



January 29th, 2025

Notice Of Meeting

You are invited to attend the Planning Committee Meeting to be held on **Wednesday, 5th February 2025** at **10:00 am** in **Council Chamber, O' Hagan House, Monaghan Row, Newry**

Committee Membership 2024-2025:

Councillor D Murphy **Chairperson**

Councillor G Hanna **Deputy Chairperson**

Councillor P Campbell

Councillor C Enright

Councillor K Feehan

Councillor A Finnegan

Councillor C King

Councillor M Larkin

Councillor D McAteer

Councillor S Murphy

Councillor M Rice

Councillor J Tinnelly

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 entire item

Item 6 - Cllrs Enright, Finnegan, King, Larkin, McAteer and D Murphy attended the site visit on 08 January 2025.

Items 7, 8 and 9 - Cllrs Campbell, Enright, Finnegan, Hanna, Larkin, McAteer & D Murphy attended the site visit on 20 January 2025.

4.0 Minutes of Planning Committee held on 18 December 2024 and 8 January 2025

For Approval

 *Planning Committee Minutes 2024-12-18.pdf*

Page 1

 *Planning Committee Minutes 2025-01-08.pdf*

Page 16

5.0 Addendum List - Planning applications with no representations received or requests for speaking rights

 *Addendum list - 05-02-2025.pdf*

Page 27

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


6.0 LA07/2023/3470/F - Site adjacent to and W of 15 Tullymacreeve Road, Mullaghbawn, BT35 9RD - Dwelling & detached garage.

REFUSAL

On agenda as a result of the call in process.

Cllrs Enright, Finnegan, King, Larkin, McAteer and D Murphy were present at the site visit on 08 January 2025.

In line with Operating Protocol, no further speaking rights are permitted on the application.

 *LA07-2023-3470-F - Case Officer Report.pdf*

Page 28

7.0 LA07/2024/0022/O - Lands between 20 and 24 Carnalroe Road, Ballyward, Castlewellan - Proposed dwelling and garage and associated siteworks.

For Decision


REFUSAL

On agenda as a result of the call in process.

Cllrs Campbell, Enright, Finnegan, Hanna, Larkin, McAteer & D Murphy attended the site visit on 20 January 2025

In line with Operating Protocol, no further speaking rights are permitted on the application.

Mr William Wallace will be present to answer any questions Members may wish to raise.

 [LA07.2024.0022.O - Case Officer Report.pdf](#)

Page 34

8.0 LA07/2024/0275/F - Land 205m SE of 7 Dunturk Road Castlewellan - 1 ½ storey replacement dwelling and detached garage

For Decision


REFUSAL

On agenda as a result of the call in process.

Cllrs Campbell, Enright, Finnegan, Hanna, Larkin, McAteer & D Murphy attended the site visit on 20 January 2025

In line with Operating Protocol, no further speaking rights are permitted on the application.

Mr Barry Fletcher will be present to answer any questions Members may wish to raise.

 [LA07-2024-0275-F - Case Officer Report.pdf](#)

Page 45

9.0 LA07/2023/2376/O - 60m SW of 131 Derryboy Road, Crossgar, BT30 9DH - Proposed dwelling on a farm under Policy CTY10 of PPS21

REFUSAL

On agenda as a result of the call in process.

Cllrs Campbell, Enright, Finnegan, Hanna, Larkin, McAteer & D Murphy attended the site visit on 20 January 2025

In line with Operating Protocol, no further speaking rights are permitted on the application.

Mr Gerry Tumelty and Mr Woods will be present to answer any questions Members may wish to raise.

 [LA07-2023-2376-O - Case Officer Report.pdf](#)


Page 55

10.0 LA07/2023/3475/F - 60m S of 68 Jericho Road, Crossgar, Downpatrick - Proposed new dwelling on a farm (under PPS21 CTY10).

For Decision

REFUSAL


On agenda as a result of deferral from the 8 January 2025 Committee Meeting.

 [LA07.2023.3475.F - Case Officer Report.pdf](#)

Page 62

 [LA07.2023.3475.F - Case Officer Addendum Report.pdf](#)

Page 72

 [10. LA07.2023.3475.F - in support.pdf](#)

Page 76

Development Management - Planning Applications for determination

11.0 LA07/2023/2178/F - 33 Main Street, Ballaghbeg, Newcastle, Down, BT33 0AD - Demolition Of Rear Return And Renovation & Extension To Existing Building To Provide 4 No. 1 Bed Apartments With Amenity Space. (Change Of Use Offices To Residential) Retention Of Ground Floor Ice Cream Shop.

For Decision

APPROVAL

On agenda as a result of the Operating Protocol and Scheme of Delegation

 [LA07-2023-2178-F - Case Officer Report.pdf](#)

Page 78


12.0 LA07/2024/1436/F - Site to the SW of Cinema Complex and NE of Thomas Russell Park - Provide a sprayed concrete skateboard facility consisting of ramps and ridges including a pump track constructed from crushed aggregate, connecting

the pump track and skate parks with the existing stone path around the site

For Decision

APPROVAL

On agenda as a result of the Operating Protocol and Scheme of Delegation

 [LA07.2024.1436.F - Case Officer Report.pdf](#)

Page 92


13.0 LA07/2022/1648/O - Lands adjacent to 59 Culloville Road, Crossmaglen - Erection of a mixed-use scheme - economic development (to include business/office units, light/general industrial and storage units) with a small residential development, associated site works and landscaping

For Decision


REFUSAL

On agenda as a result of the Operating Protocol and Scheme of Delegation

Speaking rights have been requested by Mr Colin O'Callaghan (agent), Mr Conor Fegan (counsel), Mr Michael Clarke (agent) and Mr & Mrs McArdle (applicants) in support of the application.

 [LA07.2022.1648.O - Case Officer Report.pdf](#)

Page 100

 [13. LA07-2022-1648-O - in support.pdf](#)

Page 150

14.0 LA07/2023/3683/O - Approx. 130m east of 6 McCleans Close, Kilcoo, Newry - Dwelling and garage on a farm under Planning Policy CTY10 of Planning Policy Statement 21.

For Decision

REFUSAL

On agenda as a result of the call in process.

Speaking rights have been requested by Mr Declan Rooney & Mr Martin McClean in support of the application.

 [LA07.2023.3683.O Case Officer Report.pdf](#)

Page 152

 [14. LA07.2023.3683.O - in support.pdf](#)

Page 164


15.0 LA07/2024/0090/F - To the rear of 123b Ballylough Road, Castlewellan - Removal of condition 2 of planning approval LA07/2018/0995/F

For Decision

REFUSAL

On agenda as a result of the call in process.

Speaking rights have been requested by Mr Declan Rooney & Mr Noel Gallagher in support of the application.

 [LA07.2024.0090.F - Case Officer Report.pdf](#)

Page 166

 [15. LA07.2024.0090.F - in support.pdf](#)

Page 173


16.0 LA07/2024/0066/F - 100m South of 57 Wateresk Road, Maghera, Castlewellan - 2 storey dwelling and garage

For Decision

REFUSAL

On agenda as a result of the call in process.

Speaking rights have been requested by Mr Declan Rooney & Mr Gary Brannigan in support of the application.

 [LA07.2024.0066.F - Case Officer Report.pdf](#)

Page 175

 [16. LA07.2024.0066.F - in support.pdf](#)

Page 190


17.0 LA07/2022/1602/F - To the rear and immediately NE of 7-9 Queen Street Warrenpoint - Proposed 4 no. 3 bedroom semi-detached dwellings with in curtilage parking with access onto Queen Street

For Decision

REFUSAL

On agenda as a result of the call in process.

Speaking rights have been requested by Mr Barney Dinsmore, agent, in support of the application.

 [LA07.2022.1602.F - Case Officer Report.pdf](#)

Page 192

 [17. LA07.2022.1602.F - in support.pdf](#)

Page 205

18.0 LA07/2023/2514/F - 26 Station Road, Newry, BT35 8JH - Proposed replacement dwelling with original dwelling retained for ancillary domestic storage, gym and home office

For Decision

REFUSAL

On agenda as a result of the call in process.

Speaking rights have been requested by Mr Fearghal Murray, agent, and Niall and Maeve Finnegan, applicants, in support of the application.

 [LA07.2023.2514.F - Case Officer Report.pdf](#) Page 207

 [18. LA07.2023.2514.F - in support.pdf](#) Page 221

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


19.0 Planning Application Validation Checklists

For Decision

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

 [Planning Committee Report for Agreement.pdf](#) Not included


 [Validation Checklist.pdf](#) Not included

 [Appendix 1.pdf](#) Not included

For Noting

20.0 Historic Action Sheet

For Approval

 [Planning Historic Tracking Sheet - 2025-01-08.pdf](#) Page 223

Invitees

Cllr Terry Andrews
.....
Cllr Callum Bowsie
.....
Fionnuala Branagh
.....
Cllr Jim Brennan
.....
Cllr Pete Byrne
.....
Mr Gerard Byrne
.....
Cllr Philip Campbell
.....
Cllr William Clarke
.....
Cllr Laura Devlin
.....
Ms Louise Dillon
.....
Cllr Cadogan Enright
.....
Cllr Killian Feehan
.....
Cllr Doire Finn
.....
Cllr Aoife Finnegan
.....
Ms Joanne Fleming
.....
Cllr Conor Galbraith
.....
Cllr Mark Gibbons
.....
Cllr Oonagh Hanlon
.....
Cllr Glyn Hanna
.....
Cllr Valerie Harte
.....
Cllr Roisin Howell
.....
Cllr Tierna Howie
.....
Ms Catherine Hughes
.....
Cllr Jonathan Jackson
.....
Cllr Geraldine Kearns
.....
Miss Veronica Keegan
.....
Mrs Josephine Kelly
.....
Mrs Sheila Kieran
.....
Cllr Cathal King
.....
Cllr Mickey Larkin
.....
Cllr David Lee-Surginor
.....
Cllr Alan Lewis
.....
Cllr Oonagh Magennis
.....
Mr Conor Mallon
.....
Cllr Aidan Mathers
.....
Cllr Declan McAteer
.....
Cllr Leeanne McEvoy
.....
Jonathan McGilly
.....
Cllr Andrew McMurray
.....
Maureen/Joanne Morgan/Johnston
.....
Cllr Declan Murphy
.....
Sinead Murphy
.....

Cllr Kate Murphy
.....
Cllr Selina Murphy
.....
Cllr Siobhan O'Hare
.....
Mr Andy Patterson
.....
Cllr Áine Quinn
.....
Cllr Henry Reilly
.....
Cllr Michael Rice
.....
Mr Pat Rooney
.....
Mr Peter Rooney
.....
Cllr Michael Ruane
.....
Cllr Gareth Sharvin
.....
Donna Starkey
.....
Nicola Stranney
.....
Sarah Taggart
.....
Cllr David Taylor
.....
Cllr Jarlath Tinnelly
.....
Cllr Jill Truesdale
.....
Mrs Marie Ward
.....
Cllr Helena Young
.....

NEWRY MOURNE AND DOWN DISTRICT COUNCIL

Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 18 December 2024 at 1pm in the Boardroom Council Offices, Monaghan Row, Newry

Chairperson: Councillor D Murphy

Committee Members in attendance in Chamber:

Councillor P Campbell	Councillor C Enright
Councillor K Feehan	Councillor A Finnegan
Councillor G Hanna	Councillor C King
Councillor M Larkin	Councillor D McAteer
Councillor S Murphy	

Officials in attendance: Mr J McGilly, Assistant Director Regeneration
 Ms A McAlarney, Development Manager: Planning
 Ms L Jackson, Development Plan and Enforcement Manager
 Mr M McQuiston, Senior Planning Officer
 Ms M Fitzpatrick, Senior Planning Officer
 Mr M Keane, Senior Planning Officer
 Ms P Manley, Senior Planning Officer
 Mr Peter Rooney, Head of Legal Administration (Acting)
 Miss S Taggart, Democratic Services Manager (Acting)
 Ms F Branagh, Democratic Services Officer

Also in attendance: Mr C Fegan, Belfast Legal Services
 Ms N Largey, Belfast Legal Services

P/111/2024: APOLOGIES AND CHAIRPERSON'S REMARKS

Apologies were received from Councillors Rice and Tinnelly. It was noted that Councillor S Murphy was delayed.

P/112/2024: DECLARATIONS OF INTEREST

Councillor Enright declared an interest in Item 8 – LA07/2023/2274/F.

P/113/2024: 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: Cllrs Campbell, Hanna, King, Larkin, McAteer & D Murphy attended a site visit on 28 November 2024.

Item 7: Cllrs Feehan, Finnegan, Larkin, D Murphy, S Murphy & M Rice attended a site visit on 4 December 2024.

FOR DISCUSSION/DECISION

P/114/2024: ADDENDUM LIST

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 18 December 2024. **(Copy circulated)**

Ms McAlarney advised the Committee that a late representation had been received in relation to Item 12, LA07/2023/3269/F on the addendum list, confirming that it did not raise any new issues or matters for consideration. She advised Members that it did comment on the application description, which referenced proposed works, but clarified to Members that it was a retrospective application as the works had already been carried out as outlined within the Case Officer's Report.

AGREED: **On the proposal of Councillor McAteer, seconded by Councillor Campbell, it was agreed to approve the officer recommendations in respect of the following applications listed on the Addendum List for Wednesday 18 December 2024:**

- **LA07/2023/3269/F** - Lands Opposite 76 Upper Dromore Road, Warrenpoint, BT34 3PN - Proposed enabling works to create tiered land platforms and access road for future development.
APPROVAL
- **LA07/2022/0309/O** - Approx 30m south of No. 131 High Street Bessbrook, Newry - Proposed housing development
REFUSAL

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

Agreed: **On the proposal of Councillor Campbell, seconded by Councillor Finnegan, it was agreed to exclude the public and press from the meeting during discussion on the following items, which related to exempt information by virtue of para. Three of Part 1 of Schedule 6 of the Local Government (Northern Ireland) 2014 – information relating to the financial or business affairs of any particular person (including the Council holding**

that information) and the public may, by resolution, be excluded during this item of business.

Agreed: On the proposal of Councillor Larkin, seconded by Councillor Campbell, it was agreed the Committee come out of closed session.

The Chairperson advised the following had been agreed whilst in closed session:

FOR DECISION

P/115/2024 **COUNTRYSIDE POLICIES AND SUSTAINABLE DEVELOPMENT & CLIMATE CHANGE STRATEGIC POLICY FOR DRAFT PLAN STRATEGY**

Read: Report from Mr J McGilly, Assistant Director of Economy, Regeneration & Tourism, regarding Countryside Policies and Sustainable Development & Climate Change Strategic Policy for Draft Plan Strategy. **(Copy circulated)**

AGREED: On the proposal of Councillor Enright, seconded by Councillor Campbell, it was agreed to approve the final text, subject to additions as outlined during the meeting, of the enclosed draft Countryside Policies for publication in the draft Plan Strategy which is scheduled to occur before the end of the current financial year in accordance with the published timetable. It was noted that further delay on agreement of these policies will impact on the published LDP timetable.

Councillor S Murphy joined the meeting during the above discussions – 1.14pm

DEVELOPMENT MANAGEMENT

P/116/2024 **PLANNING APPLICATIONS FOR DETERMINATION (WITH PREVIOUS SITE VISITS)**

(1) **LA07/2023/3370/O**

On agenda as a result of the Call-In Process

Location:

To the rear of 44 Bavan Road, Mayobridge, BT34 2HS

Proposal:

Infill dwelling and garage

Conclusion and Recommendation from Planning Official:

Refusal

Power Point Presentation:

Mr Keane outlined the details of the case, reminding Members that Policy CTY8 was a restrictive policy. The Planning Department considered this was not a gap site within an otherwise substantially and continuously built-up frontage, whereby the Ballykeel Rd broke and interrupted the frontage along Bavan Rd, therefore there was no continuous frontage.

Speaking rights:

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

Mr Martin Bailie was present to answer any questions that Members may have had.

Councillor Hanna queried a reference made to agricultural buildings at the site visit, and how these were not considered as frontage, to which Mr Keane advised there were farm buildings beyond the junction with the Ballykeel Rd, which did have frontage to the Bavan Rd.

Councillor Hanna queried whether the application would have been recommended for approval if the Ballykeel road junction had been narrower at the entrance or just did not exist, as he believed the road narrowed to a one lane road just a few metres beyond the junction.

Mr Keane advised that he was unable to answer the hypothetical question as the road existed and it was the Planning Department's opinion that it broke the frontage.

Councillor Hanna then queried if Mr Bailie believed that the road broke the frontage, to which he advised that he did not believe so, further stating that at critical view points along the Bavan Road, the Ballykeel road was not visible.

Councillor Hanna requested legal advice on the two opinions that had been put forward, with Mr Peter Rooney advising that he believed Members had attended the site visit to view the area and decide for themselves if the Ballykeel Road did break the frontage. He confirmed that two opinions had clearly been put forward and it was now a matter of judgement for those who attended the site visit.

Following the discussions, Councillor Hanna proposed to overturn the officer's recommendation to an approval stating that although there was a junction to Ballykeel Road, it was in his opinion a narrow road and all other requirements were in place to comply with CTY 8. This was seconded by Councillor McAteer.

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

FOR:	5
AGAINST:	1
ABSTENTIONS:	0

The proposal was declared carried.

AGREED: **On the proposal of Councillor Hanna, seconded by Councillor McAteer, it was agreed to issue an approval in respect of planning application LA07/2023/3370/O**

contrary to officer recommendation as contained in the Case Officer Report.

(2) LA07/2023/2827/F

On agenda as a result of the Call-In Process

Location:

Lands immediately NW of no. 48 Maytown Road, Bessbrook

Proposal:

Erection of dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Speaking rights:

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

Councillor D Murphy noted that as Councillor Rice was an apology for the meeting, there was not a quorum following the site visit and the application would have to be deferred to a future meeting date.

AGREED:

On the proposal of Councillor Hanna, seconded by Councillor Finnegan, it was agreed defer planning application LA07/2023/2827/F to a future committee date.

DEVELOPMENT MANAGEMENT

P/117/2024

PLANNING APPLICATIONS FOR DETERMINATION

(1) LA07/2023/2274/F

On agenda as a result of the Operating Protocol and the Scheme of Delegation

Location:

Abbey Way Car Park, Abbey Way, Newry

Proposal:

Proposed Civic Hub building accommodating council room, meeting rooms, council offices and associated ancillary accommodation. Associated public realm works to part of existing surface car park.

Conclusion and Recommendation from Planning Official:

Approval

Councillor Enright stated that despite a request he had not received legal advice from the Chief Executive, and following advice he had sought and received from the Local

Government Ombudsman, he would withdraw from the meeting during discussions on the following application as there was a risk of predetermination on his part.

