.



Policy CT10 also stipulates that proposals must also meet the requirements of CTY 13, 14 and 16.

CTY13 (g) refers to visual linkage and clustering, the proposed development fails this criterion of CTY13. The development of the site would not be unduly prominent (conspicuous) given the presence of established natural boundaries and the fact that it sits on a lower land level to the Ardnabannon Road and currently has natural boundaries on all sides. This is an outline application, so no details of design have been submitted.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. A new building will be unacceptable where (a) – (e) occur. The development of the site would not be unduly prominent (conspicuous) given the presence of established natural boundaries and the fact that it sits on a lower land level to the road. The site however would create a ribbon of development along the A25 when considered with Nos 73/75 and 77 Kilmegan Road. Proposal will result in a suburban build-up of development.

In terms of pattern of development, officers consider that the site is smaller than the surrounding plot sizes as mentioned previously. A significant amount of hedge and vegetation would need to be removed in order to create space for a dwelling and amenity area. A portion of the site to the north and west are fairly steep banks which are not suitable for development.

The Rivers Agency response also suggests that a 5-10m working strip would need to be left clear and free of development along the western side of the site, this would further reduce the space available to build on or use as an amenity area. Any resultant site resulting from an approval would be smaller than those surrounding.

While the proposal is not considered acceptable in terms of CTY10, the application has also been considered under CTY2a and CTY8.

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

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

There is an existing cluster of development at this location. It does consist of four or more dwellings, at least 3 of which are dwellings, the cluster does not appear as a visual entity in the landscape, the cluster is not associated with a focal point nor is located at a crossroads. The site is bounded on at least 2 sides by development in the cluster and the site would not

visually intrude into the open countryside or affect residential amenity. For the reasons stated above the proposal does not comply with CTY2a.

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

Officers do not consider this application site could be considered a gap site to be infilled, given that it is flanked to the west by the Kilmegan Road and to the east by a private shared access lane, both of which would be considered a break in any frontage along the Ardnabannon Road. The site subject of this application would be the only dwelling on this side of the private access track and so there is no substantial and built up frontage to consider. The site however would create a ribbon of development along the A25 when considered with Nos 73/75 and 77 Kilmegan Road, which CTY8 seeks to avoid.

ACCESS

DFI Roads were consulted and initially sought amendments. Upon receipt of these amendments, they have responded with no objections subject to submission of detailed plans and compliance with the RS1 at any Reserved Matter stage. **They emphasise that access, sight visibility splays and forward sight distance (where applicable) are a pre-commencement condition.**

Considering the above, officers are not satisfied that the proposed siting would visually link or cluster with the existing farm buildings on site and therefore the proposal would be contrary to CTY 10 and CTY13 and CTY14 and is recommended for refusal.

Recommendation:

Refusal

Reason for refusal:

1. The proposal is contrary to policies CTY1, CTY2a, CTY8, CTY10, CTY13 and CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside because the proposed dwelling and garage would not visually link or be sited to cluster with an established group of buildings on the farm, the proposed development is not located at an existing cluster of development and the proposed development would create a ribbon of development along the A25.

Informative:

1. The drawing number to which this decision relates is 01B.

Case officer: J. McMullan

Authorised by: A. McAlarney

Date: 09 November 2022



Reference	LA07/2022/1066/O
Location	SE of 33 Ardnabannon Road
Proposal	Farm Dwelling

Response to Refusal Reasons

The Planning Department have stated in the refusal reasons that the proposed dwelling would not visually link or cluster with an established group of buildings on the farm. This is despite the site being located adjacent to the established group of farm buildings and 33m from the closest farm building.

The objectives of PPS21 are to conserve the landscape and natural resources of the rural area. This site has no agricultural value attached to it. The applicant cannot claim single farm payment on the application site. It would not make sense either in the spirit of PPS21 nor would it be an efficient use of the applicants holding to site a dwelling on the applicants quality agricultural grazing land when this site is available.

This site is entirely enclosed by mature vegetation and is adjacent to the farm building group, whilst also being located at a cluster of built development. Para. 5.41 of PPS21 states that *"where a site adjacent to the existing building group is well landscape, planning permission can be granted for a new dwelling even though the degree of visual linkage between the two is either very limited or virtually non-existent due to the amount of screening."*

In the Case Officers Report it was stated the Council considered *"given that the blue line extends around land further to the south of no. 33 Ardnabannon Road, there is considered opportunity for an alternative site for a farm dwelling which would visually cluster and be linked to the farm buildings"*. However, as the applicant is not applying for an off-site farm dwelling under the exceptionality clause of CTY10(c), as the site is considered to be only 33m from the closest farm building. Notwithstanding that, we consider this is the most suitable site on the farm holding for a farm dwelling. Any other site on the holding would result in the loss of high-quality agricultural land and may have a more detrimental impact on the rural character and appearance of the landscape.

PPS21 also requires an assessment of the impact of ancillary works associated with a new building on rural character. These include access arrangements which can often raise awareness of and draw attention to new development. As the Ardnabannon Road is a Protected Route, other potential sites would have to create a new access laneway onto the adjacent minor road, thereby drawing attention to the new development site and potentially damaging/eroding the rural character of the area. The proposed site will utilise and improve the existing laneway and access onto the Kilmegan Road. The roadside boundary hedges will be retained or reinstated following the works to improve



the access, which is an important element in mitigating the impact of the proposed new development.

With regards to the Policy CTY2a, this proposal would also comply with the criteria outlined in this Policy, in that:

- a) **The cluster appears as a visual entity in the local landscape.** When travelling from Castlewellan to Clough, this cluster of development known locally as “four roads” is visible for large stretches of the road therefore is considered a local entity;
- b) **The cluster is located at a cross roads** known as four roads;
- c) **The existing mature boundary treatments ensure the site has provided a suitable degree of enclosure** and the COR accepted that **the site was bounded on at least two sides by development**
- d) **The site can be absorbed into the cluster and will not alter the existing character or visually intrude into the open countryside.** The site is located on the lower side of Ardnabannon Road and is surrounded by mature vegetation. The proposal would retain the existing boundary treatments to ensure the development would not be seen as a prominent feature in the landscape.
- e) **The proposal will not impact adversely impact residential amenities.**

With regards to CTY 8, 13 and 14 as discussed above as we feel the proposal meets the integration requirements of CTY2a and CTY10, the proposal therefore falls to comply with the provisions of CTY 8, 13 and 14 in that it will not create a ribbon of development, as it will be sited to cluster with an established group of buildings. Consequently, there will be no resulting detrimental change to or erosion of rural character. This is the approach the PAC took in decision **2019/A0016**.