Having declared an interest, Councillor Enright left the meeting at this stage– 2.10pm

Power-point presentation:

Mr Keane confirmed the application description which included the demolition of an existing multi-storey car park, and also included alterations to the existing road network. He stated that the Planning Department had to have regard to the Local Development Plan, whereby the site was located within the boundary of Newry City Centre, within the Conservation Area boundary and within an area of Archaeological Potential. He further highlighted that the site was immediately adjacent to the Protected Route along Abbey Way, and was in close proximity to listed buildings, monuments, Newry river and canal and a Local Landscape Policy Area.

Mr Keane confirmed that there was also a pending demolition consent application for the removal of the existing multi-storey car park being processed by the Department for Infrastructure (DFI), however he advised legislation did not prevent the Planning Department from processing the associated full application as tabled. He highlighted to Members that the Planning Department had received direction from DFI to notify them in the event that Council's Planning Committee reached a recommendation in relation to the application. This recommendation would allow the Department the opportunity to assess, prior to a decision being issued on the application, and to decide if it required the application to be referred to it for determination. The direction did not commit the Department to 'calling' in the application, however reserved the right for it to intervene.

Mr Keane outlined the proposed build, which was to be roughly rectangular comprising of 3 floors of accommodation, would be modern in appearance and would provide frontages on all sides. He confirmed that a retaining wall along the boundary adjacent to Abbey Way was required, which would require technical approval.

Mr Keane confirmed that extensive statutory consultation had taken place with a number of departments with no objections being raised in principle to the proposals, subject to conditions which could be found detailed within the Officer's Addendum Report. He further confirmed that the application had been advertised and neighbourhood notification undertaken, with the most recent round of neighbour notification undertaken in October 2024, with some 2600 objections having been received. These representations raised a number of issues, some of which were not material planning considerations, however in the interest of openness, transparency and completeness these were listed in the Officers report. The planning matters had been fully considered and Mr Keane advised that in respect of PPS6, the size, design, layout and appearance of the building were considered appropriate and would preserve and enhance the character of the CA.

He also stated that HED Buildings Unit advised the siting, size, design, height, scale, massing, form, alignment, finishes and appearance of the development proposed would not adversely affect the setting of any listed building, and offered no objections in principle. Likewise, HED Monuments Unit offered no objections in principle.

In respect of the access, movement and parking, Mr Keane advised the building and site were enclosed by the existing road network. He stated the existing vehicular access from

Abbey Way would be retained, with a new road layout, whereby the building would be accessed from the Northern end.

In respect of parking provision, Mr Keane confirmed the proposals did not include any specific on-site or in-curtilage parking. Mr Keane set out the parking requirements for the development and outlined that a case was being made by the agents that the parking surveys undertaken, in 2023, demonstrated there was an abundance of parking provision which exceeded demand and that there was sufficient existing car parking capacity within Newry city centre at present. Notwithstanding the proposals to also provide additional town centre parking.

Mr Keane outlined that the issue of car parking associated with existing committed developments was also considered as the application progressed.

Mr Keane further clarified the building would accommodate a total of some 215 members of staff, who would be relocated from existing Council offices within Newry. Also, that the applicant had also confirmed that Newry Mourne & Down District Council operated a hybrid (agile) working policy and would only provide desks for 162 staff (75%). He advised that Transport Assessments and Travel Plans were also submitted.

Mr Keane advised the Planning Department had considered all relevant factors, and considered a case had been made to show there was sufficient parking capacity within the town centre to accommodate the proposal, while the central and highly accessible location of the site from various modes of travel, together with the active travel and measures proposed were considered to fit with the requirements of PPS3, Policy AMP 7, in relation to car parking provision, subject to appropriate conditions.

Mr Keane outlined the issue of the loss of existing public car parking spaces, should the proposal go ahead, due to the demolition of the multi storey car park, was also raised and had been fully considered.

Mr Keane also advised other issues including bio diversity, protected species, connection to mains and flooding, noise, nuisance and disturbance had also been fully considered.

Mr Keane updated Members, advising that since the Addendum Report had been finalised and published on 5th December 2024, 6 further representations in opposition to the proposals had been received from Matrix PI Consultancy and 1 representation from Ulster Architectural Heritage, and that these had been fully considered, with further comment provided by HED (via email).

Speaking rights:

In Objection:

Mr Andy Stephens and Mr Warke spoke in objection to the application, stating that the case officer's report did not take account of the true impact of the application on Newry and the cathedral, indicating that there were errors in the interpretation of HED responses. Mr Stephens focused on the removal of parking provision within the city, disagreeing with the Planning Department's position that there would be adequate parking available within the city. He stated that the parking survey conducted on behalf of the applicant was a snap shot that did not take account of varying times and requirements, and that the proposal to create a pay and display car park would dissuade people from shopping in the city. He stressed that he believed that the Planning Department had not taken account of all the relevant

information. He further outlined that he found it concerning that the most recent HED consultations were not available on the Planning Portal and stressed that the area was already over developed and the subsequent impact on the listed cathedral building would be nothing but detrimental.

Canon Brown also spoke in objection to the application, noting that while not opposed to change he was concerned with the Council's apparent disregard for the views and concerns of his parishioners. He reiterated the impact of the loss of car parking on parishioners with mobility issues attending services, further stressing that the size, scale and massing of the proposal would significantly detract from the ecclesiastical views of the cathedral. He stated that he would like to see the area enhanced but stated that it could not be to the detriment of critical views of the cathedral.

In Support:

Mr Mark Priestly, Mr Kieran Carlin and Mr Stephen Livingstone spoke in support of the application, highlighting that the proposals were a core component of the Newry City Centre Regeneration (NCCR) project largely supported by the Belfast Region City Deal (BRCD). Mr Priestly further highlighted that the proposal aimed to consolidate the current spread of Council staff in Newry.

Mr Priestly noted that the multi storey car park made no contribution to the character or appearance of the area, confirming that it was proposed to maintain a portion of the existing car park for public use. He noted that careful consideration had been given to the setting of the civic hub, aiming to enhance and respect the prominence of the Grade A listed building through extensive consultation and engagement with HED with conceptual images being used to test the proposals from various viewpoints, with the outcome being that HED had approved the proposal as detailed. He further recognised that parking was a major concern but stated that parking was only 1 criterion of Planning Policy AMP7, that there were also 4 other criteria where reduced car parking could be justified, confirming that the application made a strong case for these criteria when taking into consideration the active travel plan and shuttle service that was proposed.

Mr Priestly stated that the application was supported by Planning Policy SPPS as the policy recognised the town centre first approach, and that a city centre needed diversity to help increase footfall to the city centre, and office space with a wedding venue clearly met those requirements.

Following the presentations, Members took the opportunity to discuss some of the key issues.

Councillor Hanna asked the applicants to briefly explain why they were so committed to their objections of the application, to which Mr Stephens stated that the applicant had not considered the impact of the views to the cathedral despite engagement with HED, and while the applicant referenced SPPS in terms of town centre first approach, it also referenced adequate car parking provision and relationships between buildings, which he did not believe the application met. Canon Brown noted his objections from the outset, and stated his parishioners would be disadvantaged by the loss of parking as the cathedral had a capacity of 1000.

Following a request for clarity from Councillor Hanna regarding the statement from Mr Stephens that the Planning Department had not considered all the relevant information, Mr

Stephens highlighted that consultations with HED had not been uploaded to the Planning Portal and were not readily available to the public. He further stated that the Planning Department's parking survey was dated 2023, and therefore not up to date when compared with the parking survey he had submitted and requested be considered.

Following a further query from Councillor Hanna, a lengthy discussion ensued regarding parking surveys and available parking within the city centre, the outcome of which was the following:

- Mr Stephens and Mr Warke detailed their parking assessment carried out in May, October and November 2024, stating that the proposal would result in a net loss of over 893 parking spaces in the city centre.
- The proposed conversion of two nearby spaces utilised as free parking into pay and display car parks would result in people not parking in the city due to costs.
- Mr Stephens highlighted the negative impact on the city, stressing that if people could not find accessible parking they would stop coming into the city.
- Mr Warke stated that as per the Transport Assessment Guideline people should not have to walk more than 200m from a car park and queried the scope of Mr Livingstone's parking survey.
- Canon Brown referenced complaints from parishioners who had been unable to get parked at a well-attended funeral service, highlighting other events such as communions or confirmations that would also result in parking difficulties.
- Mr Priestly and Mr Livingstone detailed their parking assessments carried out over 4 days (Thursday – Sunday) in June 2021, February 2022, June 2022 and November 2023.
- Mr Livingstone noted that a standard survey was dependent on the development, location and requirement and that 16 days of surveys was well above the required survey data for this type of application.
- A shuttle bus service was to be made available from the leisure centre to the hub at set times each day to help alleviate any potential parking and traffic pressures.
- The survey time during covid was queried, with Mr Livingstone noting that subsequent surveys yielded the same result, so the results were ratified.
- Mr Livingstone noted that there were planning applications under consideration to increase parking at North Street.
- Mr Carlin noted that if the loss of parking would have a negative impact on a town, then this would be addressed in planning policies when considering the town first approach, and it was not part of planning policy.
- Mr Livingstone confirmed that each car park would have its legislatively required mandatory disabled spaces and detailed the available parking spaces as surveyed over the time period.
- The Cathedral parishioners had not been surveyed as to their parking location, which was noted as a missed opportunity to analyse their parking needs.
- Mr Livingstone noted that larger events like funerals were an uncontrollable issue but stated that the evidence showed that there was ample parking within the city centre for regular services, not just at Abbey Way.

Following a query from Councillor McAteer, a further discussion ensued regarding the location of the surveys carried out, with the outcome being noted that Mr Stephens and Mr Warke's parking survey that showed a lack of parking availability had solely assessed the Abbey Way car park, while Mr Priestly and Mr Livingstone's assessment which showed

parking capacity within the city took into account 17 car parks and on street parking within a 1.2km radius or a 10-minute walk of the hub.

During the discussion regarding parking surveys methodology, Ms Largey noted that it was important for Members to bear in mind the distinction between planning policy and other reports that had less material weight. She urged Members to consider the application as submitted and not to confuse other documents and decisions as part of the application. She highlighted that Mr Keane had confirmed the methodology of the applicant's parking survey had been carried out in accordance with parking standards, noting that there were two different sets of information presented that required consideration by the Committee.

Councillor Hanna asked whether the Planning Department had considered all the evidence provided, to which Mr Keane confirmed that the Planning Department had considered all the information submitted, including the late submissions the night prior to the meeting. He acknowledged that parking surveys would have differing results at differing times of year. He also noted that of the 2600 objections received, 2530 were from the cathedral and were all detailed within the planning reports.

Councillor Hanna expressed his concern at satellite parking, stating this could be a challenge for those Councillors with mobility issues and queried whether parking should be provided for Councillors and Officers.

Mr Keane clarified that the proposal did not include any onsite parking, rather the case was being made that there is an abundance of parking to accommodate the proposals. He further noted that some parking would be retained at the Abbey Way site.

Councillor Hanna queried Canon Brown's statement of not having seen the proposed build until today, with Mr Keane confirming that a PAN had been submitted in 2019 and HED were involved since and were content with the proposal subject to conditions.

Councillor Hanna asked if he was correct in stating that DFI had called in the application, to which Mr Keane stated that DFI had issued a direction and reserved the right to call in the application but had not done so at this point.

Councillor King noted that this was a transformational project and queried what the benefits would be of such a project.

Mr Carlin referenced a statement made previously that this type of development would drive people out of the city but noted that in his experience this was not the case, reiterating the SPPS key principle was town first, to include retail, business, cultural and leisure facilities. He noted that bringing footfall to Newry could only be a benefit, and did not accept that people would be driven out of the city due to a perceived lack of parking.

Councillor King asked what measures Canon Brown could put in place with regard to his parishioners, querying if there was an opportunity for the diocese to provide some parking.

Canon Brown stated that it was difficult to provide parking when the parking was being removed, while Mr Stephens noted that there was a policy to mitigate the loss of open space therefore the Canon was unable to provide nearby parking. Mr Stephens further stressed that while they had only surveyed Abbey Way car park, other car parks were some distance from the retail centre which was at odds with the Transport Assessment Guidelines.

Councillor Enright rejoined the meeting at this stage – 3.42pm

The Chairperson advised that applications LA07/2023/2193/F and LA07/2023/2213/LBC would be heard together.

(2) LA07/2023/2193/F and LA07/2023/2213/LBC

On agenda as a result of the Operating Protocol and the Scheme of Delegation

Location:

1 Town Hall, Bank Parade, Newry

Proposal:

Proposed new four-storey theatre & conference centre extension to the Town Hall. Construction of atrium connecting theatre extension with town Hall. Demolition of the Sean Hollywood Arts Centre and No. 2 Bank Parade. Alterations and refurbishment of Town Hall. Public Realm proposals to portion of Sugar Island, portion of Needham bridge, portion of East side of Newry Canal, area around Bank Parade and Kildare Street.

Conclusion and Recommendation from Planning Official:

Approval

Power-point presentation:

Ms Manley outlined the details of the applications, noting that in line with legislation the demolition consent was to be overseen by the Department of Infrastructure under planning reference LA07/2023/2225/DCA, while the full application and listed building consent were tabled before the Committee.

Ms Manley confirmed that the site was contained within the city limits of Newry and was comprised of a development opportunity site that incorporated the Local Landscape Policy Area, the disused transport corridor and the Conservation Areas, noting that the Planning Department detailed how the proposals met and complied with all land zoning and development plan requirements within the Planning Report.

She confirmed that the application had been considered against all legislative requirements, including those specific to development with a Conservation Area and Listed Buildings in line with sections of the Planning Act, alongside the Regional Development Strategy, the Area Plan, SPPS, PSRNI, PPS 2, PPS 3, PPS 15 and PPS 6.

Ms Manley further outlined the proposed development of the Town Hall with the use of conceptual images to demonstrate the extension of the linkage through to the new theatre conference and atrium, pedestrian walkway along the canal, external performance area and platform, tree removal and landscaping. She stated that an application had been submitted under the Tree Preservation Order and was being considered by the Council's Tree Officer under reference number LA07/2024/2328/WPT.

Ms Manley stated that consultations had been carried out with Historic Environment Division (HED Buildings and HED Monuments), DFI Roads, Rivers Agency, Environmental Health, NIE, NIEA, NIW and Loughs Agency with no objections in principle subject to conditions, and all relevant conditions were available to view within the Planning Report. She noted that

Conclusion and Recommendation from Planning Official:

Approval

Councillor D Murphy advised the Committee that Councillor Bowsie had contacted him the night prior to the meeting to request that the application be deferred to allow further consideration of the demolition of buildings given their age.

Councillor Campbell proposed to hear the application, stating that it would be irresponsible to delay a social housing application given the social housing situation and the housing shortage.

Councillor Larkin seconded the proposal and queried if the Planning Department had also been approached by Councillor Bowsie.

Councillor D Murphy advised that he was unaware if the Planning Department had been approached, and while it had been a very late request to defer the application, it was for the Committee to decide how to proceed.

The Committee were unanimous in their decision to hear the application as tabled.

Power-point presentation:

Ms McAlarney outlined the application, noting that it included the proposal for the demolition of the existing terraced buildings on site and the erection of 14 apartments for social housing, confirming that the site was located within the village of Saintfield but outside the Conservation Area.

Ms McAlarney stated that following statutory consultations and neighbourhood notifications, all consultations had returned with no objections subject to conditions, but 9 letters of objection had been received which had all been considered and were detailed within the Case Officer's Report.

Ms McAlarney noted that the application had been considered against Planning Policies PPS 2, 3, 6, 7 and 15, as well as DCAN 8 and 15 and had been recommended for approval as the Planning Department were satisfied that the application was appropriate regarding the standards of a site adjacent to, but not contained within, a Conservation Area.

Ms McAlarney then referenced the late representation by Councillor Bowsie, which requested that the buildings to be demolished be included within the Conservation Area. She advised that the Planning Department had considered the representation and confirmed that the application site was not sited within the conservation area and the Planning Department could only assess applications against current Planning Policies and existing designated Conservation Areas.

Speaking rights:In Support:

Mr Mark Hanvey was present to speak in support of the application.

Councillor Feehan proposed to accept the officer's recommendations, which was seconded by Councillor Hanna.

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

The proposal was declared carried.

AGREED: On the proposal of Councillor Feehan, seconded by Councillor Hanna, it was agreed to issue an approval in respect of planning application LA07/2023/2606/F supporting officer recommendation as contained in the Case Officer Report.

There being no further business the meeting ended at 4pm.

Signed: _____ Chairperson

Signed: _____ Chief Executive

NB: 14% of decisions overturned

NEWRY MOURNE AND DOWN DISTRICT COUNCIL

Minutes of Planning Committee Meeting of Newry, Mourne and Down District Council held on Wednesday 8 January 2025 at 10am in the Boardroom Council Offices, Monaghan Row, Newry

Chairperson: Councillor D Murphy

Committee Members in attendance in Chamber:

Councillor P Campbell	Councillor C Enright
Councillor K Feehan	Councillor A Finnegan
Councillor G Hanna	Councillor C King
Councillor M Larkin	Councillor D McAteer
Councillor S Murphy	Councillor M Rice

Officials in attendance: Mr C Mallon, Director Economy, Regeneration & Tourism
 Mr J McGilly, Assistant Director Regeneration
 Ms A McAlarney, Development Manager: Planning
 Ms M Fitzpatrick, Senior Planning Officer
 Ms P Manley, Senior Planning Officer
 Mr Peter Rooney, Head of Legal Administration (Acting)
 Miss S Taggart, Democratic Services Manager (Acting)
 Ms F Branagh, Democratic Services Officer

P/001/2025: APOLOGIES AND CHAIRPERSON'S REMARKS

An apology was received from Councillor Tinnelly. It was noted that Councillor Rice was delayed.

P/002/2025: DECLARATIONS OF INTEREST

There were no declarations of interest.

P/003/2025: DECLARATIONS OF INTEREST IN ACCORDANCE WITH PLANNING COMMITTEE PROTOCOL- PARAGRAPH 25

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

Item 7: Cllrs Feehan, Finnegan, Larkin, D Murphy, S Murphy & M Rice attended a site visit on 4 December 2024.

MINUTES FOR CONFIRMATION**P/004/2025: MINUTES OF PLANNING DEVELOPMENT COMMITTEE MEETING WEDNESDAY 4 DECEMBER 2024**

Read: Minutes of Planning Committee Meeting held on Wednesday 4 December 2024. **(Copy circulated)**

AGREED: **On the proposal of Councillor Campbell, seconded by Councillor McAteer, it was agreed to adopt the Minutes of the Planning Committee Meeting held on Wednesday 4 December 2024 as a true and accurate record.**

FOR DISCUSSION/DECISION**P/005/2025: ADDENDUM LIST**

Read: Addendum List of Planning Applications with no representations received or requests for speaking rights – Wednesday 8 January 2025. **(Copy circulated)**

AGREED: **On the proposal of Councillor McAteer, seconded by Councillor Finnegan, it was agreed to approve the officer recommendations in respect of the following applications listed on the Addendum List for Wednesday 8 January 2025:**

- **LA07/2023/2199/F** - Lands to the south of No.s 1 & 2 Knockanoney Heights, north of Nos 1 & 63 The Demesne, east of Carnagat Road and west of No. 8 Daisy Hill, Newry - Proposed erection of social-led, mixed tenure residential development comprising 24 no. dwellings and 24 no. apartments, open space, landscaping, associated site works, parking and access arrangements from Carnagat Road.
APPROVAL
- **LA07/2021/1258/RM** - To the rear of 11 Hilltown Road, Newry and adjacent and south of 'Ardfreelin' Hilltown Road Newry - Erection of 42 residential dwellings comprised of 28no. semi-detached, 14no. detached dwellings, provision of hard and soft landscaping including communal amenity space, provision of in curtilage car parking spaces, and all associated site works
APPROVAL
- **LA07/2023/2635/F** - Lands approximately 250m north east of MJM Group, Unit 1 Derryboy Road, Carnbane Business Park, Newry, BT35 6QH - Proposed manufacturing facility, 2 storey welfare & office facilities, associated site works including yard storage areas, boundary fencing, vehicular & pedestrian entrances.
APPROVAL

- **LA07/2023/1996/F** - Lands between 3 and 9 Scaddy Road, Crossgar, BT30 9BW -
2 infill dwellings
REFUSAL

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

Agreed: On the proposal of Councillor Campbell, seconded by Councillor Enright, it was agreed to exclude the public and press from the meeting during discussion on the following items, which related to exempt information by virtue of para. Three of Part 1 of Schedule 6 of the Local Government (Northern Ireland) 2014 – Information relating to the financial or business affairs of any particular person (including the Council holding that information) and the public may, by resolution, be excluded during this item of business.

Agreed: On the proposal of Councillor Finnegan, seconded by Councillor Rice, it was agreed the Committee come out of closed session.

The Chairperson advised the following had been agreed whilst in closed session:

FOR DECISION

P/006/2025: **NOTICE OF MOTION – SECTION 76 ORDER, DOWNPATRICK EASTERN DISTRIBUTOR ROAD**

Read: Report from Mr J McGilly, Assistant Director of Economy, Regeneration & Tourism, regarding Notice of Motion – Section 76 Order, Downpatrick Eastern Distributor Road. **(Copy circulated)**

Councillor Enright queried why the item was to be held in closed session, to which Mr McGilly advised that it was a matter of policy that was to be debated with potential references to lands that were currently subject to development.

AGREED: On the proposal of Councillor Campbell, seconded by Councillor D Murphy it was agreed to note the recommendations as contained in the Officer's Report and that more information be brought back on the issue.

Councillor Rice joined the meeting during the above discussions – 10.23am

DEVELOPMENT MANAGEMENT

P/007/2025: **PLANNING APPLICATIONS FOR DETERMINATION (WITH PREVIOUS SITE VISITS)**

(1) LA07/2023/2827/F

On agenda as a result of the Call-In Process

Location:

Lands immediately NW of no. 48 Maytown Road, Bessbrook

Proposal:

Erection of dwelling

Conclusion and Recommendation from Planning Official:

Refusal

Power Point Presentation:

Mrs Fitzpatrick reminded Members of the salient points of the application, noting that it had been assessed against Planning Policy CTY2a which required 6 criteria to be met prior to permission being granted for a dwelling at an existing cluster. She reminded Members of the two criteria that the Planning Department did not believe were met; that the proposal did not round off a cluster but rather extended it, and that the structure the applicant was relying on was a temporary structure and was not considered to represent buildings in line with the intention of policy. She also reminded Members that the application was contrary to CTY14 as it would result in a suburban style development that would erode the rural character of the countryside.

Speaking rights:

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

Mr Colin O'Callaghan was present to answer any questions that Members may have had.

Councillor Larkin proposed to overturn the officer's recommendations, stating that he didn't believe that the structure was temporary as it had been constructed on site, was attached to a concrete base and could not be removed easily. He confirmed that he believed this ensured that the application was compliant with CTY2a.

Councillor Finnegan 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:	2
ABSTENTIONS:	0

The proposal was declared carried.

AGREED:

On the proposal of Councillor Larkin, seconded by Councillor Finnegan, it was agreed to issue an approval in respect of planning application LA07/2023/2827/F contrary to officer recommendation as contained in the Case Officer Report.

Planning Officers be delegated authority to impose any relevant conditions.

DEVELOPMENT MANAGEMENT

P/008/2025: PLANNING APPLICATIONS FOR DETERMINATION

(1) LA07/2023/3740/F

On agenda as a result of the call-in process

Location:

Site adjacent to and to the W of 15 Tullymacreeve Road, Mullaghbawn, BT35 9RD

Proposal:

Dwelling and attached garage

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mrs Fitzpatrick utilised images to outline the site and its location, which was outside the settlement limit of Mullaghbawn within an Area of Outstanding Beauty (AONB), confirming that there had been no objections following neighbourhood notifications, nor from statutory consultations subject to conditions. She advised that due to the location, the Planning Department had undertaken a site inspection alongside an assessment of all relevant regional policies and other material considerations, and given the site's location it was considered against PPS21.

Mrs Fitzpatrick then stated that SPPS and PPS21 both outlined circumstances where planning permission could be granted for an individual dwelling in the countryside under a number of exception clauses, however, despite requests, the agent had not confirmed which exception clause he wished the application to be considered against, therefore the Planning Department had considered the application against all outstanding policies, CTY1, 2A, 3, 6, 7, 8, 10 and 15.

Mrs Fitzpatrick confirmed that the application was considered to offend all relevant policies as there was no overriding reason why the development was essential at this rural location, it would mar the clearly defined distinction between urban Mullaghbawn and the surrounding rural area, and it was also considered to offend NH6 of PPS2 as the development was considered unsympathetic to the special character of the AONB.

Speaking rights:

In Support:

Mr Barney Dinsmore spoke in support of the application, noting that he believed that the Planning Department had dismissed the principle of rounding off and consolidation of the settlement limit of Mullaghbawn. He stated that he believed that the application complied with all relevant policies and highlighted three examples of applications that he believed

Mrs McAlarney outlined the application, confirming that there had been no objections following neighbourhood notifications and statutory consultations. She advised that the application had been considered against CTY10, 13 and 14 and although the farm business had been confirmed by DAERA as active and established, the application offended policy as the proposal was not cited or visually clustered with an established group of farm buildings. She confirmed that there was an existing group of farm buildings located in close proximity to the registered business address of the farm at number 68, however the distance was too great to be considered as visually linked or cited to cluster. It was also recommended for refusal as it was deemed to add to an existing ribbon of development .

Speaking rights:

In Support:

Mr Brendan Starkey spoke in support of the application, highlighting his belief that the critical issue regarding this recommendation for refusal was the separation distance between the proposed dwelling and the established group of buildings on the farm. He noted that amended drawings had been submitted to the Planning Department on 5 November 2024, alongside evidence of the planned legal extension to a neighbouring farm building, the impact of which was that the proposed dwelling was now 30m from the neighbouring buildings, which would allow for visual linkage. He detailed three similar applications that had been recommended for approval that had separation distances greater than proposed in this application.

Councillor Larkin queried whether the images utilised by Mr Starkey were the original drawings as submitted or if they were proposing new drawings for the Committee to determine.

Mr Starkey confirmed that the images utilised for his presentation had been submitted to the Planning Department on the 5 November 2024 and stressed his dismay that they had not been included within the case officer's report, confirming that he had sight of the email communication with the previous agent regarding receipt of these.

Ms McAlarney confirmed that the Planning Department had assessed the information that was submitted in August 2024, which had included intentions of planned shed extensions, but stressed that the Planning Department had to assess the situation as it was at the time of the inspection and could not take account of buildings under construction that did not have any associated certificates of lawfulness. She further stressed that the drawings of 5 November 2024 had been considered but were not uploaded as they were considered by the Planning Department to be inaccurate in terms of the buildings as the shed extensions had not been completed and confirmed that this had been communicated with the agent. She acknowledged that with the change of agent, this communication could have been missed by Mr Starkey.

Following this, Councillor Larkin proposed to defer the application to allow for further consideration by the Planning Department, stressing that it should be addressed in a timely manner.

Mr Peter Rooney interjected to highlight that this had become a situation where amended drawings had been submitted late and the accuracy of what was tabled before the committee was under question. He advised that it may be better to defer the item to allow

On agenda as a result of the call in process

Location:

Lands between 20 and 24 Carnalroe Road, Ballyward, Castlewellan

Proposal:

Proposed dwelling and garage and associated site works

Conclusion and Recommendation from Planning Official:

Refusal

Power-point presentation:

Mrs McAlarney outlined the application, confirming that no objections had been raised following neighbour notification and statutory consultations. She utilised images to outline the red line boundary of the application site, noting that the application had been considered against CTY1, 8, 14 and 15.

Ms McAlarney confirmed that the site was compliant with CTY8 in terms of a substantial and continuously built-up frontage but fell afoul of CTY8 when considering the frontage of the application as at 32m, it did not respect the pattern of development of the area. She confirmed that the application was recommended for refusal when considered against policies CTY1, 14 and 15 as there was no overriding reason that it could not be located within a settlement limit, it would result in the addition of ribbon development along the Carnalroe Road and lacked established natural boundaries and was therefore unable to provide a suitable degree of integration into the countryside.

Speaking rights:

In Support:

Mr Wallace spoke in support of the application, noting that although CTY8 was a restrictive policy, it did allow exceptions where approvals could be made and argued that this application was one such exception. He referenced a Planning Appeals Committee (PAC) decision whereby approval was granted for an application when the associated plot frontages were non-uniform and eclectic, which he argued was the case in this instance. He referenced the refusal reason as related to CTY13, noting the proposal's plans for planting to allow integration and further noted other PAC decisions whereby approvals had been granted that had less integration measures.

Mr Wallace argued that the case officer had noted that a triangular plot of land at no. 20 was being utilised as grazing and had not been considered within the curtilage of no. 20 and stated that this was incorrect as while 'curtilage' had no official definition, it did include domestic animals, further stressing that the one goat within this plot was a domestic animal, therefore should be considered as domestic curtilage.

Councillor McAteer queried whether there was a definition of curtilage in law, to which Mr Peter Rooney noted that CTY8 made no reference to curtilage. He summarised that the agent was arguing that the grazing area should be included in the curtilage of no. 20 and therefore the gap site would be smaller, while the Planning Department did not consider the area as curtilage therefore considered the gap site to be larger. He stated that it would be up to the Committee to make a decision on this themselves, suggesting a site visit to view the area.

There being no further business the meeting ended at 12.07pm.

Signed: _____ Chairperson

Signed: _____ Chief Executive

NB: 20% of decisions overturned

Item 5 – Addendum List

Addendum list - planning applications with no representations received or requests for speaking rights – Planning Committee Meeting on Wednesday 5 February 2025

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:

- **LA07/2023/2178/F** - 33 Main Street, Ballaghbeg, Newcastle, Down, BT33 0AD - Demolition Of Rear Return And Renovation & Extension To Existing Building To Provide 4 No. 1 Bed Apartments With Amenity Space. (Change Of Use Offices To Residential) Retention Of Ground Floor Ice Cream Shop.
APPROVAL
- **LA07/2024/1436/F** - Site to the SW of Cinema Complex and NE of Thomas Russell Park - Provide a sprayed concrete skateboard facility consisting of ramps and ridges including a pump track constructed from crushed aggregate, connecting the pump track and skate parks with the existing stone path around the site.
APPROVAL

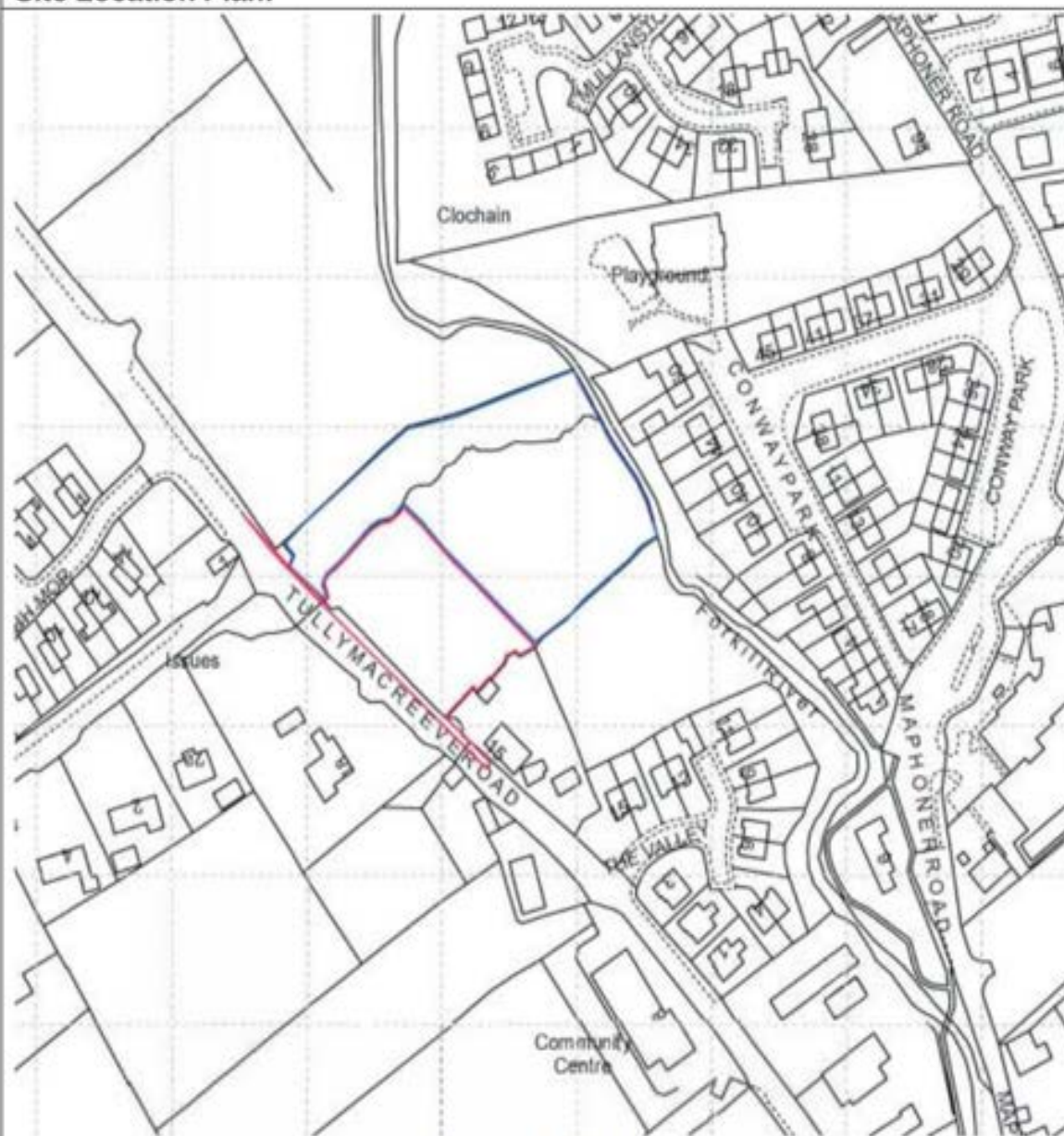
-0-0-0-0-0-0-

Application

Development Management Officer Report	
Case Officer: Ashley Donaldson	
Application ID: LA07/2023/3470/F	Target Date:
Proposal: Dwelling & detached garage	Location: Site adjacent to and to the west of 15 Tullymacreeve Road, Mullaghbawn BT35 9RD
Applicant Name and Address: JOHN CAMPBELL 15 TULLYMACREEVE ROAD MULLAGHBAWN BT35 9RD	Agent Name and Address: Bernard Dinsmore 19 Spring Meadows Warrenpoint BT34 3SU
Date of last Neighbour Notification:	17 March 2024
Date of Press Advertisement:	1 November 2023
ES Requested: No	
Consultations: NI Water - approval with standard conditions DFI Roads – Following amendments, no objection subject to compliance with attached conditions. Development Plan Section – Contrary to policies CTY 1 and CTY 15 of PPS 21. NIEA – No concerns noted. SES - Eliminated from further assessment because it could not have any conceivable effect on a European site. DFI Rivers – No objections raised.	
Representations: N/A	
Letters of Support	0.0
Letters of Objection	0.0
Petitions	0.0
Signatures	0.0
Number of Petitions of Objection and signatures	
Summary of Issues:	

Site Visit Report

Site Location Plan:



LOCATION PLAN

Date of Site Visit: 20.09.24

Characteristics of the Site and Area

The site which is rectangular in shape is located within a larger agricultural field that falls to the NE. A watercourse is evident to the North and NE of the site and trees and hedging are located along the road frontage. A footpath separates the site from the main road and residential dwellings are located to the SW and SE of the site. The site is located just beyond the Settlement Limit for Mullaghbawn within the rural area / AONB and looking towards Mullaghbawn, housing is the most dominate land use with agriculture prevailing to the NW of the site.

Description of Proposal

Full permission for a dwelling & detached garage

Planning Assessment of Policy and Other Material Considerations**Planning history**

Application Number: P/1983/0158

Decision: Permission Granted

Decision Date:

Proposal: PROPOSED DWELLING

Application Number: P/1983/0159

Decision: Permission Granted

Decision Date:

Proposal: PROPOSED BUNGALOW

Application Number: P/2006/1528/F

Decision: Appeal Dismissed

Decision Date: 18 February 2011

Proposal: Erection of housing development comprising 30No. dwellings and associated site works.

Policy and Guidance Documents

Banbridge Newry and Mourne Area Plan 2015.

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 21

Planning Policy Statement 3 / DCAN 15.

Planning Policy Statement 2

Planning Policy Statement 15

Building on Tradition

Case Officer 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 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.

Banbridge Newry and Mourne Area Plan 2015

The site is located outside the settlement limit for Mullaghbawn and within the countryside. The site is un-zoned and therefore the Plan remains silent on the use and defers decision making the retained policies, considered below.

Planning Policy Statement 21 / Strategic Planning Policy Statement for NI

Given the siting within the countryside, PPS21 is a lead policy consideration for the application. PPS21 is more prescriptive than the SPPS, determining weight can be afforded to the retained policy of PPS21 which is consistent with para 1.12 of the SPPS.

Policy CTY 1 makes provision for a range of development in the countryside including residential in 12 circumstances listed under policy CTY 1. The agent was contacted to confirm which policy with CTY 1 the application sought approval for.

The agent responded with the following,

'I confirm that the application is submitted under Policy CTY 1 of PPS 21, Strategic Planning Policy for Northern Ireland (SPPS) and Rural Development Strategy for Northern Ireland (RDS). The aim of the SPPS is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development while supporting and sustaining rural communities consistent with the RDS.