For these reasons, we respectfully request the Planning Committee to overturn the case officer recommendation and approve this application,



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0527/F

Date Received: 28.03.2022

Proposal: Proposed alterations & two storey extension to front of existing dwelling including new replacement garage with store over at rear of dwelling

Location: The application site is located at 41 Windmill Road, Kilkeel BT34 4LP

Site Characteristics & Area Characteristics:

The application site is located at 41 Windmill Road, Kilkeel. No. 41 is an existing storey and half dwelling with a single storey front projection. A double single storey garage is located in the rear garden of the application site. The existing dwelling measures 12.3m – 9m wide 12m long. The upper floor has a ridge height of 6m, it does not extend across the entire footprint of ground floor and measures 6-7m wide and 12m long. The single storey front projection measures 4.6m long and 10.4m long with a 4.7m ridge height.

The site is bounded by No.39 and 43 to either side.

The site boundary with No. 43 consists of a mix of panelled fencing, a wall and planting. The side boundary with No.39 consists of a dashed render wall approx. 1.2m with approx. 0.5m mourne dry stone extending to the rear of the site. Both no.39 and 43 are 1 ½ storey dwellings with dormer windows.

Parking is located to the side and rear. The front garden is located across the road just above the beach, with a hardstanding area and picnic bench and direct access to the beach. This appears to be common practice with each dwelling on Windmill Road.

The site is located outside settlement limits in a rural area as defined on the Banbridge / Newry and Mourne Area Plan 2015. It is adjacent to the coast facing the Irish Sea and the most southerly point of Northern Ireland (Cranfield Point) is just beyond the site to the south. Shanlieve Holiday Park is located 0.3km to the south east. The site is within the Moumes and Slieve Croob Area of Outstanding Natural Beauty. Windmill Road is a narrow road with only room for one vehicle. The area is

heavily built up with a long line of development (mainly single houses) stretching along this part of the coastline. The dwellings to either side of the site are of similar size and scale to the host property, although there are varying housetypes along this road including single and two storey dwellings and dwellings with front balconies that overlook the seafront.



Site History: No relevant planning history

Planning Policies & Material Considerations:

This planning application has been assessed under the following:

- The Banbridge, Newry and Mourne Area Plan 2015
- Strategic Planning Policy Statement (SPPS) for Northern Ireland
- PPS 2 Natural Heritage
- Planning Policy Statement 7 (Addendum) Residential Extensions and Alterations Policy EXT 1.
- Planning Policy Statement 21 Sustainable Development in the Countryside

Consultations:

Having account the location of the site, nature of the proposal and constraints of the area, consultation was undertaken with NIEA and SES.

SES This planning application was considered in light of the assessment

requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Newry, Mourne and Down District Council which is the competent authority responsible for authorising the project. Having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site.

Elimination Reason: No viable pathway for pollutants arising at the application site and impacting on the European Protected Site exists.

NIEA Water Management Unit refer the Planning Authority to DAERA Standing Advice - Single Dwellings available at: <https://www.daera-ni.gov.uk/publications/standing-advice/development-may-have-effect-water-environment-including-groundwater-and-fisheries> which contains Conditions and informatives relevant to this proposal.

Objections & Representations:

Ten neighbour notifications were issued on 20 April 2022. The application was advertised in the local press on 13 April 2022. Eleven third party representations were received from nine households. Concerns raised included:

- Size and scale
- Privacy
- Building line
- Sewerage
- Detracts from surrounding area, not in keeping
- Impact on AONB
- Set undesirable precedent
- Coastal erosion and climate change impacts

Amended plans (drawings – 103/A1, 104/A1, 107/A1) were submitted following concerns from the Planning Department and objections. This report is based on this amended scheme which includes:

- Reduction in size of the front projection to the existing footprint
- Height reduced to 7.1m from 7.3m
- Removal of upper floor windows, ensuite remains which is obscured glazing

The current plans are a lesser scheme and it is deemed neighbour notification is not necessary in this case due to this reduced nature, and as neighbours are not prejudiced.

Consideration and Assessment:

Proposal

The application seeks a two storey extension to the front of the existing dwelling with replacement outbuilding to the rear. The agent was requested to amend the scheme to reduce the footprint of the extension, height and remove overlooking from the upper floor. An amended scheme was received, these are the current plans which have reduced the size of the front projection to the existing footprint, the rear part of the dwelling is not altered. The height of the two storey extension is reduced to 7.1m from 7.3m. The only new upper floor window is an ensuite which is obscured glazing.

The proposed outbuilding is 9.6m long, 6.5m wide with a ridge height of 5.9m. The outbuilding is to accommodate a garage with storage above.

Banbridge, Newry and Mourne Area Plan 2015

Section 45 of the Planning Act (NI) 2011 requires the Council to have regard to the Local Development Plan (LDP), so far as material to the application and to any other material considerations. The relevant LDP is the Banbridge, Newry and Mourne Area Plan 2015. The site is located outside the settlement limit of a designated settlement and within the Mournes AONB. There are no specific policies in the Plan relating to the proposed use therefore this application will be assessed against regional planning policy.

Strategic Planning Policy Statement (SPPS)

As there is no significant change to the policy requirements for the proposed alteration and extension of a dwelling following publication of the SPPS, the retained planning policies are PPS 2 Natural Heritage, PPS7 addendum Residential Extensions and Alterations and PPS 21 Planning Policy Statement 21 Sustainable Development in the Countryside. These policies will be given substantial weight in determining the principle of the proposal in accordance with para 1.12 of the SPPS.

PPS 7 (Addendum) Policy EXT 1: Residential Extensions and Alterations

Scale, Massing and Design

The proposal involves the construction of a two storey front extension to the existing single storey front projection. The proposal is to accommodate a master bedroom, ensuite, and dressing room. The existing rear upper floor is reconfigured to provide a bathroom, hallway, bedroom and recreational area. The existing dwelling measures 12.3m – 9m wide 12m long. The upper floor has a ridge height of 6m, it does not extend across the entire footprint of ground floor and measures 6 - 7m wide and 12m long. The single storey front projection measures 4.6m long and 10.4m long with a 4.7m ridge height. The proposed extension measures 10.4m long, 4.6m wide (no increase) and a ridge height of 7.1m (increase of 2.4m). The height of the two storey extension was reduced to 7.1m from 7.3m which is similar to No.37, 20m to the NE,

this is acceptable.