The application complies with both SPPS & RDS as a slight extension to the Development Zone that is not detrimental to the Mullaghbawn area. In complying with the above it also complies with CTY 1 and is consistent with recent Planning decisions in this respect.'

The agent has failed to confirm which policy within CTY 1 the application, in their opinion, meets.

Policy CTY1 makes provision for a new dwelling in the countryside where the proposal meets one of a number of exceptions. As no specific information has been provided to clearly identify which policies within PPS21 is relevant the proposal should be assessed against each policy in turn.

The proposal is not within an existing cluster that appears as a visual entity nor is it associated with a focal point or located at a crossroads. The proposal does not meet the policy criteria of CTY2a. There is no dwelling on site to replace and therefore does not qualify under policy CTY3. No special personal or domestic circumstances have been submitted to be considered under policy CTY6. A business does not exist at the site to be considered under policy CTY7 and the site does not occupy a gap in an otherwise substantially and continuously built-up frontage to allow compliance with CTY8. Finally, there are no farm buildings or farm details for the application to be considered under Policy CTY10.

Having considered all residential policy provisions of CTY 1 I am content the proposal does not meet any of those listed. CTY 1 reminds the reader that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. With no overriding reasons why the development is essential, the proposal is contrary to policy CTY 1 of PPS 1 and therefore the principle of development is not established at this site.

Notwithstanding the above, I will consider the proposal against the remaining applicable retained policies.

In terms of design, ancillary works and integration I am content the proposal would, on balance, integrate into the site particularly given the retention of the trees to the front of the site and Slieve Gullion acting as a backdrop to the site. The design is traditional in character with appropriate materials and has the correct vertical emphasis to the windows with the chimneys located internally and on the ridge. The design is appropriate for the site and broadly consistent with guidance in Building on Tradition. The proposal is generally consistent with policy CTY 13.

The proposal will not contribute ribboning, result in suburban style build up or appear prominent in the landscape. The proposal generally is consistent with the development pattern within the area and cumulatively I am content the proposal is in compliance with policy CTY 14.

As confirmed through consultation with Development Plan team, the Settlement Development Limit (SDL) results in a clearly defined distinction between the urban area of Mullaghbawn and the surrounding rural areas. The purpose of the SDL is to protect the Village and countryside to ensure the sustainability of both. The correct vehicle to request an extension of the SDL is by way of representation to the Development Plan section (when invited) to have this site considered within a new SDL for Mullaghbawn.

Allowing a dwelling on this site would mar this distinction of the countryside and urban area of Mullaghbawn and result in an impression of urban sprawl along Tullymacreeve Road which would undermine the current SDL. Consequently, the proposal is contrary to policy CTY 15. This position is supported by the Development Plan Team.

I do not agree with the agent that the proposal is consistent with the SPPS in that the SPPS clearly outlines 9 scenarios where a dwelling could be appropriate in the countryside and para 6.71 confirms that 'development in the countryside must not mar the distinction between a settlement and the surrounding countryside, or result in urban sprawl.'

Planning Policy Statement 3 / DCAN 15.

Following amendments to visibility splays and consultation with DFI Roads, the Department has confirmed it has no objections to the proposal with regard to PPS 3 and DCAN 15 subject to compliance with the attached conditions. There is also sufficient space within curtilage for adequate parking and turning.

Planning Policy Statement 2

A Biodiversity Checklist and Ecologist's statement has been submitted for consideration and upon inspection offers no objection to the proposal with mitigating factors included within the proposed plans. In conclusion, I am content there will be no significant harm to protected or priority species or habitats as a result of the proposal or that any International, European, National or local sites of acknowledged importance would be compromised by the proposal. NIEA was consulted and raised no concerns with the application.

Policy NH 6 is pertinent to the application given the siting within the Ring of Gullion AONB. As the proposal would lead to urban sprawl and mar the distinction of the SDL, the siting is not considered sympathetic to the AONB in general and of the particular locality. There are no features of importance compromised by the proposal, and the design, materials and architectural style are generally acceptable for the area. Trees will be retained to the front of the site which is compliant with policy. The proposal is contrary to PPS 2 policy NH 6 for the above reason.

Planning Policy Statement 15	
Policies FLD 1, FLD 4 and FLD 5 are not applicable to the application. A working strip has been shown on the layout which satisfies policy FLD 2 and whilst a Drainage Assessment is not required under policy FLD 3, drainage and flood risk responsibility is deferred to the applicant / landowner. The proposal is in general compliance with PPS 15.	
Neighbour Notification Checked	Yes
Summary of Recommendation	
Refusal, contrary to SPPS and policies CTY1 and CTY 15 of PPS 21. Proposal also contrary to policy NH 6 of PPS 2.	
Reasons for Refusal:	
<p>1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling would, if permitted, mar the distinction between the settlement of Mullaghbawn and the surrounding countryside and would otherwise result in urban sprawl.</p> <p>3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy NH 6 of Planning Policy Statement 2, Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality.</p>	
Case Officer Signature: A Donaldson	
Date: 13 November 2024	
Appointed Officer Signature: M Fitzpatrick	
Date: 14/11/2024	

Delegated Application

Development Management Officer Report	
Case Officer: Catherine Moane	
Application ID: LA07/2024/0022/O	Target Date:
Proposal: Proposed dwelling and garage and associated siteworks	Location: Lands between 20 and 24 Carnalroe Road, Ballyward, Castlewellan
Applicant Name and Address: Phelim McEvoy 11 Carnalroe Road Ballyward Castlewellan BT31 9UG	Agent Name and Address: William Wallace 9 Crossgar Road Dromara BT25 2JT
Date of last Neighbour Notification:	22 March 2024
Date of Press Advertisement:	24 January 2024
ES Requested: No	
Consultations: see report	
Representations: None	
Letters of Support	0.0
Letters of Objection	0.0
Petitions	0.0
Signatures	0.0
Number of Petitions of Objection and signatures	

Site Visit Report

Site Location Plan: The site is located at lands between 20 and 24, Carnalroe Road, Ballyward, Castlewellan.



Date of Site Visit: 22nd August 2024

Characteristics of the Site and Area

The site is a roadside plot which is located between No's 20 and 24 Carnalroe Road. The site is cut from a larger field and therefore the western boundary is undefined. The site is accessed via an existing field gate, with some hedging along the front roadside boundary. The southern boundary is defined only by a post and wire fence and the northern boundary is shared with No 24 which comprises a post and wire fence with a hedge planted on the inside (hedge belonging to No 24). The site rises gradually from the roadside to the rear of the field. The area is rural in character.

Description of Proposal

Proposed dwelling and garage and associated siteworks

Planning Assessment of Policy and Other Material Considerations

The application site is located outside the settlements in the open countryside within the Mourne AONB as designated in the Banbridge / Newry And Mourne Area Plan 2015.

The following planning policies have been taken into account:

Regional Development Strategy

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Planning Policy Statement 2 Natural Heritage

Planning Policy Statement 3 Access, Movement and Parking

Planning Policy Statement 6 Planning Archaeology and the Built Environment

Planning Policy Statement 21 Sustainable Development in the Countryside;

Banbridge / Newry and Mourne Area Plan 2015.

Guidance

- DCAN 15 – Vehicular Access Standards

- Building on Tradition, A Design Guide for Rural Northern Ireland

PLANNING HISTORY

Planning

No relevant history on the site.

Adjacent to the site

Q/2003/0331/F | 100m south of Carnalroe Road | Erection of dwelling | permission granted 18/11/2003.

Q/1992/0182 | 12 Carnalroe Road | Garage | Permission Granted 17/09/1992.

Consultations:

NI Water – Statutory response – no objections

DFI Roads – No objections subject to RS1 form

Historic Environment Division – No Objections

Objections & Representations

In line with statutory requirements neighbours have been notified on 07.03.2024. The application was advertised in the Mourne Observer on 21.01.2024 (Expiry 07.02.2024). No letters of objection or support have been received to date.

Consideration and Assessment:

Section 45 (1) of the planning Act 2011 requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise, until such times as a Plan Strategy for the whole of

the Council Area has been adopted. The LDP in this case is the Banbridge / Newry And Mourne Area Plan 2015.

It sets out the transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Under the SPPS, the guiding principle for planning authorities in determining planning applications is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provisions of the SPPS. Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside.

The SPPS states that in the case of infill/ribbon development provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. This is less prescriptive than the content of PPS21 regarding infill dwellings, however, the SPPS states that the policy provisions of PPS21 will continue to operate until such time as a Plan Strategy for the whole of the Council area has been adopted. Policy CTY 1 of Planning Policy Statement 21 Identifies a range of types of development that are, in principle, considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Planning permission will be granted for an individual dwelling house in the countryside in the certain cases which are listed, the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY 8 is one such instance. Integration and design of buildings in the Countryside CTY 13 and Rural character CTY 14, and CTY 16 are also relevant.

Policy CTY8- Ribbon Development

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

The agent considers that the site is such a gap site, falling within a substantial and continuously built-up frontage. For the purpose of the policy a line of 3 or more buildings along a frontage without accompanying development to the rear is required.

The site comprises an irregular shaped plot which fronts onto Carnalroe road. No 20, No 24 and the outbuilding north of No 24 all have frontage to the road because the plots upon which they sit abut the road. The substantial and continuously built-up frontage therefore comprises three buildings as specified in the policy, namely, the two detached dwellings at Nos. 20 and 24 and the dwelling and the outbuilding at No 24. If read from the south, the built-up frontage would continue and include No 8 (and its associated garage), with a ribbon of development beyond No 8.

A material consideration for the Council is the recent high court judgement – Gordon Duff v Newry, Mourne and Down District Council [2022] (NIQB37) and the subsequent court of appeal judgement - Gordon Duff's Application (Re. Glasdrumman Road, Ballynahinch) [2024] NICA 42, Policy CTY8 refers to a small gap site within an otherwise substantial and continuously built-up frontage, that is to say, which is continuously built up (in line with the policy) but for a 'small gap site' which is under consideration for development.

On considering that Judicial Review (JR) as referred to above, the restrictive nature of Policy CTY8 was further reinforced. The Judge had noted that:

"An exception to the prohibition against ribbon development can only be established if all of the conditions underpinning the exception are made out. Absent fulfilment of any of these conditions, the very closely defined exception cannot be made out. In construing and applying the exception, the decision-maker must bear in mind the inherently restrictive nature of the policy, the principal aim of which is to prevent the spread of ribbon development in rural areas".

Paragraph 5.34 of the amplification text of Policy CTY8 states that "many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character. The infilling of these gaps will therefore not be permitted except where it comprises the development of a small gap within an otherwise substantial and continuously built-up frontage. In considering in what circumstances two dwellings might be approved in such cases it will not be sufficient to simply show how two houses could be accommodated. Applicants must take full account of the existing pattern of development and produce a design solution to integrate the new buildings."

Paragraph 5.34 infers that for the purposes of the policy, the 'gap' is between buildings. The gap between the two dwellings is approximately 100 metres wide. In assessing whether that gap is 'small' and thus compliant with the policy, one must assess it in the context of the existing pattern of development along the frontage in terms of size, scale, siting and plot size. While consideration of an infill is not a mathematical exercise it does serve to inform the assessment of the proposal.

When considering the frontage of No 20 Carnalroe road, while the history of this site (Q/2003/0331/F) had included the triangular portion along the frontage within its red line, this is not what is on the ground. Part of this plot (triangular portion) has been clearly sectioned off by hedge and fencing and has been used to graze animals (and according

to google streetview and orthophotography has been like this since 2014 whereby the access position was also moved further to the SW). Therefore, in relation to No. 20, its plot size is approximately 0.2 hectares, with No 8 approx. 0.49ha. The plot at No. 24 is around 0.2 hectares, with the plot size of the outbuilding (north of 24) is approx. 0.2ha. which gives an average of 0.27ha. The plot size of the site would be around 0.26 hectares which, from the site inspection, would respect this aspect of the development pattern along the frontage.

Building on Tradition (BoT) states that where a gap frontage is longer than the average ribbon plot width the gap may be unsuitable for infill. It goes on to say that when a gap is more than twice the length of the average plot width in the adjoining ribbon it is often unsuitable for infill with two new plots. The guidance states that a gap site can be infilled with one or two houses if the average frontage of the new plot equates to the average plot width in the existing ribbon. From the Carnalroe Road, the plot width of No 8 is approximately 52m, No. 20 is approximately 45 metres, No. 24 is around 50 metres with outbuilding around 73 metres. The average plot width is therefore some 55 metres. Factoring this in and given that the width of the gap is approximately 100 metres, the gap is not more than twice the length of the average plot width at around 55 metres. Again, this aspect of the proposal would be acceptable.

Notwithstanding the above, the indicated plot of the site would have much smaller frontage along the built-up frontage (approx. 32m) which would read as visually discordant. Therefore while there is a small gap site within an otherwise substantial and continuously built up frontage, the proposed site would not respect the existing development pattern along the frontage.

Further to this, officers consider that while the proposal is located within a substantial and continuous built-up frontage (as identified above) the gap between Nos 20 and 24 provides an important visual break from development and contributes to the rural character of the area.



No 20

No 24



Views from along the frontage of the site and from the Dromara Road

The other planning and environmental requirements under Policy CTY8 fall to be considered under Policy CTY13 which deals with the integration and design of buildings in the countryside and Policy CTY14 which addresses rural character.

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

CTY 13 requires to be considered as part of the assessment of the proposal. As the application is for outline permission, no specific details of house type or design have been submitted. Policy CTY 13 states that a new building will be unacceptable where it is considered a prominent feature in the landscape and where the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape. It is noted that the site is cut from a larger agricultural field, with the loss of some of the road frontage hedging which would open the site up further when along the frontage of the site. Given the absence of any vegetation or other features on three of the site boundaries, the site could not provide a sufficient degree of enclosure to successfully absorb the development into the landscape. Nor is there any rising ground rising to provide a backdrop for the proposed development which would mitigate the lack of enclosure. New planting would not be sufficient to integrate the proposed development. The site is contrary to CTY 13.

CTY 14 – Rural Character

Policy CTY 14 of PPS 21 'Rural Character' states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It sets out five circumstances where a new building would be unacceptable. Development of the site would be visually liked with the two adjacent buildings at No 24 and the two storey outbuilding and would read as a ribbon of development from this aspect. Similarly, when travelling in both directions along Carnalroe Road there would be an awareness of three buildings in a linear form row. In doing so it would conflict with criterion d of PPS 14 (read as a whole and the related provisions of the SPPS), which would cause a detrimental change to the rural character of the area.

CTY 16 – Development relying on non mains sewerage.

There would be sufficient room within the land in red for a septic tank and soakaways. The grant of planning permission does not negate the need for a consent to discharge outside of the planning process. A consent to discharge should be obtained from DAERA NIEA.

PPS 2 – Natural Heritage

The proposal will involve some removal of hedgerow along the frontage of the site to accommodate sightlines. A biodiversity checklist was completed by the agent. Whilst it is acknowledged that hedgerows are classed as priority habitats, consideration has been given to the quality of this particular hedgerow which is not considered to be species rich or having a rich basal flora of herbaceous plants. Given the quality of the hedgerow it considered that reinstatement of the lost roadside hedgerow with a species rich native hedgerow would be acceptable and can be conditioned as such if the Council are minded to approve the development. An informative advising the applicant in relation to bird breeding season can be placed on the decision notice. The proposal is not therefore considered to offend Policy NH 2 or NH 5 protected species or priority habitats.

Policy NH 6 - Areas of Outstanding Natural Beauty

The application site falls within Mourne AONB. Planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met:

a) the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and

b) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and

c) the proposal respects:

- local architectural styles and patterns;
- traditional boundary details, by retaining features such as hedges, walls, trees and gates; and
- local materials, design and colour.

This is an outline application therefore there are no details of the choice of materials and the design of the dwelling, however these could be conditioned if the council are minded to approve the development.

PPS 3 – Access, Movement and Parking

DFI Roads were consulted as part of the proposal and have no objections subject to the RS1 form at reserved matters stage of 2.0m x 33m of site outlined in red being complied with and the access position to the centre of site outlined in red.

PPS 6 – Planning Archaeology and the Built Heritage

Historic Environment Division were consulted as the proposal fell within the consultation zone in relation to a scheduled monument (DOW 035:018). Historic Environment Division (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Conclusion

The agent was advised of the recommendation to refuse the application. The agent subsequently submitted a statement indicating that he had considered the findings of the Duff JR and doesn't feel that this application is comparable as he deems the plot size, area and road frontage are very comparable to the surrounding development pattern and the site does not represent a visual gap in accordance with Buildings on Tradition.

Full consideration has been given to this statement, however, for the reasons given above, the proposal fails to satisfy the requirements of Policies CTY 8, and CTY 13 & 14 of PPS 21 and the related provisions of the SPPS. No overriding reasons have been presented to demonstrate how the proposal would be essential in the countryside, thus it is also contrary to Policy CTY 1 and the related provisions of the SPPS.

<p>Recommendation: Refusal</p>	
<p>Refusal Reasons:</p> <p>1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it fails to meet the provisions for an infill dwelling as its development would result in the loss of an important visual break and would, if permitted, result in the addition of ribbon development along Carnalroe Road.</p> <p>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 proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.</p>	
<p>Informative The plan to which this refusal relates includes :site location plan P01C.</p>	
<p>Neighbour Notification Checked</p>	<p>Yes</p>
<p>Summary of Recommendation – refusal as per refusal reasons given</p>	
<p>Case Officer Signature: C Moane</p>	<p>Date: 28 November 2024</p>
<p>Appointed Officer: A.McAlarney</p>	<p>Date: 29 November 2024</p>

Development Management Consideration

Details of Discussion:

Letter(s) of objection/support considered: Yes/No

Group decision:

D.M. Group Signatures _____

Date _____

Delegated Application

Development Management Officer Report	
Case Officer: Claire Cooney	
Application ID: LA07/2024/0275/F	Target Date:
Proposal: PROPOSED ONE & A HALF STOREY REPLACEMENT DWELLING & DETACHED GARAGE	Location: LAND 205m SOUTHEAST OF 7 DUNTURK ROAD, CASTLEWELLAN, CO. DOWN, BT31 9PF
Applicant Name and Address: GEORGE SAVAGE 14 DUNTURK ROAD Castlewellan BT31 9PF	Agent Name and Address: Barry Fletcher 25 Main Street Castlewellan
Date of last Neighbour Notification:	
Date of Press Advertisement:	24 April 2024
ES Requested: No	
Consultations:	
<ul style="list-style-type: none"> Northern Ireland Water (NIW) NIEA : Natural Environment Division (NED) Dfi Roads 	
Representations:	
No representations or objections have been received from neighbours or third parties of the site.	
Letters of Support	0.0
Letters of Objection	0.0
Petitions	0.0
Signatures	0.0
Number of Petitions of Objection and signatures	
Summary of Issues:	

Site Visit Report

Site Location Plan:



Date of Site Visit: 12th September 2024

Characteristics of the Site and Area

The site is a roadside portion of land located along the minor Dunturk Road, approximately 100m from the junction with McAuleys Pipe Road Castlewellan.

The site, which has been cut out of a larger agricultural field, currently use for grazing contains a small derelict structure shown below, which sits gable to the road and is overgrown with vegetation.



The boundaries of the site are comprised of a substantial roadside hedge. All other boundaries of the site outlined in red are undefined.

The site lies within the rural area and the Mourne Area of Outstanding Natural Beauty (AONB) as designated in the Ards and Down Area Plan 2015. This area is comprised of undulating topography and is predominantly used for agricultural with a few farm holdings and detached dwellings dispersed throughout the area.

This lower section of Dunturk Road is notably void of development and the rural character of the area is evident, as can be seen in the aerial imagery above.

Description of Proposal

PROPOSED ONE & A HALF STOREY REPLACEMENT DWELLING & DETACHED GARAGE

Planning Assessment of Policy and Other Material Considerations

PLANNING HISTORY

There is no planning history for this site or within the immediate context of the site.

SUPPORTING DOCUMENTS

The application has been supported with the following information

- Application Form
- Design and Access Statement
- Supporting Statement
- Bio-Diversity Checklist
- Bat Survey

- Site Location Plan P01
- Site Layout Plan P02
- Elevations & Floor Plans P03
- Garage Plans P04

CONSULTATIONS

Northern Ireland Water (NIW) – No objections
DfI Roads – No Objections
NIEA – No objections

REPRESENTATIONS

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

EVALUATION

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

SPPS

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

Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside. In respect of replacement dwellings, the policy is broadly consistent with the policies set out in PPS21.

Policy CTY 3

Policy CTY 3 of PPS 21 provides the policy context and states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

In assessment of this initial criterion, it is considered that the structure on site does not exhibit the essential characteristics of a dwelling.

The applicant / agent have been made aware of officers concerns regarding the status of the building and have been afforded the opportunity to comment. They have advised officers that they consider the remains of a flu exists on the internal gable wall facing the road and there appears to be two window openings blocked up.

Officer having considered this information, do not agree that this demonstrates the essential characteristics of a dwelling.

Further to this the agent has provided a historical map of the site shown below. The agent considers that this historical map dating from 1832-1846 demonstrates that the subject building was a dwelling.



Officers do not agree, considering that the larger rectangular building to the centre of the site is more likely to be the former dwelling, with the subject building located gable end at the roadside a more likely outbuilding.

Officers acknowledge that the assessment of whether the subject building, was a dwelling or not is subjective. The lack of defining characteristics of a dwelling along with the very small nature of the subject building lead officers to consider that the subject building was not a dwelling.

The subject building measures 5.8m x 5.4m, giving it a floorspace of approximately 31sqm. Such floorspace provision is considered to be too small for the building to have been used as a dwelling. Further to this while the Officers acknowledge there is an opening on the front elevation, it is considered to be too wide to have been for a domestic door and is more likely to have been an outbuilding. An upper window is noted on the gable facing into the open field at the rear of the site. Officers do not consider that this window indicates first floor living accommodation more a loft area for agricultural / storage purposes.

The structure has no evidence of a fireplace nor any internal divisions which would indicate it was once used as a dwelling.

Officers, therefore remain of the opinion that the proposal fails to meet the first criterion of CTY 3. The proposal will be recommended for refusal on this basis.

In addition, to the above policy requirement, proposals for a replacement dwelling will only be permitted where 5 additional criteria are met.

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

In assessment of this criterion, it is noted that the site outlined in red comprises a portion of agricultural land cut out of a large field, which happens to have a building located within it. There is no apparent curtilage associated with the building, it appears as a stand-alone roadside building.

Nevertheless, the proposed curtilage of the new dwelling is relatively modest. Given the open nature of the plot a dwelling could be accommodated.

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



As noted above the subject building is very small. The proposed new dwelling is relatively modest by modern standards. It will have a maximum ridge height of 6.4m, a frontage of 14.6m and a gable depth of 9.5m. the foot print of the new dwelling will be approximately 138sqm which is substantially larger and would have a visual impact significantly greater than that which is present on site.

For this reason also the proposal will be recommended for refusal.

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

The design of the dwelling has traditional form e.g pitched roof, chimneys expressed centrally on the ridge, vertically emphasised windows.

The dwelling will be finished with concrete roof tiles / slate, smooth render plaster and paint finish to the external walls with natural stone where indicated, double glazed pvc windows, composite doors and pvc rainwater goods. It is considered that the design of the dwelling is of high quality and is appropriate to the rural setting.

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

It is considered that the proposal would comply satisfactorily with the above criterion.

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

Following a consultation with DfI Roads, it is considered that the proposal is satisfactory.

CTY 13 Integration and Design of Buildings in the Countryside

In assessment of the design, siting and integration of the proposal, Policy CTY13 of PPS 21 is applicable which 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;

In assessment of the policy requirements, it is considered that the proposed dwelling while modest in form is located on a site which is void of existing natural boundaries which could enable its successful integration into the landscape. The site benefits from only the roadside vegetation. DfI Roads have indicated that visibility splays of 2.4m x 45m are required for this proposal. The frontage of the site is approximately 41m in length. 28m a significant portion of the roadside boundary hedging will have to be removed to facilitate the development. Such removal of hedgerow will open up to the site further resulting in a lack of integration.



The proposed site layout plan below shows the amount of new planting that is required to ensure the dwelling is enclosed. While new planting is welcomed, it will take time to mature. An intervening period lack of integration is therefore and likely and along with the heavy reliance on new landscaping for integration, is contrary to policy. The proposal therefore fails to meet this fundamental aspect of rural policy and design. The proposal will therefore be recommended for refusal on this basis also.

PPS3 – Access Movement and Parking

The site will access onto the minor Dunturk Road via the creation of a new vehicular access.

Policy AMP 2: Access to Public Roads is applicable in this case and states 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

Following a consultation with DfI Roads, no objections were raised with regard to road safety. The proposal therefore complies with the requirements of PPS 3.

With regard to parking, turning and manoeuvring of vehicles, it is considered that there is sufficient space within the curtilage of the new dwelling, to ensure that 2 vehicles can adequately park and move in and out of the site. A detached garage is noted to be proposed also – see Drawing No P02.

PPS 2 Natural Heritage

The site is located within the rural area, but outside any designated sites of conservation interest etc. The proposal does however, seek the demolition of an existing building, which is within the vicinity of priority habitat hedgerows. As such an assessment of the potential of the site for protected species and habitats has been carried out by the applicant.

They have submitted to the Planning Authority a Bio-Diversity Checklist and Preliminary Ecological Assessment (PEA) carried out by Kerry Leonard, along with a Bat Survey carried out by John Wann assisted by Aoibheann Rainey.

The reports concluded that the surveyed site comprising an old rural building and part of an improved field contained no protected sites are present. No impact on protected sites is predicted. No priority habitats are present other than a short length of hedgerow. No impact on priority habitat is predicted as long as the mitigation below is followed. No priority species are present other than widespread birds. A bat roost emergence survey was carried out in 2023, no roosting bats were found. No impact on priority species is predicted if the mitigation below is followed.

All supporting documents have been assessed by NIEA: Natural Environment Division. NIEA: NED have raised no objections to the proposal and recommend the application is advised of standing advice.

The proposal is therefore considered to be compliant with the relevant policies set out in PPS 2 – NH 2 and 5.

Neighbour Notification Checked

Yes

Summary of Recommendation

REFUSAL

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the

Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS), and Policy CTY 3 of Planning Policy Statement 21 Sustainable development in the Countryside in that the building to be replaced does not exhibit the essential characteristics of a dwelling.
3. The proposal is contrary to the Strategic Planning Policy Statement (SPPS), and Policy CTY 3 of Planning Policy Statement 21 Sustainable development in the Countryside in that the new dwelling will have a visual impact significantly greater than the existing building.
4. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that, if permitted, the site lacks integration. The proposed dwelling would result in the removal of long established natural boundaries and would therefore be unable to visually integrate into the surrounding landscape and would rely upon new planting to integrate successfully.

Case Officer Signature: C COONEY

Date: 9 October 2024

Appointed Officer: A.McAlarney

Date: 11 October 2024

Development Management Consideration

Details of Discussion:

Letter(s) of objection/support considered: Yes/No

Group decision:

D.M. Group Signatures _____

Date _____

Delegated Application

Development Management Officer Report	
Case Officer: Fionnuala Murray	
Application ID: LA07/2023/2376/O	Target Date:
Proposal: Proposed Dwelling on a farm under Policy CTY10 of PPS21	Location: 60m South West of 131 Derryboy Road Ballyalgan Crossgar Down BT30 9DH
Applicant Name and Address: Mr Andrew Woods 130 Derryboy Road Ballyalgan Crossgar Down BT30 9DH	Agent Name and Address: 11 Ballyalton Park Ballynagross Upper Downpatrick Down BT30 7BT
Date of last Neighbour Notification:	31.05.2023
Date of Expiry:	14.06.2023
Date of Press Advertisement:	10.05.2023
Date of Expiry:	24.05.2023
ES Requested: No	
Consultations:	
<p>NI Water was consulted in relation to the application and responded with no objections (response date 04.06.2023)</p> <p>DAERA was consulted and responded advising that the farm business had been in existence for more than 6 years and claims had been made in each of the last 6 years and the site this application relates to is under the control of the farm business.</p> <p>DFI Roads was consulted and responded with no objections subject to conditions.</p> <p>DFI Rivers responded with no objections to the proposal</p>	
Representations:	
The application was advertised and neighbours notified as set out above and to date there have been no representations received in relation to the proposal.	
Letters of Support	0
Letters of Objection	0
Petitions	0
Signatures	0

Number of Petitions of Objection and signatures	0
Summary of Issues: There are no issues as a result of the consultation and publicity processes.	

Site Visit Report

Site Location Plan:



Characteristics of the Site and Area

The site in question is located along the Derryboy Road and is part of a larger agricultural field. The site rises up gradually away from the roadside. The northern boundary of the site is made up of some trees and gables and rears of buildings. The south, south western boundary is made up of a planted field hedge with two trees along it and the north western boundary is undefined. The boundary along the road is mainly made up of verge and a post and wire fence.

The site is not located within any settlement development limits as defined in the Ards and Down Area Plan 2015, the site is located in the open countryside which is characterised generally by single dwellings and farm steads. The site is constrained by surface water flooding.

Description of Proposal

Proposed Dwelling on a farm under Policy CTY10 of PPS21

Planning Assessment of Policy and Other Material Considerations

PLANNING HISTORY

R/2008/0731/F - 128 Derryboy Road, Crossgar, Co Down, BT30 9DH - Proposed replacement dwelling with detached garage & retention of existing garage for conversion to a stable at 128 Derryboy Road, Crossgar – approval 26.03.2009 (applicant Mr Kevin Dickson)

No other relevant site history found in relation to the farm at 131 Derryboy Road

CONSIDERATION AND ASSESSMENT

The proposal has been assessed against the following policies and plans:

- The Banbridge, Newry and Mourne Area Plan 2015.
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 3: Access Movement and Parking
- Planning Policy Statement 15 Planning and Flood Risk
- Planning Policy Statement 21: Sustainable Development in the Countryside
 - Policy CTY 1 Development in the Countryside
 - Policy CTY 8 Ribbon Development
 - Policy CTY 13 Integration and Design of Buildings in the Countryside
 - Policy CTY 14 Rural Character

Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The LDP in this case is the Banbridge/Newry and Mourne Area Plan 2015)

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.

Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside.

There is no conflict between the SPPS and the provisions set out in PPS 21 CTY 10 Dwellings on Farms therefore this assessment is made under CTY 10 which states that 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.**

Taking account of the consultation response from DAERA it appears that the farm business is active and established and has been for a period of 6 years or more and farm payments have been claimed in each of the last 6 years for the farm business.

(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

Taking account of planning history on the lands associated with the farm business it does not appear there have been any development opportunities sold off from the holding. The agent has indicated that there have been no sell offs on the P1C form.

There is a dwelling under construction adjacent to the associated farm holding however the applicant has confirmed this is not associated with the holding and never has been and land registry and planning history checks appear to confirm the same.

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either: • demonstrable health and safety reasons; or • verifiable plans to expand the farm business at the existing building group(s). In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.

The agent has confirmed that the farm holding associated with this proposal is that of 130 Derryboy Road which is on the opposite side of the road to the site in question. In order to cluster or visually link it is accepted that the site would sit on the same side of the road as the farm buildings it clusters with rather than having the break of a road between. On this occasion the proposed site appears to cluster with the dwelling and associated out buildings of 131 Derryboy Road with some of those outbuildings forming the boundary to the site, therefore the site is not visually linked or clustering with an established group of buildings on the farm and fails this aspect of policy. There has been no justification put forward to justify siting away from existing buildings on the farm.

The application is considered against CTY 13 Integration and Design of Buildings in the Countryside Planning which states that 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.

It is considered that a dwelling could be accommodated at the site that could meet with the requirements A-F as set out in CTY 13 with further consideration to be given to the design of the dwelling during reserved matters stages when the full particulars would be presented for assessment.

As detailed above the site is not visually linked or sited to cluster with an established group of buildings on the farm and therefore fails to meet the requirements of part G of CTY 13.

The proposal is also considered against CTY 14 Rural Character CTY 14 states that Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed site appears to meet with the requirements set out in CTY 14 with the exception of par D it creates or adds to a ribbon of development as per policy CTY 8



Taking account of ribbon development as set out in CTY 8 there is currently a small ribbon of development adjacent to the site in question being a dwelling house and two outbuildings that all present to the road therefore the development of this site would result in the addition to an existing ribbon of development. In this assessment consideration is given to the potential for the site to meet the requirements of CTY 8 in representing a gap between no 131 and no 135 Derryboy Road however this is a visual break and does not represent a gap in an otherwise substantial and built up frontage when taking account of plot sizes and the considerable size of the gap.

Neighbour Notification Checked	Yes
---------------------------------------	-----

Summary of Recommendation

For the reasoning detailed in the above report a recommendation of refusal is made for the reasons outlined below.

Reasons for Refusal:

- 1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 10 of Planning Policy Statement 21, Dwellings on Farms as it has not been demonstrated that the new building is visually linked or sited to cluster with an established group of buildings on the farm and it has not been demonstrated that:**

- demonstrable health and safety reasons.
 - verifiable plans to expand the farm business at the existing building group(s).
to justify siting away from an established group of buildings.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 of Planning Policy Statement 21, Integration and Design of Buildings in the Countryside part (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.
 3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21, Rural Character as the development would add to a ribbon of development along the Derryboy Road.

Case Officer Signature: Fionnuala Murray

Date: 19 September 2024

Appointed Officer: A.McAlarney

Date: 20 September 2024

Delegated Application

Development Management Officer Report	
Case Officer: Catherine Moane	
Application ID: LA07/2023/3475/F	Target Date:
Proposal: PROPOSED NEW DWELLING ON A FARM (UNDER PPS21 CTY10)	Location: 60M SOUTH OF 68 JERICO ROAD CROSSGAR DOWNPATRICK Co DOWN BT30 9LQ
Applicant Name and Address: SAMUEL ROSS 68 JERICO ROAD CROSSGAR DOWNPATRICK BT30 9LQ	Agent Name and Address: MICHAEL BAILIE 42 Crew Road Ardglass DOWNPATRICK
Date of last Neighbour Notification:	
Date of Press Advertisement:	6 March 2024
ES Requested: No	
Consultations: see report	
Representations: None	
Letters of Support	0.0
Letters of Objection	0.0
Petitions	0.0
Signatures	0.0
Number of Petitions of Objection and signatures	

Site Visit Report

Site Location Plan: The site is located 60m south of 68 Jericho Road, Crossgar Downpatrick.



Date of Site Visit: 02nd May 2024

Characteristics of the Site and Area

The site is located off the Jericho Road which is approx. 4 miles NE of Crossgar. The site is roughly rectangular and measures approx. 0.29ha in size. The northern boundary comprises a post and wire fence along the boundary of the existing laneway, the eastern boundary comprises a roadside hedge which is quite mature, while the other boundaries are undefined, being cut from a larger agricultural field. The existing laneway leads up to a number of farm buildings and the dwelling at No 68 is accessed via another driveway further north of this site. The land rises steadily from the roadside towards the western part of the site. The area is rural and is characterised by single houses and farms in the countryside.

Description of Proposal

PROPOSED NEW DWELLING ON A FARM (UNDER PPS21 CTY10)**Planning Assessment of Policy and Other Material Considerations**

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

The proposal has been assessed against the following policies and plans:

- The Ards and Down Area Plan 2015
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 3: Access Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

PLANNING HISTORY

No history on the site

Planning - Close to the site

Application Number: LA07/2024/1349/F

Decision Date: pending

Proposal: Replacement of existing dwelling in substitution of planning permission granted under planning reference LA07/2023/2258/F.

Location: 450m NE of 68 Jericho Road, Killyleagh.

Objections & Representations

In line with statutory requirements no neighbours were required to be notified. The application was advertised in the Down Recorder 01/11/2023 and again on 06.03.2024. No letters of objection or representation have been received in relation to the proposal.

Consultations

NI Water – No objections

DfI Roads – No objections subject to conditions

DAERA – No objections

Proposed site located in FSN 3/110/108 field 35 is under the control of the farm business identified on the P1C Form.

Shared Environmental Services (SES) – no formal consultation required.

Consideration and Assessment:

Section 45 (1) of the planning Act 2011 requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to

the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise, until such times as a Plan Strategy for the whole of the Council Area has been adopted. The LDP in this case is the Ards and Down Area plan 2015 (ADAP).

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.

Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside.

The policy context for the development includes Planning Policy Statement 21 – Sustainable development in the Countryside (PPS 21). Policy CTY 1 of PPS 21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside. Policy CTY 1 goes on to state that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.

PPS 21 - Sustainable Development in the Countryside

Policy CTY 1 states that a range of types of development are acceptable in principle in the countryside. Planning permission will be granted for an individual dwelling house in the countryside in the following cases which are listed, a dwelling on a farm in accordance with policy CTY 10 is one such instance. Integration and design of buildings in the Countryside CTY 13 and Rural character CTY 14, CTY 16 will also be considered.

Policy CTY 10 - Dwellings on farms

Planning permission will be granted for a dwelling on a farm where all of the criteria can be met. As part of this application a P1, (including P1C), farm maps, site location plan, site layout, proposed floorplans and elevations have all been submitted.