While it is acknowledged the works proposed will materially affect the appearance of the dwelling, particularly the frontage, which includes changing from a chalet gable end presentation to the road to a more conventional pitched roof, having account the eclectic mix and character of this Windmill Rd, and relatively minor scale of the works proposed, on balance it is considered the scale, massing, design, appearance and proportions are not out of keeping, and are acceptable, and will not set any particular precedent.

Notwithstanding the changes to the roof pitch and shape and frontage to the road, the proposals are considered to be subordinate in size to the existing dwelling and materials are to match the existing dwelling which is acceptable. The front balcony at first floor level is not out of place along Windmill Road as many dwellings in the area have balconies to take advantage of the seafront view.

It is also considered the works proposed will not adversely impact on the building line created by existing units, although the siting of each unit along this road is noted.

The proposed outbuilding is subordinate in size and scale to the existing dwelling, it is tucked behind the dwelling to the rear and will have no greater impact than the existing outbuilding which will be replaced by the proposal.

In the round, it is considered the proposals (as amended) will not result in any detriment to the surrounding area.

Privacy and Amenity of Neighbouring Residents

The proposed extension will be approx 4m from the common boundary with No. 39 to the east which is set 4.5m from the common boundary with the application site. To the west the extension will be approx 4.5m from the boundary with No. 43, this property is 2m from the common boundary and the dwelling is set back approx 5m from the front building line of the dwelling on the application site.

Notwithstanding the layout of the existing dwelling including openings along the respective returns, the proposals include additional 1 first floor en-suite window on the side facing No. 43, although which is positioned forward facing the front garden area. This window can be conditioned to have obscure glazing fitted to ensure no overlooking will result.

There are no first floor windows facing No. 39 to the east therefore I do not foresee overlooking to be an issue.

It is considered the ground floor openings will not result in any unacceptable overlooking or loss of amenity on the adjoining residents, due to their nature and the existing boundary treatments. As stated above, the existing openings are noted.

While it is noted the shape of the dwelling will be altered as a result of the proposals including change in roof pitch, it is considered the proposals will not result in any unacceptable overshadowing, loss of light or dominant impact on the properties to either side, due to the relatively minor scale and extent of the works, and proximity to

the common boundary and dwellings beyond.

Loss or Damage to Trees/Landscape

There is no loss or damage to trees or landscape features as a result of the proposed development.

Impacts on amenity space within the curtilage of the property

There is little impact on the rear amenity space as a result of the proposal, there remains ample space for domestic activities and enjoyment of the rear garden. The parking provision is at the front and is not affected as a result of the proposed works.

Impact on AONB

Having account the existing built form along this road, including various house types, sizes and designs, it is considered the works proposed will not have an adverse impact on the Mourne AONB.

As this is a minor extension to an existing dwelling, it is considered there are no grounds to sustain the proposals on any related coastal erosion and sewerage capacity grounds. The comments from consultees have also been noted.

Summary

While it is noted there is local opposition to the proposals, on balance it is considered there are no grounds to sustain a refusal, thus approval is recommended subject to conditions.

Recommendation: Approval

Conditions:

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

Reason: Time Limit

The development hereby permitted shall take place in strict accordance with the following approved plans: 101/A1, 103/A1, 104/A1, 106/A0, 107/A1

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

The proposed first floor ensuite window on the side elevation shown on drawing 104/A1 shall be fitted with obscured glazing prior to this room coming into use which shall be permanently retained as such thereafter.

Reason: To ensure resident's privacy is not adversely affected.

The proposed first floor garage window on the side elevation facing No.43 Windmill

Road, Kilkeel shown on drawing 106/A0 shall be fitted with obscured glazing prior to this building coming into use which shall be permanently retained as such thereafter.
Reason: To ensure resident's privacy is not adversely affected.

Case Officer Signature: Clare McCoy
Date: 28 November 2022
Authorised Officer Signature: M Keane
Date: 28-11-22



Comhairle Ceantair
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agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0578/O

Date Received: 06/04/2022

Proposal: New dwelling and domestic garage

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



Site Characteristics and Area Characteristics:

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

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

Site History

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

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

Proposed replacement dwelling

Granted 09.11.2015

Planning Policies and Material Considerations:

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

Consultations:

DFI Roads – no objections..

NI Water – generic response - no objections

Rivers Agency – No objections

Objections & Representations:

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

To date there have been no letters of representation received.

Consideration and Assessment:

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

The proposal must further be considered against CTY13 and CTY14.

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

A new building will be unacceptable where:

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

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

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

A new building will be unacceptable where:

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

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

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

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

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

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

Recommendation:

Refusal is recommended.

Refusal Reasons:

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

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

Informative

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

Case officer:	J McMullan
Authorised by:	A.McAlarney
Date:	14 November 2022

LA07/2022/0578/O Description of the application - Proposal: Outline planning permission for a dwelling and domestic garage : Approx. 55m NW of 61 Dromore Road, Ballynahinch Proposed decision (including reasons if the decision is refusal) –

Refusal Reasons: 1 to 3 Policy CTY2a, CTY 8, CTY13 and CTY14

We feel this application complies with the 6 criterion within CTY2a and should be approved. In Cty2a the **first** criteria of the **six** in the policy is to establish if there is a cluster. It states that only groups of buildings which include 4 buildings, 3 of which are dwellings will comply as established clusters. The Planning Dept do agree a cluster exists. This part of the policy excludes ancillary buildings such as garages, outbuildings and open sided structures from the count.

Once criterion 1 and the cluster is established, as it is in this case, criterion 4 does not then exclude those ancillary and other buildings from the assessment of enclosure. Criterion 4 just requires the plot to be bound by 'other development' in the already established cluster, all the buildings in the cluster are counted as 'other development', not just the 4 qualifying buildings in criterion 1. All the buildings in the established cluster come into play for suitable enclosure and cannot be ignored.