Criterion (a) of Policy CTY10 requires that the farm business is currently active and that it has been established for at least 6 years. Paragraph 5.38 of the Justification and Amplification to Policy CTY10 states that new houses on farms will not be acceptable unless the existing farming business is both established and active. It goes on to state that the applicant will therefore be required to provide the farm's (DARD (now known as

DAERA) business ID number along with other evidence to prove active farming over the required period. Policy CTY10 does not confer an absolute entitlement to the approval of a dwelling on a farm. The policy is permissively worded but makes it clear that approval will be conditional upon certain criteria being met.

The applicant is Mr Samuel Ross of 68 Jericho Road, Crossgar. He is the registered owner of the farm business. The farm maps indicate the business ID with a total of 29.17 hectares. A farm business ID was allocated by DAERA on 21/03/1997 and is a Category 1 business as confirmed by DAERA.

Department of Agriculture, Environment and Rural Affairs (DAERA) have been consulted regarding the proposal and they state that the business ID has been in existence for more than 6 years and the business has claimed Single Farm Payment (SFP), Less Favoured Area Compensatory Allowances (LFACA) or Agri Environment schemes in the last 6 years. DAERA indicate that the proposed site located in FSN 3/110/108 field 35 is under the control of the farm business identified on the P1C Form. The first part of the criteria has been met.

Part (b) requires that 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. The applicant has stated in the P1C form that no dwellings or development opportunities been sold off from the farm holding within 10 years of the date of this application. A search of planning records would indicate the same. On this basis the Planning Authority is satisfied that there does not appear to be any evidence of selling off any dwellings or development opportunities on the land within the last 10 years.

Criterion (c) of CTY 10 requires 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. It goes on to say that "exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building group(s)".

To the north west of the proposed site is an existing group of farm buildings including the two-storey dwelling where the applicant currently resides. The grouping therefore qualifies as an 'established group of buildings on the farm' as per CTY 10. The site, however, does not visually link or cluster with the group of farm buildings, as the distance involved does not allow for grouping. The result is that the proposed siting creates a linear form of development in the form of ribboning.

The agent has submitted further information to show that the shed under construction is due to be completed and that he wants to complete the digger work at the same time as the shed construction (as it makes financial sense), quotes from McCormick Metal Fabrications for steelworks and a quote from Beattie Contracts for digger work for the shed were forwarded. The agent indicates that completion of this shed would bring the shed closer to the proposed dwelling. It is noted that there is no lawful development certificate in place for the shed and nor is there any requirement for a certificate providing that it meets the terms of agricultural permitted development under part 7 of the Planning (General Permitted Development) Order (Northern Ireland) 2015. Planning officers, however, have to assess the present circumstances and what is currently on the ground, not future intentions. CTY10 for visual linkage or clustering has an inherent proximity test as part of the policy, but it cannot offend CTY14. CTY 14 is clear in that planning permission will be refused for a building which creates or adds to a ribbon of development. CTY10 also requires compliance with CTY13 and CTY14. This site does not visually link or cluster with the group of farm buildings, as the distance involved does not allow for grouping. The result is that the chosen siting creates linear development in the form of ribboning and is therefore contrary to both CTY 13 and CTY 14.

Policy CTY 13 - Integration and Design of buildings in the Countryside

This policy 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
- (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 on primarily on the use of new landscaping for integration;
- (D) The ancillary works do not integrate with their surroundings
- (E) The design of the dwelling is inappropriate for the site and its locality
- (F) It fails to blend with the landform, existing trees, buildings, slopes or other natural features which provide a backdrop or
- (G) In the case of a proposed dwelling on a farm it is not visually linked or sited to cluster with an established group of buildings on the farm.

Design and Scale

The design of the dwelling shall be assessed against CTY13 criteria (a)-(g).

Design: The proposed dwelling is one and a half storey, however, the roof slopes down in part to single storey to the rear, with a double height rear return to the rear. The front

elevation is orientated to face east onto the road and is dominated by a front projection with glazing, the remaining elevation is simple in form and the windows having a vertical emphasis. The dwelling has a ridge of 7m. As the principle of development has not been acceptable, no amendments on the design have been sought, however, a reduction in this glazing element could be sought if the principle was accepted.



External finishes include smooth render with a painted finish, stone cladding to be used as indicated. Roof- natural roofing slates/black ridge tiles. Windows and Doors – uPVC RWG – black uPVC. These materials and finishes would all be deemed suitable for this rural locality. While the garage is connected to the dwelling, this adds to the overall bulk of the dwelling and given the siting close to the road, combined with the openness of the site, there will be views of this along the roadside in both directions. The removal and setting back/side of the garage linking to the house could negate this issue, but in its current form the house type does not respect the siting and the site is inappropriate.



Proposed site layout

Siting & Levels: There will be some cut into the site, given existing levels. There is sufficient private amenity space within the curtilage.

Landscaping: The site plan identifies that all boundaries will require new planting boundaries with hedgerow comprising Hawthorne, Blackthorn, Dog Rose, Willow, Hazel, Holly and Alder. Trees where shown include Birch, Alder, Rowan and Pine. These would be acceptable forms of planting.

The site is cut from a larger field, whereby three of the four boundaries are undefined, with the remaining boundary defined only by a post and wire fence along the laneway. The site has been pulled in from the roadside hedge with the access coming off the existing laneway, however, this existing access will require visibility splays of 2m x 45m which will require the removal of some roadside hedging which will open the site up even further. There is some vegetation further to the west and south west beyond the site along the boundaries of the agricultural field, however, given the absence of any vegetation or other integrating features on three of the site boundaries, the site could not provide a sufficient degree of enclosure to successfully absorb the development into the landscape. The rising ground would provide very limited backdrop for the proposed development and would not mitigate the lack of enclosure. New planting would not be

sufficient to integrate the proposed development. The site is contrary to parts b, c, e and g of CTY 13.

Policy 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. A new building will be unacceptable where:

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

The proposal has already been deemed to be unacceptable in terms of ribboning. In addition, when viewed with the existing buildings, the proposal would lead to a localised sense of build-up that would be detrimental to the rural character of the area. The proposal therefore offends Policy CTY14.

Policy CTY 16 – Development Relying on Non-Mains Sewerage

The proposal is being served by a septic tank and soakaway system within land owned or controlled by the applicant as indicated on the site plan. The granting of planning permission does not negate the need that other consents outside of the planning process may be required. A consent to discharge would need to be applied for to DAERA NIEA.

PPS 3 - Access, Movement and Parking

DFI Roads have been consulted and have offered no objections to this proposal. It is also considered the proposal would comply with AMP 2 of PPS 3 subject to conditions. There is sufficient provision within the site for parking.

Impact on Residential Amenity

There are no neighbouring properties close to the site, therefore there will be no adverse impact.

Conclusion

Having considered the relevant policy, the proposal does not meet with the criteria as set out in CTY 1, CTY 10 CTY 13 and CTY 14 of PPS 21 and refusal is recommended.

<p>1.The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.</p> <p>2.The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS,) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.</p> <p>3. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling 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 which would therefore result in a detrimental change to further erode the rural character of the countryside.</p>	
Neighbour Notification Checked	N/A
Summary of Recommendation	
<i>REFUSAL</i>	
Case Officer Signature: C. Moane	Date: 22 November 2024
Appointed Officer: A.McAlarney	Date: 22 November 2024



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

Newry, Mourne
and Down
District Council

ADDENDUM TO REPORT

Proposal: Dwelling on a farm - 60m south of 68 Jericho Road, Crossgar, Downpatrick.

Reconsideration: The application was presented on the delegated list of W/C 25th November 2024, with a recommendation for refusal, based on the proposal being contrary to the SPPS and CTY 1, CTY 10, CTY 13 and CTY 14 of PPS 21. The application was subject to 'call in' panel on 17th December 2024 with the outcome that the application should be presented to the planning Committee on 8th January 2025.

Through the processing of the application, an amended layout was received 2nd September 2024. The layout was further amended on 5th November 2024 from what had been considered at the Planning Committee 8th January 2025. In the interest of clarity, this revised scheme now forms the basis of this reconsideration. This reconsideration is based on revised plans;

444-23 -02P– Proposed Site Layout Plan (received 5th November 2024)

Original Scheme



Amended scheme (2nd September 2024)



Further amended scheme submitted 5th November 2024 (subject to this consideration)



It is noted that construction of the shed extension now appears to be complete, however, the 'future extension' (pink wash on the above plan) has not been built. The amended layout shows the proposed dwelling pulled closer to the existing laneway and located closer to this existing shed (as built) approx. 30m not 9m as indicated, as this portion of the shed has not yet been built). As previously noted in the report there is no lawful development certificate in place for the shed nor is there any requirement for a certificate providing that it meets the terms of agricultural permitted development under part 7 of the Planning (General Permitted Development) Order (Northern Ireland) 2015.

Within CTY 10, for visual linkage or clustering there is an inherent proximity test as part of the policy, however, it must meet the requirements of CTY 13 & CTY 14. So while this amended layout may overcome some of the policy test considerations within CTY 10 in terms of clustering with this shed (provided it is lawful), it is clear that it still does not overcome CTY 13 & CTY 14.

CTY 14 is clear in that planning permission will be refused for a building which creates or adds to a ribbon of development. The amended site would still create a linear form of development in the form of ribboning and is therefore contrary to CTY 14. In terms of CTY 13 the dwelling has now been moved to higher land and further away from the roadside boundary to a more open part of the field with no defined boundaries on any side. The site therefore lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and would rely primarily on the use of new landscaping for integration. The refusal reasons have therefore been amended to reflect this latest position.

Recommendation

Refusal

Refusal Reasons:

1.The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS,) and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the dwelling to integrate into the landscape, and would rely primarily on the use of new landscaping for integration.

2. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, result in ribbon development which would therefore result in a detrimental change to the rural character of the countryside.

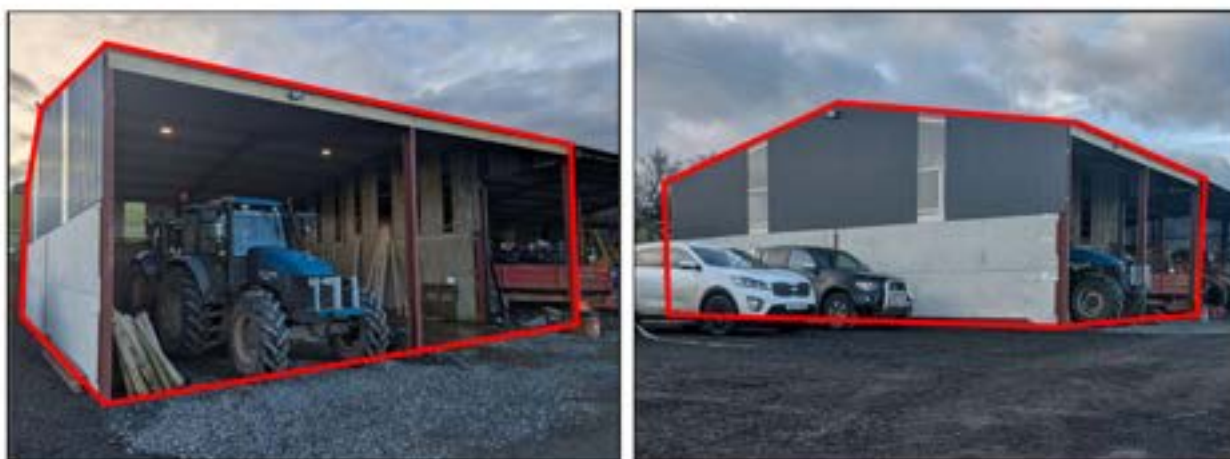
Case Officer: C. Moane 22/01/2025

Authorised Officer: Brenda Ferguson 22/01/25

WRITTEN REPRESENTATION

Reference No: LA07/2023/3475/F
Proposal: Dwelling on a Farm (Under PPS21 CTY10)
Location: 60m South of 68 Jericho Road, Crossgar, Downpatrick, Co Down BT30 9LQ.

1. This application was originally presented to the planning committee on 08 Jan 2025. The Planning Department had not assessed the application against the most recent drawings – indeed, the Case Officer report did not include any reference to the most recent drawings. The Committee therefore instructed the Department to reassess the application afresh, which is what they have now done. We do however note from the Planning Portal that the Case Officer Report has not been updated, nor has the amended Site Plan been uploaded. I have however reasonably assumed that the reasons for refusal are as per the Case Officer Report present on the Portal, dated 22 Nov 2024.
2. Planning permission is sought for a dwelling on a farm. Officers are satisfied that the farm business is active and established, that there have been no development opportunities sold off from the holding in the past 10 years and that there is an established group of buildings on the farm. Officers are not however satisfied that the proposed dwelling would cluster with the established group of buildings on the farm because *“the distance involved does not allow for grouping”*. The fundamental and critical issue in this case is the separation distance between the proposed dwelling and the group of buildings on the farm and the Officers’ contention that it does not cluster on account of this separation.
3. The applicant has constructed the first phase of an extension to his neighbouring farm building. Quotes were furnished to the planning authority for the metal fabrications/steel work and digger work, so they were aware in advance that these works were planned. The extension as built measures 3.1m in height and has a floorspace of c120sqm in area, which is very modest and well within the agricultural permitted development limits of 12m in height and 500sqm in ground area. See photographs of constructed extension below:



4. The proposed dwelling is located 35m from the extended shed.
5. Paragraph 5.41 of the Justification & Amplification text of Policy CTY10, states that *“to help minimise impact on the character and appearance of the landscape, such dwellings should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them.”* Whilst Planning Officers state that the proposed dwelling would not be visually linked or clustered with the established buildings on the farm, they have not identified any specific vantage points from where its physical separation from the main farm group would be readily apparent, nor have they explained what the separation distance is (in meters) or described the juxtaposition of the proposal in relation to the existing farm group. In failing to specify from where and to what extent the proposal would be read

with the existing farm group, the planning department has failed to substantiate its contention that the proposal would fail to visually link or cluster.

6. The application site is located on the western side of Jericho Road, which is a small, winding, single track road in the rural countryside approximately 3.5km northeast of Crossgar. On account of the winding nature of the road, the mature and oftentimes dense roadside vegetation and the undulating landscape, there are only very fleeting views of the site available as you travel immediately past the site frontage along Jericho Rd. There are no lasting or medium/long range views of the site from any public viewpoint. This is also a quiet rural road, which carries very little traffic. Indeed, upon my site visit conducted on 28.01.25, I observed that not a single vehicle passed the site during that time (approx. 45 mins).
7. The proposed dwelling is only 35m from the building group, which is a modest gap. It is important to note that there are many examples of farm dwelling applications being approved in the Newry, Mourne and Down District with significantly greater separations – permissions LA07/2020/1830/O, LA07/2023/3563/F and LA07/2023/2704/O are but a few examples of this and all have separations of approximately 75m – 100m, which is more than double the separation proposed under this application.
8. The dwelling will also be principally sited to the front (and slightly to the side) of the building group, meaning that there would be little appreciation of any physical separation that exists between the proposed and existing buildings when travelling along Jericho Rd. For all these reasons, the proposed dwelling is both visually linked and sited to cluster with the existing group of buildings. The proposal thus satisfies criterion (c) of policy CTY10 and is therefore acceptable in principle.
9. In terms of integration, policy CTY13 states that a new building will be unacceptable where *“the site lacks long established boundaries OR is unable to provide a suitable degree of enclosure for the buildings to integrate”* (my emphasis) or, *“it relies on new landscaping for integration”*. The policy does not state that an absence of existing vegetation to help form the proposed boundaries is fatal or critical. The test is whether the new building can integrate acceptably AS JUDGED FROM CRITICAL VIEWS and, in addition to existing landscaping, the amplification text to CTY13 refers to features such as the proximity to other existing buildings, the existence of a backdrop and whether there is intervening vegetation between the site and critical views.
10. The site is within a sloping field with rising land to the rear forming a substantial backdrop to the development. The field parcel within which the proposal is set is bound on three sides by mature, dense hedgerows, which enclose the site and screen it from critical views. The proposal also clusters with the farm building group. For all of these reasons the proposal would integrate acceptably and whilst new planting is proposed along the site boundaries, the development would not rely on it for integration.
11. In terms of the creation of ribbon development, the proposal is set principally to the front of the existing buildings and does not create a linear form of development, nor does it have frontage to the public road. For these reasons it would not result in ribboning. This notwithstanding, as the proposal clusters with the group of buildings on the farm, the ribboning test set out in CTY14 (and CTY8) is not engaged. Appeal 2019/A0016 relates to a farm dwelling on Carricknab Rd, Downpatrick and reads: *“The proposed dwelling would, in association with the two adjacent farm buildings, read as visually linked with a common road frontage and would therefore create a ribbon of development for the purposes of Policy CTY 8. However, as set out above, the proposed dwelling would be visually linked and sited to cluster with an established group of buildings on the farm and therefore meet the rural character and integration test inherent in Policy CTY 10. Policies CTY 8 and CTY 10 must be considered in the round and I judge that while CTY 8 may be technically contravened, the fact that the proposal would present visually as part of a cluster, would ensure that there would be no resulting detrimental change to or erosion of rural character. The Council’s objection on the grounds of loss of rural character through creation of ribbon development is not upheld”* (emphasis added).
12. In summation, the proposal does not create a ribbon of development, but even if it did, this would not be fatal to the determination of the application as it is visually linked with a group of buildings on the farm and as such integrates acceptably without resulting in a detrimental change to the rural character of the area.
13. For the reasons outlined above the proposal farm dwelling clusters with an existing group of buildings on the farm and integrates acceptably without causing a detrimental change to the rural character of the area. The proposal therefore complies with PPS21 policies CTY1, CTY10, CTY13 & CT14.

Committee Application

Development Management Officer Report	
Case Officer: Fionnuala Murray	
Application ID: LA07/2023/2178/F	Target Date:
Proposal: Demolition Of Rear Return And Renovation & Extension To Existing Building To Provide 4 No. 1 Bed Apartments With Amenity Space. (Change Of Use Offices To Residential) Retention Of Ground Floor Ice Cream Shop.	Location: 33 Main Street Ballaghbeg Newcastle Down BT33 0AD
Applicant Name and Address: Claire Burns 33 Main Street Ballaghbeg Newcastle Down BT33 0AD	Agent Name and Address: Jonathan Maze 5 Wateresk Road Dundrum Newcastle
Date of last Neighbour Notification:	17.04.2023
Date of Neighbour Notification Expiry:	02.05.2023
Date of Press Advertisement:	22.02.2023
Date of Press Ad Expiry:	02.05.2023
ES Requested: No	
Consultations:	
<p>HED was consulted Historic Buildings responded with no objections in terms of impact on nearby listed buildings, the closest being the Newcastle Presbyterian Church, Main Street Historic Monuments also responded with no objections considering that there is no impact on historic monuments.</p> <p>DFI Roads was consulted and responded initially requesting a parking survey to reflect residential parking for the application. Following the submission of the survey DFI Roads responded with no objections provided planning are content there is no requirement for off street parking. DFI Roads were again consulted in relation to the application and responded again with no objections however advised that planning may wish to request travel passes for each apartment for 2 years to offset the non provision of off street parking.</p> <p>Environmental Health was consulted and initially responded requesting additional information in relation potential for noise and odour, upon receipt of the requested information Environmental Health responded with no objections subject to conditions.</p> <p>DFI Rivers was consulted and responded with no objections.</p>	

NI Water was consulted and responded initially with no objections however as the consultation had expired at the time of writing the report (greater than 18 months) a fresh consultation was issued and NI water responded with refusal subject to a WWIA being submitted. The agent has confirmed that a WWIA has been submitted and is with NI Water for consideration.

Representations:

The application was advertised and neighbours notified as above and to date there have been no representations received in relation to the proposal.

Letters of Support	0
--------------------	---

Letters of Objection	0
----------------------	---

Petitions	0
-----------	---

Signatures	0
------------	---

Number of Petitions of Objection and signatures	0
---	---

Summary of Issues: There are no outstanding issues as a result of the publicity and consultation process. Parking provision will be considered later in the report.

Site Visit Report

Site Location Plan:



Characteristics of the Site and Area

The site in question is a three storey terrace property location along the Main Street in Newcastle, the building currently has a ice cream shop at ground floor and office accommodation at 1st and 2nd floor. There is a shop front to the ground floor of the property and associated signage and the upper floors are finished in a cement render and have a singular bay window at each level. There is a slate roof and shared chimney to the building. The buildings along this row face out onto a wide pavement area with street furniture and some trees and planters. There is a single storey roller shutter unit to the rear of this development, accessing out onto Valentia Place, to the rear of the main building.

The site is within the settlement development limits of Newcastle as defined in the Ards and Down Area Plan 2015, the site is within the town centre and within the main retail core in terms of retail frontage. The site sits along Main Street which is a protected route. The site is adjacent to a retail unit and an existing restaurant. There is a mix of retail and eateries of various sorts along the frontage of Main Street. There are no specific site constraints, there is a listed building in relatively close proximity to the site being the Newcastle Presbyterian Church.



Description of Proposal

Demolition Of Rear Return And Renovation & Extension To Existing Building To Provide 4 No. 1 Bed Apartments With Amenity Space.(Change Of Use Offices To Residential) Retention Of Ground Floor Ice Cream Shop.

Planning Assessment of Policy and Other Material Considerations

PLANNING HISTORY

LA07/2021/0364/F – 33 Main Street, Newcastle - Change of use from ground floor offices to ice cream shop. Upper floors remain unaffected – approval - 09.07.2021

LA07/2019/1787/F – 33 Main Street, Newcastle - Change of use from Offices/Showrooms to Restaurant including Demolition of Existing Rear Return and Construction of new Extension – approval – 21.05.2020

R/2008/0321/F – 35 Main Street, Newcastle - 2 Storey extension to rear of existing unit and infill of existing courtyard with extension. Amended design to that approved under R/2007/0377/F – approval 04.09.2008.

R/2007/0377/F – 35 Main Street, Newcastle –2 Storey extension to rear of existing unit and infill of existing courtyard with 2 storey extension. – approval – 09.01.2007

R/2004/0189/F – 31 Main Street, Newcastle – change of use from retail shop to restaurant providing dinners mainly sit in but also take away service if required. – approval – 09.09.2004

R/1990/0512/F – 33 Main Street, Newcastle – alterations and extensions to premises – approval – 21.08.1990

R/1989/0973/F – 33 Main Street, Newcastle – new shop front – approval – 28.12.1989

R/1985/0605/F - 33 Main Street, Newcastle – extension and alteration to shop – approval – 15.11.1985

CONSIDERATION AND ASSESSMENT

Planning Policies & Material Considerations:

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

- Strategic Planning Policy Statement (SPPS),
- Ards and Down Area Plan 2015
- PPS 2 Natural Heritage
- PPS 3 Policy AMP 7 Car Parking and Service Arrangement,
- PPS 7 Policy QD1 Quality in New Residential Developments
- Addendum to PPS 7 Safeguarding the Character of Established Residential Areas
- DECAN 8 Housing in Existing Urban Areas
- PPS 12 Policy HS1 Living Over the Shop,
- Creating Places

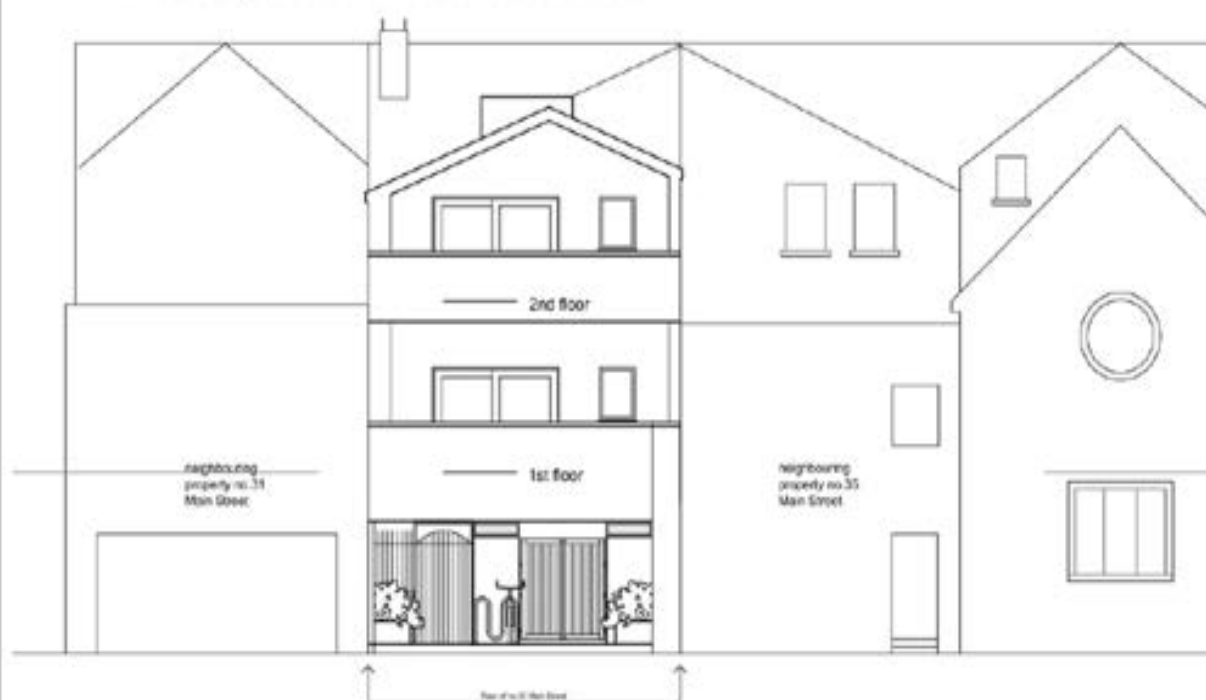
Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The LDP in this case is the Ards and Down Area Plan 2015 (ADAP).

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.

6.133 of the SPPS deals with housing in settlements and it is noted that there is no dispute between the content of SPPS and PPS 7 therefore this application is considered under PPS 7 Quality Residential Developments.

Policy QD1 Quality in New Residential Development states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential development. All proposals for residential development will be expected to conform to all 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 area.



above is the proposed rear elevation of the proposal.



The majority of changes to the exterior of the building are to the rear of the building. In terms of the appearance onto the street scene the building will remain the same in terms

of scale, massing and appearance. The height along the frontage will remain the same as existing and as the buildings adjacent.

In terms of the rear elevation the back of the units at present are simplistic with little character and limited in appearance. The proposed layout and appearance to the rear of the property as illustrated above does not detract from the current street scene and will not have a negative impact, the bulk and massing will increase however it is not out of keeping with other development along the row. This aspect of policy has been adhered to.

(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 particular features of archaeological or built heritage that require protection within the red line of the application site. Consultation took place with Historic Environment Division due to the proximity of the site to listed buildings and protected monuments and they responded with no objections in relation to the proposal.

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

The works are apartments located above retail units within the town centre of Newcastle. This type of accommodation is generally limited in provision of any meaningful private open space. The space provided here is a courtyard area with some planted sections and an additional area sectioned off for bin storage. The scheme will allow for a small element of shared private amenity and the layout of the yard does allow for a pleasant access to the accommodation. There has also been provision made within the yard for individual store areas for each apartment. The works are not out of character of what is expected for over the shop type accommodation and given the location within Newcastle with excellent access to a number of amenities there is ample public space that can be utilised. Over the shop living encourages a more vibrant town centre that does not become totally dormant outside trading hours, on balance the private space is considered acceptable and the scheme presented is visually acceptable.

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 size and scale of the proposal and taking account of the change of use it is not considered that necessary that neighbourhood facilities are included as part of the proposal. In introducing accommodation and above shop living as it where will in itself

help with the vitality and sense of community. It is not considered that the additional residential units will put undue pressure on the existing 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.

As this is a part change of use the buildings can make use of the existing movement pattern that exists within Newcastle as far as is necessary. The works will not have a negative impact on the existing movement pattern. Movement patterns are generally built into the design at the outset. This change of use application will not impact negatively on the existing movement pattern or offend this aspect of policy. A lift is to be provided as a means of accessible access to the apartments.

f) adequate and appropriate provision is made for parking.

This proposal cannot offer any allocated parking and will rely on the existing parking available within Newcastle. It is noted that Newcastle has considerable pressures on the existing parking network. It is also acknowledged that the policy encourages the reduction of a reliance on the private car.

4 apartments would command 5 car parking spaces for unassigned parking as per the parking standards table 7. A parking survey was submitted in support of the change of use that highlighted the parking requirements existing for the units as offices and what is required for residential and is a reduction on the existing parking requirements. The survey also highlights all the parking provision that would be available in the surrounding area. DFI Roads were consulted in relation to the proposal and the parking survey and responded with no objections provided planning did not require off street allocated parking. Allocated parking ordinarily is a requirement of private accommodation however taking account of the 1st floor usage in Newcastle, the overall context of the area and the agents willingness to provide a travel plan and passes as a condition of any permission. On this basis the application is considered acceptable and does not offend the requirements of this section of policy.

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

The design of the building respects the pattern of development found within the area and while there is to be an extension to the rear of the property there is to be no variation to the key characteristics of the front façade which is considered to make a positive contribution to the existing street scene exhibited along the Main Street at present.

The development to the rear of the property is akin to the existing development adjacent, there is the introduction of a balcony area to two of the apartments offering a small external area to each apartment, balconies being a common feature within the Newcastle area given the views of both the sea and the Mournes albeit that the balconies presented will not face to the main views. The overall design and detailing does respect

the existing design, form and detailing exhibited in the surrounding area and the character of Newcastle.

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 use of the building with extension is not thought to offer any objections in terms of impact on adjoining land uses. The use as residential will not cause any demonstrable harm on surrounding land uses. Taking account of the existing built development it is not considered that there will be any demonstrable harm in terms of loss of light or privacy nor is it considered that the works will dominate any surrounding property. The proposed extension is characteristic of the area where large returns are prominent. The use as residential is not thought likely to impact on adjacent land uses, Environmental Health was consulted in relation to the proposal and responded with no objections subject to conditions which primarily relate to the proximity of the site to an existing restaurant facility adjacent to the site, it is considered that with necessary design requirements met that there will not be any demonstrable harm on the apartments in relation to the existing use as a restaurant.

All apartments can make use of natural sunlight as windows are provided to the main living areas and to the bedrooms, the bedroom windows will look onto a shared courtyard area overlooking the access door. It is not considered that any adjacent land uses will suffer a demonstrable loss of privacy as a result.

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

It is not considered that there will be any potential for increase in crime or reduction of personal safety as a result of the works. The apartments are served off an existing access off Valentia Place with the access being overlooked by residential properties which improves the safety of an entrance by virtue of the overlooking, passing traffic, pedestrians and street lighting, this level of passive or natural surveillance is encouraged. It is not considered there will be any demonstrable harm as a result of the works.

Addendum to PPS 7 Safeguarding the Character of Established Residential Areas

The development is not in what could be considered as an established residential area, the land usage of the area is mixed use with residential, commercial and community.

Policy LC2 The Conversion or change of use of existing buildings to flats or apartments is considered and it states that permission will only be granted for the conversion or change of use of existing buildings to flats or apartments where all the criteria is met in QD1 of PPS 7 and all of the criteria set out below is met:

a) there is no adverse effect on the local character, environmental quality or residential amenity of the surrounding area.

Newcastle is a seaside town and a tourist town boasting many assets, it is a popular residential location both for long term accommodation and holiday accommodation. The town is very much characterised by pockets of residential development and the change of use of the upper floors of this building along with extension will not detract from the overall character of the area. Local character will not be impacted upon nor will the environmental quality of the area be impacted negatively as a result of the works.

As per the justification set out under QD1 it is not considered that the works will have any demonstrable harm in terms of amenity. The works will not cause an unacceptable loss of light onto neighbouring windows and the residential amenity of neighbouring units will not suffer unacceptable harm.

b) the proposal maintains or enhances the form, character and architectural features, design and setting of the existing building.

The works will not detract from the overall character and appearance of the area. The most important façade being the front façade showed below will retain the key features and rhythm exhibited. The works to the rear are less visible with the rear façade making less of a contribution within the key street scenes in Newcastle and the works proposed are in keeping with the key design characteristics of the rear section of the building accessing out onto Valentia Place, the bulk and massing of the rear return does increase from the existing but it can be accommodated.



c) the original property is greater than 150 square metres gross internal floorspace.

The existing property in total has a gross internal floorspace exceeding 150sqm, the part of the property subject to the change of use is 163m² approx. therefore this aspect of policy is not offended.

d) all flats or apartments are self contained (i.e. having separate bathroom, w.c. and kitchen available for use only by the occupiers).

There are 4 units proposed as part of this approval all being 2bed 1 bedroom apartments and these range in size from 52m² to 54m². Each unit has a separate shower room, bedroom and kitchen/dining/living area. There is a communal bin store located in a compound to the rear of the site and also individual store areas for each of the 4 apartments within the rear yard but along the access point to the apartments. The units are all self contained and rely on no shared facilities. All apartments meet the space standards as set out in Annex A of the Addendum to PPS 7 as the requirement is 50/55m² and all apartments exceed 50m².

- e) the development does not contain any flat or apartment which is wholly in the rear of the property and without access to the public street.**

There is one access serving the 4 units and this is accessed off Valentia Place. None of the properties are considered to contain any flat or apartment which is wholly to the rear of the property without access out onto the public street. Access out onto Main Street would have been desirable in this instance but the secondary access out onto Valencia Place is considered acceptable.

Consideration of PPS 12 Housing in Settlements

HS 1 Living Over the Shop is considered and it states that planning permission will be granted for residential use above shops and other businesses premises subject to the provision of:

- **a suitable living environment.**

Taking account of the character of the area, the areas for communal recreation and the overall character of the area and the land uses and taking account of the level of residential amenity provided in each unit it is considered that proposed apartments offer a suitable living environment. This aspect of policy has not been offended.

- **adequate refuse storage space (large enough to allow for the separation of recyclable waste).**

A bin store has been provided to the rear of the site that can provide storage for two bins per apartment. In addition to this each apartment has a separate storage area or store where there is potential to store waste for collection if required. It is considered that sufficient storage space has been provided for the storage of bins and sufficient storage space to allow for a number of methods/mixes of storage to be stored for collection. This aspect of policy has not been offended.

PPS 3 Planning, Access and Parking.

DFI Roads have been consulted in relation to the proposal and have no objections to the proposals provided Planning do not have a requirement for allocated parking. As detailed within the report Planning are content to allow the change of use without allocated parking provided a condition of the approval includes a travel pass system.

PPS 2 Natural Heritage

The application site lies within the Mourne Area of Outstanding Natural Beauty therefore NH 6 Areas of Outstanding Natural Beauty is considered. Given that the scheme is part change of use and part demolition and extension on an existing plot with most of the works being to the rear of a building presenting to Main Street and taking account of the scale, massing and design of the extended areas and the lesser level of visibility outside of key views within Newcastle the application cannot be considered to offend any of the policy considerations of policy NH6.

Presentation to Planning Committee

NI Water responded to consultation recommending refusal but advised that subject to successful discussions and outcomes regarding issues highlighted in the responses below, NI Water may reconsider its recommendation.

The agent is currently in engagement with NI Water in relation to the above and has submitted a Wastewater Impact Assessment was submitted to NIW for this proposal. NI Water advise they are not in a position to revise their recommendation or provide conditions until the Wastewater Impact Assessment has been completed and signed off by NI Water. On this basis the application must proceed to Committee as negative conditions will be applied to safeguard NI Water concerns as essentially the matter goes against the recommendation of a consultee and must be progressed through Planning Committee with safeguarding negative conditions attached.

Neighbour Notification Checked

Yes

Summary of Recommendation

Justification has been provided above to support a recommendation of an approval subject to the conditions outlined below.

Conditions:

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The development hereby permitted shall take place in strict accordance with the following approved plans: **23-565-01, 06, 07, 08 and 09**

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

3. No apartment window should be within 10 metres of the restaurant's air handling equipment.

Reason: to prevent noise and odour annoyance.

4. All apartment windows will be triple glazed

Reason: in the interests of residential amenity.

5. The applicant should install an acoustic ventilation system to all the apartments which is to be permanently retained thereafter.

Reason: in the interests of residential amenity

6. Prior to construction commencing on site a Management Plan for noise and dust control during construction should be submitted to the Planning Office for agreement to reduce noise and dust issues to neighbouring residential and commercial premises.

Reason: in the interests of residential amenity.

7. The development hereby approved shall not commence on site until full details of foul and surface water drainage arrangements to service the development, including a programme for implementation of these works, have been submitted to and approved in writing by the Council in consultation with NIW.

Reason: To ensure the appropriate foul and surface water drainage of the site.

8. Prior to the development being occupied a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall be implemented upon occupation of any of the units hereby approved.

Reason: to ensure the units are accessible.

9. No part of the development hereby permitted shall be occupied until the drainage arrangements, agreed by NI Water and as required by Planning Condition No 1, have been fully constructed and implemented by the developer.

The development shall not be carried out unless in accordance with the approved details, which shall be retained as such thereafter.

Reason: To ensure the appropriate foul and surface water drainage of the site.

Case Officer Signature: Fionnuala Murray

Date: 21.01.2025

Appointed Officer Signature:

Brenda Ferguson

Date:21.01.25



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

Application Reference: LA07/2024/1436/F

Date Received: 14/11/24

Proposal: The proposal is to provide a sprayed concrete skateboard facility consisting of ramps and ridges including a pump track constructed from crushed aggregate, connecting the pump track and skate parks with the existing stone path around the site.

Location: Site is to the south-west of Cinema Complex and North East of Thomas Russell Park.