The Hall is not widely advertised as it is used for AA meetings. The Hall is used for Al-ANON AA meetings 3 times every week by all sections of the Community. Due to the nature of addiction and the taboo's associated with those trying to beat their addiction those that run the community facility do not widely publicise their activity.

If the application is accepted as compliant with CTY2a then CTY13 Visual Integration and CTY14 Change of Character will also be complied with as the cluster already exists and the proposal will read with those. The table below explains how the 6 criterion are met. Planning agree that criterion 1 and 6 are met, we have shown how 2 to 5 are also met.

	CTY2a		
Criterion	Planning Dept Comments	Applicant Comments	Evidence
First 3 Criterion Relate to the Cluster			
1 - 4 Buildings 3 dwellings	Cluster Exists	Agreed - Cluster Exists	3 dwellings, 1 Hall, 1 Nursery
2 – Visual entity	Does not agree	All buildings in close proximity of the crossroads and hall, they do read as a visual entity	See Photographs below – Policy does not require all the buildings in the cluster to be viewed at once.
3 – Focal Point	Not at crossroads, no Community Hall	The cluster is at a crossroads and includes a Community Hall	Community Hall and crossroads. The Hall is not widely advertised as it is used for Al-ANON AA meetings 3 times every week.
Last 3 Criterion relate to the site			
4 - Enclosure	Only bound on 1 side, by No 24 – Discount No 61 due to strip of ground beside it and discount the large building	Bound on 3 sides	Bound by No 24, No 61 and Large building behind. Strip of ground at No 61 is part of the domestic garden, maintenance as such and used for no other purpose than domestic use associated with

			No 61 (see photos below). The large building is in situ and must be counted by this part, criterion 4, of the policy, it cannot be ignored
5 – Rounding Off	The proposed would extend development and visually intrude into the open countryside.	Bound on 3 sides and completes the cluster by rounding off	Within the natural shape formed by the cluster therefore rounding off
6 – No adverse impact on neighbours	No adverse impact	Agreed	



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

As the evidence now presented provides additional clarity regarding the suitability of the group of buildings at the Crossroads and hall as a cluster and of the site as an integral part of the cluster we ask that this case be approved by Committee. Opportunity to discuss the precise detail of the policy with the Committee will allow the applicant and agent the chance to prove that this application should be approved.



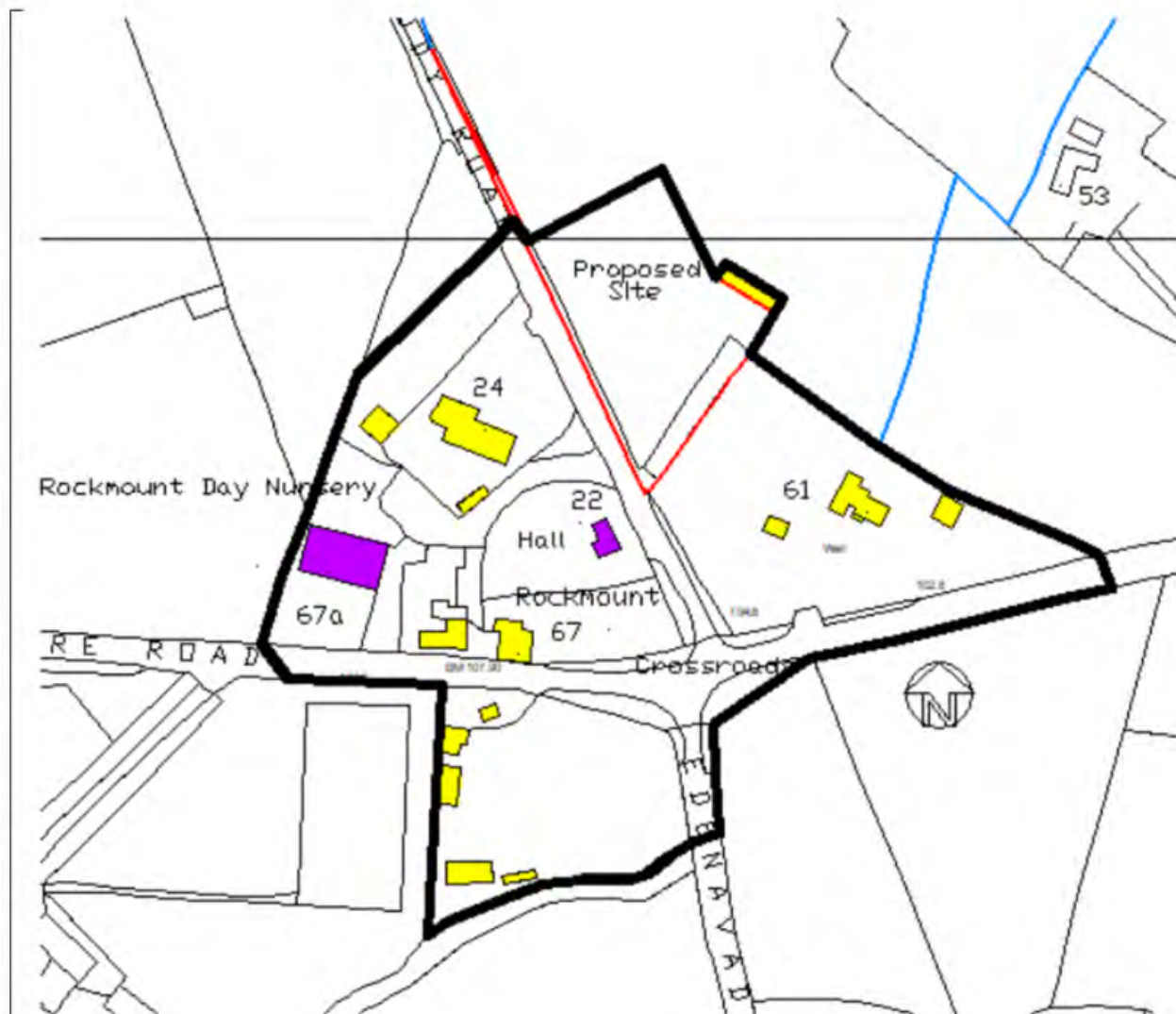


Photo 1 – 6 Buildings in view



Photo 2 – 3 Buildings in View and Crossroads Warning sign



Photo 3 – 3 Buildings in view



Photo 4 – 5 Buildings in View



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**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/0995/O

Date Received: 28.06.2022

Proposal: Proposed new storey and a half dwelling under PPS21 CTY8.

Location: Between 27 – 31 Lessans Road, Saintfield



Site Characteristics and Area Characteristics:

The application site comprises a rectangular sand school set at road level which sits between 31 and 27 Lessans Road. There is an agricultural shed and stable building to the rear of the sand school/ site, it is set on a higher level than the application site and is accessed via a concrete lane along the eastern side of the application site. There appears to be a secondary informal access to the dwelling at no. 31 which runs across the front of the sand school. The site lies outside the settlement of Saintfield and therefore lies in the countryside as identified in the Ards and Down Area Plan 2015.



Site History

History for the adjacent no. 31 Lessans Road

R/2013/0074/F - 75m west of 27 Lessans Road, Saintfield, BT24 7HD

Dwelling and garage on a farm.

Granted 05.08.2013

Planning Policies and Material Considerations:

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

Consultations:

DFI Roads – No objections in principle subject to compliance with RS1.

NI Water – generic response - no objections

Rivers Agency – no objections.

Objections & Representations:

The application was advertised in the local press which expired on 27.07.22 and neighbour notification expired on 02.08.22.

To date there have been no letters of representation received in relation to the application.

Consideration and Assessment:

This application seeks outline permission for the erection of one infill dwelling.

The policy context for this application is provided for by Planning Policy Statement 21 'Sustainable development in the countryside' (PPS21). Policy CTY1 of PPS21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. The applicant has submitted the application on the basis that he considers the proposal to comply with CTY8 of PPS21 (infill dwelling).

Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of the size, scale, siting and plot size and meets other planning and environmental requirements. For the purposes of this policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

In assessment of this application, the site has a dwelling, no. 31 sitting to the west, and several dwellings extending to the east, with no. 27 being the closest. Both of these dwellings, along with a number further east have frontage onto Lessans Road.

CTY 8 states

"For the purposes of this policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear."

Officers consider that the agricultural shed and stable building set to the rear of the application site constitutes accompanying development to the rear and the proposal therefore conflicts with the policy. There is therefore not a substantial and built up frontage on the ground as defined and required by policy.

Furthermore, officers consider that the sand school itself constitutes development and therefore there is no gap to be filled.

It is therefore considered that the proposal is contrary to Policy CTY 8 of PPS 21.

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

These policies assess the impact the proposal will have on the rural area by reason of design, siting, integration, landscaping and overall rural character of the local area.

In terms of CTY 13 the proposal complies with criterion (a) as a dwelling could be erected on this site without it being a prominent feature in the landscape given that there would be existing

development on three sides, with the shed providing a backdrop to the development in views from Lessans Road. The site is quite open and would require at least 3 boundaries to be planted out. This application is for outline permission and therefore no details have been submitted in relation to the dwelling aside from stating it would be storey and a half. The final criterion of CTY 13 is not applicable to the application as it relates to farm dwelling applications which does not apply in this application.

Policy CTY 14. The proposed dwelling will result in a suburban build-up of development. The development will add to a ribbon of development. Proposal is contrary to CTY14.

Policy AMP2 of PPS 3 states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

The proposed dwelling would be accessed via a new access off Lessans Road.

DFI Roads were consulted as part of this application and have no objections subject to compliance with the attached RS1 form. This application does not include the creation of an access onto the Protected Route.

Therefore, having assessed the proposal against the relevant planning policies and material considerations which apply to the application, it is determined that this fails to comply with Policy CTY8 & CTY14 of PPS21 and is therefore recommended for refusal.

Recommendation:

Refusal is recommended.

Reason for Refusal:

1. The proposal fails to comply with the SPPS and Planning Policy Statement 21 Sustainable Development in the Countryside Policies CTY 8 and CTY14 in that the proposal does not lie within a substantial and built up frontage and will result in a suburban build-up of development whilst adding to a ribbon of development.

Informatives

1. This decision relates to drawing numbers: 371-22-01P and 371-22-02P.

Case officer:	J. McMullan
Authorised by:	A.McAlarney
Date:	09 November 2022

In Planning, Ribbon Development is essentially a visual phenomenon relating to presence of buildings, use is secondary. Below concentrates on Planning's core reason for refusal.

Policy CTY 8 – Ribbon Development . . . critical content reads;

"Planning permission will be refused for a building which creates or adds to a ribbon of development.

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

Reason for Refusal

"The proposal fails to comply with the SPPS and Planning Policy Statement 21 Sustainable Development in the Countryside Policies CTY 8 and CTY14 in that the proposal does not lie within a substantial and built up frontage and will result in a suburban build-up of development whilst adding to a ribbon of development. "

For clarity:

- i. **Frontage** is the interface of roadside development with the road; and
- ii. **Ribboning** has been defined as, '*. . . a line of 3 or more buildings along a road frontage without accompanying development to the rear.*' Para 5.33 of CTY 8 also makes clear, *"Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked."*

SITE

Firstly, what is on the ground ? And here, 'a picture is worth a thousand words . . . '



1. A former equine sand school, un-used, effectively a '**brown field**' site, ripe for development.
2. It has a 50m frontage shared within one, '**substantial and continuously built up**' of almost 390m.
3. Three (redundant) stables lie adjacent, sharing an area dominated by a large agricultural cattle shed.
4. It lies within extensive roadside development - a ribbon, albeit of some irregularity .
5. That development is predominantly residential in character.

PLANNING'S CONSIDERATION

Extract from the COR . . .

"For the purposes of this policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear." (CTY 8)

Officers consider that the agricultural shed and stable building set to the rear of the application site constitutes accompanying development to the rear and the proposal

*therefore conflicts with the policy. There is therefore not a substantial and built up frontage on the ground as defined and required by policy.
Furthermore, officers consider that the sand school itself constitutes development and therefore there is no gap to be filled.
It is therefore considered that the proposal is contrary to Policy CTY 8 of PPS 21."*

COMMENT

Is Planning really saying that there is not a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage?

The intent of the quoted policy extract is solely to make clear a **'substantial and built up frontage'** would include existing ribbon development - defined as **'... a line of 3 or more buildings along a road frontage without *accompanying development to the rear.'** It is an inclusive and conclusive statement primarily about ribbon development (referred to by definition), and not about the presence of 'accompanying development to the rear' in any one particular instance. Further, at no point does the extract expressly exclude development of any form.

The stables, if not the cattle shed, were associated with the sand school and together fronted Lessans Road and formed part of a ribbon. Historically, with the sand school in use, presumably Planning would have accepted the mutual presence of a 'substantial and built up frontage' and 'ribbon development'. That an element ceases to be operational should not in itself preclude a change of use – the essence of MR ====='s proposal – so what are Planning's objections in Planning terms? – particularly when the COR states, **'... a dwelling could be erected on this site without it being a prominent feature in the landscape given that there would be existing development on three sides, with the shed providing a backdrop to the development in views from Lessans Road.'**

Is the sand school to languish without alternative use?

Without doubt the particular circumstances of this proposal raise ambiguities and uncertainties in policy so maybe it is appropriate to fall back on one of Planning's fundamental principles, **'that sustainable development should be permitted ... unless the proposed development will cause demonstrable harm to interests of acknowledged importance.'** That the main considerations of ribboning are visual impact, integration and character (see Planning's comments above) this would be reasonable

Planning seems to have been 'caught in the headlights', bound by site history, transfixed by apparently inflexible policy, unable to envisage or negotiate a future scenario. Planning's role should be enabling and conducive of change and development.

*Accompanying in this context means *'alongside, beside, adjacent'* not *'affiliated, integrated'*

There are other issues but considered marginal or beyond - 'Is the sand school development? Is there therefore no gap? Does the absence of PP render the sand school immaterial?



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**Newry, Mourne
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District Council

Application Reference: LA07/2022/1115/O

Date Received: 11.07.2022

Proposal: The application is for outline planning permission for a New Split Level Dwelling.

Location: The application site is located at 2 Rathcuan Heights, Downpatrick.



Site Characteristics & Area Characteristics:

The site comprises a 0.8ha wedge shaped portion of the garden of No 2 Rath Cuan Heights. The site lies on the north side of the estate road into the residential development of Rath Cuan Heights. Part of the site is relatively level with No 2 Rath Cuan Heights but then site falls steeply from No 2 northwards towards the Saul Road. The boundary along the frontage of the site comprises a low level wooden ranch style fence with mature shrubbery. The timber fence continues along the northern boundary with Saul Road. The eastern boundary is partially shared with No 113 Saul Road, by a low level vertical slat timber fence. This boundary runs the length of 113's side and rear boundary. The remaining portion of the eastern boundary is defined by mature fir trees. The dwelling adjacent (No 2) and opposite the site are split level with a garage on the lower level. The houses are all detached in reasonably spacious plots.

Site History:

R/1993/0829 | SITES 1 & 2 Rath Cuan Heights adj to the Manse Saul Road Downpatrick | 2 dwellings | permission granted

R/1994/0346 | SITES 1 2 3 4 5 & 25 Rathcuan Heights Saul Road Downpatrick | 6 No Dwellings | Permission Granted

R/2005/0644/O | Adjacent to 2 Rath Cuan Heights, Downpatrick | Domestic Dwelling | PERMISSION REFUSED 08.12.2005.

Refusal reason:

The proposed development is Contrary to Planning Policy Statement 7 Policy QD1 in that the development does not conform to the following criteria:

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

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

R/2009/0297/O | Adjacent to 2 Rath Cuan Heights Downpatrick | Proposed dwelling | PERMISSION REFUSED 25.06.2009

Refusal reason:

The proposal is contrary to Policy QD1 of the Department's Planning Policy Statement 7: 'Quality Residential Environments' in that it has not been demonstrated that the development would respect the surrounding context and is appropriate to the character of the area and topography of the site.

Planning Policies & Material Considerations:

The site is located within the settlement limit of in the Ards and Down Area Plan 2015 within the AONB.

The application is assessed using the following policies:

Ards and Down Area Plan 2015

Regional Development Strategy

Strategic Planning Policy Statement (SPPS)

PPS 3 – Access, Movement and Parking

PPS 7 – Quality Residential Environments

PPS 7 – Addendum Safeguarding the Character of Established Residential Areas

Consultations:

NI Water – No objections, there is available capacity at the Waste Water Treatment Works.

DFI Roads – No objections subject to RS1 form with visibility splays of 2.0m x 33m to the satisfaction of DfI Roads at Reserved matters stage.

Objections & Representations

In line with statutory requirements neighbours have been notified on 01.08.2022. The application was advertised in the Down Recorder on 10.08.2022 (Statutory Expiry 24.08.2022). No letters of objection or support have been received in relation to the proposal.

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.

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

PPS 7 Planning Policy Statement 7 Quality Residential Environments

PPS7 sets out planning policy for achieving quality in new residential development. Policy QD1 of PPS7 states that residential development should draw on the positive aspects of the surrounding area's character and appearance. Proposals' layout, scale, proportions, massing and appearance should respect the character and topography of their site. It also states that proposals for housing developments will not be permitted where they would result in unacceptable damage to the local character, environmental quality and residential amenity of the area. Developments should not be in conflict with or cause adverse impacts upon adjacent land uses. Development Control Advice Note 8 "Housing in Existing Urban Areas" (DCAN 8) similarly notes that a development's impact on the character and amenity of a neighbourhood's are important matters to consider. Notwithstanding the strategic objective of promoting more housing in urban areas, paragraph 1.4 of PPS7 states that this must not result in town cramming. It adds that in established residential areas the overriding objective will be to avoid any significant erosion of the local character and the environmental quality, amenity and privacy enjoyed by existing residents.

Policy QD1 thereof 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 environment. It further states that the design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.

All proposals for residential development will be expected to conform to all of the following criteria:

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

The proposal seeks approval for a dwelling located in the side garden of No 2 Rath Cuan Heights. Criterion (a) of Policy QD1 requires that the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas. The proposed dwelling while outline has submitted a site layout with floorplans and elevations.

The existing detached dwellings along within this development have spacious front and rear gardens with areas of private amenity space to the rear.

There are two previous refusals on the site, both outline applications. It is worth noting that both applications were refused prior to the addendum to PPS 7 was introduced in August 2010 to safeguard the character of established residential areas. APPS 7 was introduced to provide additional planning policies, a strengthening up in fact on the protection of local character, environmental quality and residential amenity within established residential areas, villages and smaller settlements.

The dwelling proposed will be sited in close proximity to the existing dwelling of no.2, being sited less than 4m from the boundary with no.2 and will also sit slightly forward of this dwelling. The proposed dwelling does include a lower level of accommodation which would be a characteristic of house types in this immediate area, however, it also includes a substantial retaining wall given the nature of the slope on the site. The constricted nature of the site arises from its peripheral location at the edge of the completed Rath Cuan Heights along with its wedge shape and sloping topography. The separation distance to the rear boundary varies due to the shape and size of the site, resulting in a separation distance of between 3.2m and 6m (arising from the diagonal orientation of the rear boundary to the dwelling) between dwelling rear and site boundary. This results in very limited useable private rear amenity, necessitating amenity space to the side, this along with the close proximity to the roadside (with the steps to access the house 2m from the roadside) appears out of character with the majority of dwellings along this part of the development. These arrangements are such that they would make the dwelling appear crammed into the site when travelling along Rath Cuan Heights and from the entrance at Saul Road which would read as over development, despite the dwelling being capable of physically fitting into the site. While the actual plot size is smaller than other plots, it could not be considered significantly smaller, it is the nature and shape of the plot that sets it aside from the others.



The proposed dwelling would jar with the existing built development and would fail to respect the surrounding context and is inappropriate to the character and topography layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas.

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

There are no issues with regard to features of archaeological interest and built heritage or landscape features identified.

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

Criteria (c) of Policy QD1 requires that adequate provision is made for public and private open space and landscaped areas as an integral part of the development. There is limited amenity space to the rear of the dwelling, this arrangement is a consequence of the wedge shaped nature of the site and its topography. The sloping nature of the land is such that the amenity area would have limited usability for amenity space. The existing house at No 2 currently uses the space at the side of the dwelling for additional amenity space, with play equipment evident at the site visit, so the proposal would also reduce the availability of amenity for the existing property. These matters point to its inadequacy for the purpose of private open space and the arrangement is also an indication of the sites unsuitability for the proposed development.

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

This is a small scale proposal.

(e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides

adequate and convenient access to public transport and incorporates traffic calming measures;

The site is located within the settlement limit, there are no issues with regard to walking and cycling and provision of public transport is already in place within close proximity.

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

The requirement for adequate provision for parking is also set out in Policy AMP7 of PPS3. The proposed layout shows sufficient space for two car parking spaces and associated manoeuvring to the side of the dwelling.

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

As this is an outline application however plans have been submitted showing a split level dwelling with dashed render to match the existing house, concrete roof tiles and claying facing brick to match existing house, these would be deemed to be acceptable.

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

This is an outline application, with an indicative layout show for information purposes only. Given the existing levels on site the provided layout will significant require cut into the site to allow the dwelling to sit on the sloping nature of this site. However, a dwelling could be designed to create no unacceptable overshadowing or over looking to any neighbouring property.

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

It is considered that the proposal would not give rise to crime or antisocial behaviour and should promote personal safety in the same regard as the existing dwellings.

APPS 7

Consideration must also be given to the Policy LC1 of Addendum to PPS 7 which states that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites to accommodate new housing, where all the criteria set out in Policy QD1 of PPS 7, and all the additional criteria set out below are met:

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

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

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

Policy LC1 of APPS 7 is an amplification of the policy tests within Policy QD1 of PPS 7. In consideration of the above, in terms of a dwelling on the site as it stands that there would be no issue with regard the density. However as per QD1 (a) it is considered that the proposed development would fail to respect its residential context and the development pattern of the area contrary to criterion (b) of Policy LC1 of APPS 7.

PPS 3 – Access, Movement and Parking – Policy AMP 2

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.

DFI Roads have offered no objections to this proposal. It is also considered that sufficient provision has been made parking for two cars within the site.

Conclusion

After detailed consideration the application is contrary to QD1(a) and (c) of PPS 7 and LC1 of APPs 7. It is considered the proposed dwelling would jar with the existing built development and would fail to respect the surrounding context and is inappropriate to the character and topography layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas failing to respect its residential context and the development pattern of the area.

Recommendation:

Refusal

Refusal Reasons:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy QD1(a) of Planning Policy Statement 7 – Quality Residential Environments in that it would fail to respect the surrounding residential context and would be inappropriate in terms of layout, scale, massing and appearance.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy QD1 (c) of the Department's Planning Policy Statement 7, Quality Residential Environments in that insufficient provision has been made for usable private amenity space to the rear of the dwelling.
3. The proposal is contrary to the Strategic Planning Policy for Northern Ireland and Policy LC1 of the addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas in that the pattern of development would not be in keeping with the overall character and environmental quality of the established residential area.

Informative

The plan to which this refusal relates include: **Site location plan PL01**

Case Officer	C Moane	Date	20/10/2022
Appointed Officer	A.McAlarney	Date	21 October 2022

Our Ref: CS/gh/NM&D

04 January 23

Request for Speaking Rights @ Planning Committee Meeting of 11.01.23

Proposed deputation:

Agent: Gary Hunt - design2architects

Applicant: Mr Chris Smith

Planning Reference: LA07/2022/1115/O

We have been asked to request speaking rights on behalf of the applicant Mr Chris Smith in respect of the above application which has been recommended for Refusal by the Planning Office at Newry Mourne & Down District Council, the application has been scheduled for discussion at the above meeting. The purpose of the representation is to ask the Committee to overturn the proposed decision to Refuse on the grounds that the department has failed to make a robust case within its 'Case Officers Report' for a refusal decision. NB: There are no objections from Roads, NI Water or indeed neighbours.

The Case Officers Report 20/21 October 23 refers;

We accept that there have been 2No historical applications in respect of the subject site in 2005 and 2009 however these were at a time when a red line on a map was sufficient to lodge an outline planning application. These applications were refused on the basis that there was not enough information to allow the department to properly consider the proposals. Our current application provides ample information by way of levels survey/site plan/indicative floor plan and elevations/contextual elevation along Rath Cuan Heights (showing how the proposal relates to No2), to allow a more comprehensive consideration of our application. We do not therefore consider the previous refusals to be relevant to our current application and do not feel that it should prejudice same.

Refusal Reason 1: *The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy QD1(a) of Planning Policy Statement 7 – Quality Residential Environments in that it would fail to respect the surrounding residential context and would be inappropriate in terms of layout, scale, massing and appearance.* "The existing detached dwellings along within this development have spacious front and rear gardens with areas of private amenity space to the rear".

The map shown on Page 5 of the report clearly shows that most of the amenity space to the neighbouring 5No dwellings is at the front with limited rear gardens - our proposal has most of its amenity space to both the front and side. The report states that the new site will be within 4m of the boundary with No2 but again the map shows that this is also the case in all 5 neighbouring properties and in some cases the dwellings are a lot closer than 4m. We would contest the reports assertion that rear amenity space is 'very limited' in the context

of neighbouring dwellings and believe that our 'Proposed Site Plan - PL-04' demonstrates that there is ample amenity space available to both No2 and the new dwelling.

The report concedes that the proposal meets all the standards in respect of design, materials & details, environment, overlooking, overshadowing, light, parking, security and landscaping and then concludes that it would not be in keeping with the existing environment.

Refusal Reason 2: *The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy QD1 (c) of the Department's Planning Policy Statement 7, Quality Residential Environments in that insufficient provision has been made for usable private amenity space to the rear of the dwelling.*

'Proposed Site Plan - PL-04' demonstrates that there is ample amenity space available to both No2 and the new dwelling. Furthermore the map shown on page 5 of the report clearly shows that No2 will still be the second largest plot of the 6No plots identified on the map so amenity space would be more than adequate. The report cites play equipment at the side of No2 during the site visit and suggests that this is due to lack of amenity space whereas in reality this is the result of a recent approval obtained to convert the garage of No2 into living accommodation for the applicants son and his family. This equipment could easily have been sited to the front or rear of the dwelling and if the site visit had have happened some months prior the equipment would not have been present at all. Should the application be successful Mr Smith would construct the retirement dwelling which would allow the young and growing family to make full use of No2.

Refusal Reason 3: *The proposal is contrary to the Strategic Planning Policy for Northern Ireland and Policy LC1 of the addendum to Planning Policy Statement 7 – Safeguarding the Character of Established Residential Areas in that the pattern of development would not be in keeping with the overall character and environmental quality of the established residential area.*

As above, the case officers' report concedes that the proposal meets all planning principles in respect of design, materials & details, environment, overlooking, overshadowing, light, parking, security and landscaping so for these reasons we believe 'Refusal Reason 3' is non-valid.

In conclusion, we believe that the department have not provided a robust argument based on current planning legislation and on the strength of the *case officers report* to recommend refusal for this application. We would therefore ask that the committee votes to overturn this recommendation in favour of an approval.

Gary Hunt DAAS RIBA

design2architects

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 COMMITTEE MEETING 26 AUGUST 2020					
LA07/2019/1302/F	Provision of a dwelling with associated parking and amendment to application R/2011/0794/f to remove parking area for apartments and replace with shared amenity space - to rear of Nos 65-69 South Promenade, Newcastle.	Defer Planning Application LA07/2019/1302/F to allow the applicant to provide evidence that sight lines can be secured for this proposal.	A McAlarney	Awaiting Consultee response.	N
PLANNING COMMITTEE MEETING 09 MARCH 2022					
LA07/2020/1567/F	Proposed GAA training pitch, multi-use games area, ball wall along with associated lighting, fencing, ball stops and ground works (amended drawings) - Ballyholland Harps GAA grounds Bettys Hill Road Ballyholland Newry BT34 2PL	Removed from the schedule at the request of Planners – to be brought back to Committee	Patricia Manley		N
LA07/2017/0978/F and LA07/2017/0983/LBC	Demolition of side and rear extension. New rear and side extensions and rear dormer 50 Hilltown Road Bryansford Newcastle	Defer back to officers to see if agreement on design can be reached and delegate decision to officers	Annette McAlarney	Agent to submit revisions following meeting.	N
PLANNING COMMITTEE MEETING					

06 APRIL 2022					
LA07/2021/1824/F	Replacement Dwelling House - 34 Ringdufferin Road Downpatrick	Removed from the schedule at the request of Planners	Annette McAlarney	Under consideration by Planning Office	N
PLANNING COMMITTEE MEETING 29 JUNE 2022					
LA07/2019/0868/F	Proposed commercial development comprising ground floor retail unit and first floor creche with associated site works - 107 Camlough Road, Newry, BT35 7EE.	Removed from the schedule at the request of Planners	Pat Rooney	On agenda for December 2022 meeting - deferred	
LA07/2021/2010/O	Farm dwelling and garage - Approx 100m West of 42 Crawfordstown Road Downpatrick	Defer for further consideration by Planners and take back to Planning Committee	Annette McAlarney	Under consideration by Planning Office	
PLANNING COMMITTEE MEETING 27 JULY 2022					
LA07/2021/0987/F	Section 54 application seeking planning permission to vary condition no. 17 of P/2013/0242/F - Lands at Watsons Road/Dorans Hill Newry including lands to the east of Watsons Road	Defer – Dfi to attend Planning Committee Meeting when application is next scheduled	Anthony McKay	On agenda for Special meeting on 08-09-2022 – meeting cancelled and to be reconvened	
LA07/2020/1864/F	Proposed barbers shop / hairdressers - Between no.39 Church Street Rostrevor & no. 2 Water Street Rostrevor	Defer for a site visit	Pat Rooney	Site visit 10-08-2022 – on agenda for meeting on 24-08-2022 – defer to allow for further discussions to take place with the agent,	

				applicant and planners	
PLANNING COMMITTEE MEETING 16 NOVEMBER 2022					
LA07/2020/1651/F	Erection of dwelling (Change of house type from that previously approved under P/2006/2002/F) (Amended description) 75m north of 18 Ballinasack Road, Mullaghbawn, Newry.	Defer for a site visit at December Planning meeting	Pat Rooney		
LA07/2022/0210/F	Retention of existing outdoor customer seating area - Ground floor unit 12 Seaview Warrenpoint BT34 3NJ	Removed from the schedule at the request of Councillor McAteer as the representative from objectors is unable to attend the meeting		On agenda for December 2022 meeting - deferred	
LA07/2022/0226/F	This is a category 11 section 54 application - Ground Floor Unit 12 Seaview Warrenpoint BT34 3NJ	Removed from the schedule at the request of Councillor McAteer as the representative from objectors is unable to attend the meeting		On agenda for December 2022 meeting - deferred	
END					