Site Characteristics & Area Characteristics:

The application site comprises a portion of Dunleath Park, approximately 0.2 hectares. Dunleath Park is an existing amenity open space and recreation area as designated within the Ards and Down Area Plan 2015. It stretches from the Leisure Centre around to the cinema and contains playing fields and a walking trail. This specific application is located between the cinema and the dwellings along Thomas Russell Park. The site is located within the settlement limit of Downpatrick as identified within the Ards and Down Area Plan 2015.

The site is also located within the Strangford & Lecale AONB, the Quoile Valley Lowlands and falls within the boundaries of an area of Archaeological Potential.

Site History:

LA07/2021/0208/F – Dunleath Park, Downpatrick - Recreational Path - Approved 05/05/2021

LA07/2022/1565/F - Dunleath Park, Downpatrick - Provision of a sprayed concrete skate skateboard facility consisting of ramps and ridges. Also including a pump track constructed from crushed aggregate. The track is constructed at variable heights between 0.3 and 1.3m in height. the proposal is to connect in the pump track and skate parks with the existing stone path around the site – Approved 21/03/23

Planning & Material Considerations:

- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- The Ards and Down Area Plan 2015
- Planning Policy Statement 2
- Planning Policy Statement 3
- Planning Policy Statement 8
- Planning Policy Statement 15
- Supplementary Planning Guidance.

Consultations:

DfI Rivers – Advice provided

Objections & Representations

The application was advertised in the local press on 04/12/24

The relevant neighbours were notified of the proposal on 20/11/24

3 objections have been received from different addresses.

Summary of Issues Raised in the objections

- Concerns in respect of underage drinking and drug use
- Concerns in respect of increase in anti-social behaviour
- Potential impact on residential parking and access to the street for emergency vehicles
- Noise concerns arising from the development
- Flooding and drainage concerns
- Noise, nuisance and disturbance caused by development

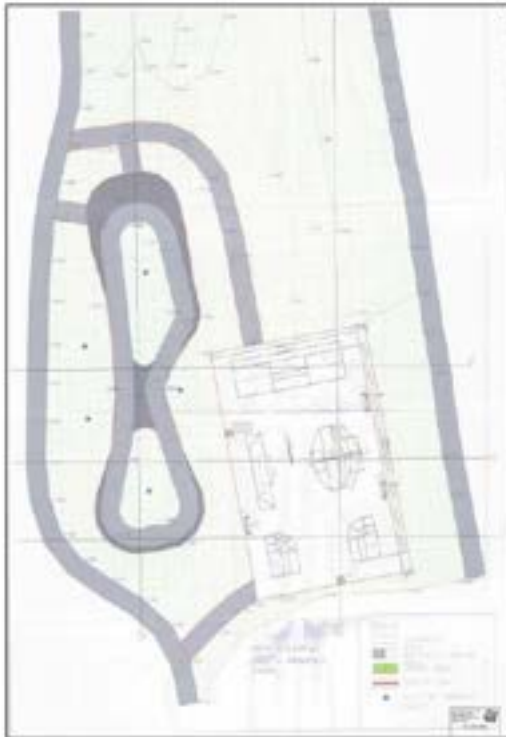
The issues raised above will be discussed in the following consideration and assessment.

Consideration and Assessment:

The proposal seeks full planning permission to provide a sprayed concrete skateboard facility consisting of ramps and ridges including a pump track constructed from crushed aggregate,

connecting the pump track and skate parks with the existing stone path around the site. This proposal seeks amendments to the previous permission approved on 21/03/23 under application ref. LA07/2022/1565/F.

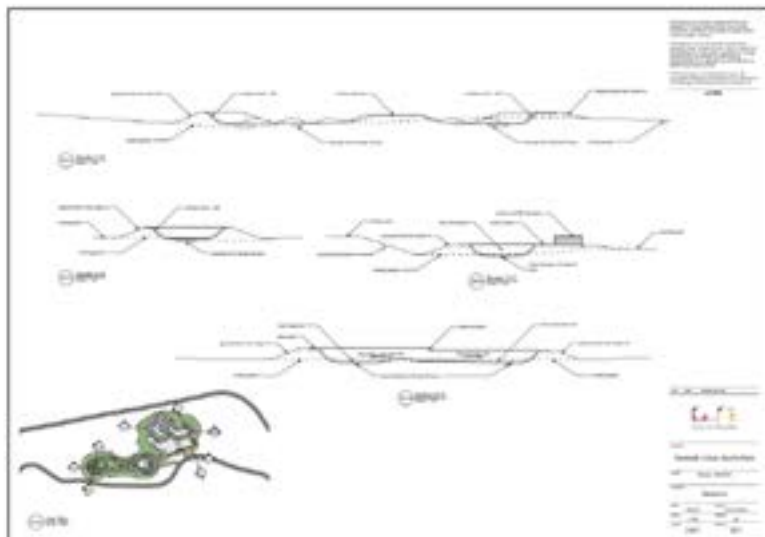
Previous approved layout:



Proposed (amended) layout:



Proposed site sections:



Indicative sketch layouts of skate park and pump track:



Policy DES 2 of the PSRNI

This policy requires development proposals in towns 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.

Local Development Plan

The Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Ards and Down Area Plan 201 (ADAP) operates as a LDP. The site is located within the settlement limit of Downpatrick and within an existing area of open space and recreation as designated in the plan. There are no operational plan policies relevant to this proposal.

SPPS

The Strategic Planning Policy Statement for Northern Ireland (SPPS), which sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area states that one of the regional strategic objectives for open space, sport and outdoor recreation is to safeguard existing open space. It is considered that this proposal will enable increased use of an already existing outdoor provision through offering an alternative activity within the open space, on top of the playing fields and walking track and therefore complies with this strategic objective.

In addition, the guiding principle for planning authorities in determining planning applications is set out in Paragraph 3.8 of the SPPS stating that sustainable development should be permitted having regard to the development and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

An extant approval on the site has established the principle of development under application ref. LA07/2022/1565/F. It was previously assessed that in respect of concerns around noise, nuisance and disturbance, a skate park and pump track would not result in any more noise than a group of children playing on the existing open space. There would also not be any increased vehicular noise over the traffic on St Patrick's Avenue or parking at the cinema given that there is no provision of specific parking for this facility. It is considered therefore that the principle of development is still deemed to be acceptable and on the basis of this it was also considered that re-consultation with some of the statutory consultees was not deemed necessary as this proposal seeks design amendments only. The conditions stipulated by the consultees in the previous approval are considered necessary and will still therefore be applicable.

In relation to the proposed design changes these are considered to be acceptable and will not pose harm to the neighbouring residents in terms of visual impact, noise, nuisance or disturbance or loss of privacy or amenity.

PPS 8 – Open Space, Sport and Outdoor Recreation

Policy OS 1 – Protection of Open Space is applicable in this case. As the proposal is maintaining and further enhancing an existing area of open space it is considered that it complies satisfactorily with the policy requirements.

PPS 15 – Planning and Flood Risk

DFI Rivers were consulted in respect of the revised proposal owing to a portion of the site being affected by predicted (1 in 100 year climate change) fluvial flooding. Rivers Directorate considers that in accordance with the precautionary approach, that part of the site, is at risk of potential flooding in the climate change scenario and unless the planning authority considers it appropriate to apply the 'Exceptions' principle contained within FLD 1, the proposal would be incompatible with the overall aim and thrust of regional strategic planning policy in relation to flood risk (i.e. to prevent future development that may be at risk from flooding or that may increase the risk of flooding elsewhere). The planning authority is advised to consider this as a material consideration.

DFI Rivers however have advised that in respect of Policy FLD 1, the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain. Taking this into account, Policy FLD 1 is not engaged in relation to the 1 in 100 year climate change modelling and cannot therefore be considered as a material consideration in policy terms. Taking on board the advice provided by rivers and their previous consultation response which recommended that the applicant ensures that the proposals take into consideration measures to improve the resilience of new developments in flood risk areas by the use of suitable materials and construction methods, it is considered that a suitable informative can be used to ensure suitable measures are put in place to prevent future flood risk.

Summary of recommendation

Having assessed the proposal against the various planning policies and material considerations which apply to the application and taking into account the input of the

Councils' consultees, it is determined that the proposal is acceptable in planning terms and approval is recommended subject to the following conditions.

RECOMMENDATION

Non-Delegated application in line with Councils Scheme of Delegation which requires presentation to Planning Committee.

Conditions

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The development hereby permitted shall take place in strict accordance with the following approved plans 001, 101, 301, 401, 402 and 403.

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

3. No site works of any nature or development shall take place until a programme of archaeological work (POW) has been prepared by a qualified archaeologist, submitted by the applicant and approved in writing by Newry, Mourne and Down District Council in consultation with Historic Environment Division, Department for Communities. The POW shall provide for:

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

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

4. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 3.

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

5. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 3. These measures shall be implemented and a final archaeological report shall be submitted to Newry, Mourne and Down District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Newry, Mourne and Down District Council.

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

Summary

On balance and taking into account the objection letters it is concluded that the proposal would not cause demonstrable harm to interests of acknowledged importance and is acceptable to prevailing policy requirements, subject to the attached conditions below being met.

Case Officer: Brenda Ferguson **Date:** 22/01/25

Authorised Officer: Annette McAlarney **Date:** 22/01/25



Comhairle Ceantair
an Iúir, Mhúrn
agus an Dúin

**Newry, Mourne
and Down**
District Council

Application Reference: LA07/2022/1648/O

Date Received: 17th October 2022

Proposal: Erection of a mixed-use scheme - economic development (to include business/office units, light/general industrial and storage units) with a small residential development, associated site works and landscaping.

Location: Lands adjacent to 59 Cullaville Road, Crossmaglen

1.0 SITE CHARACTERISTICS & AREA CHARACTERISTICS:

- 1.1 The site is located with the settlement limits of Crossmaglen (with SW part of the site adjoining the settlement limit boundary) and comprises 3.36 Ha of agricultural lands which are zoned for mixed use (mixed use zoning excludes housing and retail), along Cullaville Road.
- 1.2 The site is generally bound by post and wire fencing, with field boundaries to the west, north and east augmented with hedgerow / vegetation. There are several mature trees within the northern and north-eastern areas of the site. The site envelopes the curtilage of a detached dwelling to the east (No. 59 Cullaville Road).
- 1.3 Given the semi-rural location, the site context is characterised by mix of urban development to the east and south, with more rural lands to the north and west; with primarily residential buildings in the immediate locality and commercial buildings further east, closer to the town centre. To the south and directly opposite the site, there is a row of 7 detached bungalows (No's 58 – 70 Cullaville Road,) of varying design and finishes.

2.0 PLANNING HISTORY:

2.1 Site History:

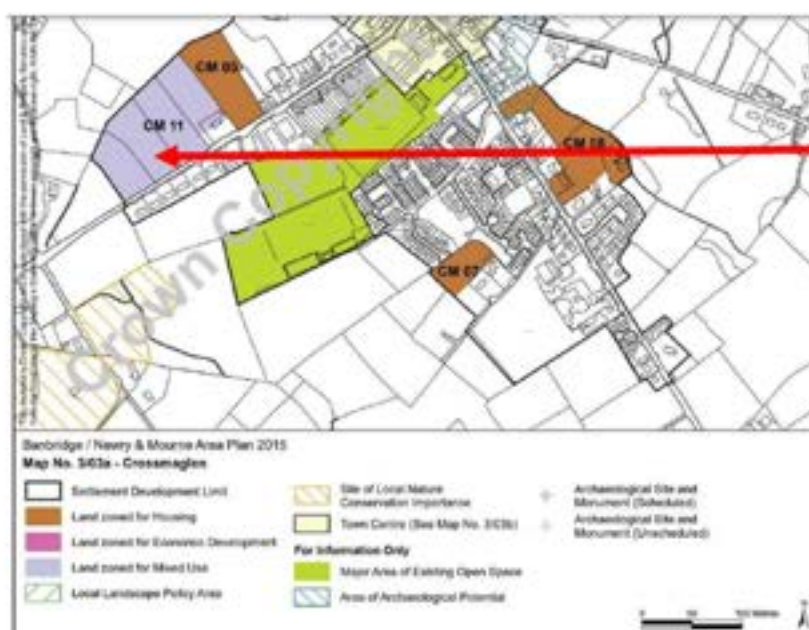
As this application is categorised as 'major,' owing to the site area, it has been preceded by a Proposal of Application Notice (PAN) as required by Section 27

of the Planning Act (NI) 2011(reference LA07/2022/0864/PAN.) The PAN was deemed acceptable to legislative requirements on 15.07.2022.

- 2.2. The current application was submitted following the legislative 12 week application notice period, with the application received on 17.10.2022. The application has been accompanied with a Pre-application Public Consultation Report (PACC,) which confirms that community consultation has taken place in line with the statutory minimum requirements, with the following pre-application steps undertaken.
- 2.3 The details provided and pre-application steps undertaken meet the legislative requirements (Sections 27-28 of The Planning Act (NI) 2011.) The PACC report is material to this assessment and is considered further below. With the exception of the PAN application, there are no previous planning records affecting the application site.
- 2.4 Relevant surrounding planning history:

The planning history on adjacent land to the east zoned for housing (zoning CM05) is relevant to this assessment; Planning records indicate that the erection of a housing development was approved on this land by virtue of planning application P/2003/0059/F, with permission granted on 24.03.2003.

- 2.5 Further to this approval, P/2010/0262/F granted permission for a change of house type to site No.25 of planning permission P/2003/0059/F and erection of dwelling and detached garage in substitution of sites 26,27 and 28 (permission granted 23.01.2012.)
- 2.6 There are no further planning records relating to this site and it would appear that the approved housing development was never constructed, with the site at the time of inspection, appearing to be used to store construction materials.



Application site (CM11)

BNMAP 2015 - Map No. 3/03a – Crossmaglen

3.0 PLANNING POLICIES & MATERIAL CONSIDERATIONS:

- The NI Regional Development Strategy 2035 (RDS)
- The Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Banbridge, Newry Mourne and Down Area Plan 2015 (BNMAP)
- A Planning Strategy for Rural Northern Ireland (PSRNI) – DES2, SP18

- PPS2 – Natural Heritage
- PPS3 – Access, Movement & Parking
- PPS4 – Planning and Economic Development (including clarification of PED7)
- PPS7 – Quality Residential Environments
- PPS7 Addendum – Safeguarding the Character of Residential Areas
- PPS8 – Open Space, Sport, and Outdoor Recreation
- PPS12 – Housing in Settlements
- PPS13 – Transportation and Land Use
- PPS15 (Revised) – Planning and Flood Risk
- PPS23 – Enabling Development

- DCAN8 – Housing in Existing Urban Areas
- DCAN10 – Environmental Impact Assessment
- DCAN15 – Vehicular Access Standards
- DOE Parking Standards
- 'Creating Places' Design Guide

- Third party representations

4.0 CONSULTATIONS:

A summary of consultee responses is listed below. Further discussion of these is included within section 6 of this report.

- NMDDC Environmental Health Dept. (NMDDC EHD, final response 12.09.2024) – The proposal has the potential for noise pollution, air pollution, air quality issues and general amenity issues. NMDDC EHD have been *consulted on 6 occasions* during the consideration of this application and having reviewed the information supplied (including most recently the NIA Report Aug 2024) advise in their final response that subject to conditions being attached to any permission granted, EHD has no further objections, (discussion below.)
- NMDDC Local Development Plan Team (final response dated 04.07.2024) - The proposal is contrary to Policy SMT 2 and Zoning CM11 of the Banbridge, Newry and Mourne Area Plan 2015.

- Dfl Roads (final response 17.04.2024) – No objections in principle, subject to submission of detailed plans at reserved matters stage and compliance with attached conditions (Dfl note this is on the basis that the Planning Authority are content that the residential element within the scheme is acceptable to Area Plan requirements.)
- Dfl Rivers Agency (final response 23.10.2023) – Policy FLD3 applicable. Drainage Assessment submitted and revised / additional info provided. RA subsequently content, subject to conditions.
- NI Water (14.11.2022) – Recommend refusal (foul sewerage network issues.) Subject to successful outcomes regarding issues highlighted in NIW's detailed response, NIW may reconsider this recommendation.
- DAERA Water Management Unit (01.11.2022) - Content, subject to conditions.

5.0 OBJECTIONS & REPRESENTATIONS:

- 5.1 The application was advertised initially in The Newry Reporter on 02.11.2022, with the statutory advertising period expiring on 16.11.2022.
- 5.2 Ten neighbouring properties were also notified of the application by letter on 31.10.2022, with the statutory neighbour notification period subsequently expiring on 14.11.2022;
- 5.3 At the time of writing this report (August 2024,) 2 no representations have been received, including;
- 1 objection from No. 70 Cullaville Road (located opposite the site) and;
 - 1 letter of support from Justin McNulty MLA (submitted by hand on 24.04.2024 on behalf of Mr McArdle, applicant.)

5.4 Letter of Objection

A summary of the concerns expressed within the received objection is included below, with consideration comments included beneath each point:

5.5 1. Road Safety:

- An industrial estate entrance across from our property will increase the amount of traffic on the road and likelihood of accidents;
- The extra traffic and those from the industrial estate will put pedestrians and cyclists at a greater risk of injury especially with the narrow footpaths;
- We have already raised concerns with Dfl and Local Council given the genuine fears for the safety of our own young children whilst at play in their own garden

- 5.6 The conceptual layout submitted (Drawing No. P02 date stamp received 10.10.2022) includes the provision of three new accesses off Cullaville Road; an individual access serving a detached dwelling, a separate access serving the remaining dwellings proposed and a third access to the industrial buildings to the rear, opposite No.70 Cullaville Road.
- 5.7 It is noted that the lands opposite No. 70 Cullaville Road are zoned lands Under zoning CM11 of the BNMAP 2015 and there would have been the opportunity to object during the preparation of this Area Plan and zoning. Notwithstanding this, proposals must meet current Road Safety requirements and prevailing policy requirements (including Policies PPS3, PPS13 and DCAN15,) and not result in an unacceptable degree of loss of amenity to existing residents (PPS7.)
- 5.8 The Area Plan zoning CM11 for mixed use development requires access to be taken off Cullaville Road in addition to carrying out road improvements including road widening, provision of a pedestrian footway and a right turn facility. DfI Roads who were consulted on the proposal advised in comments dated 17.11.2022 that amendments were required, including:
1. An amended 1:2500 scale location plan clearly showing:
 - a. all lands necessary to construct the required sight visibility splays of 4.5m x 70m (industrial access) within the red line taken to the edge of the public road from the proposed access position, namely in a westerly direction, taking into account road widening to accommodate right turn lane
 - b. all lands necessary to construct the required sight visibility splays of 2.4m x 70m (single dwelling access) within the red line taken to the edge of the public road from the proposed access position, namely in an easterly direction
 - c. all lands necessary within the red line to widen the public road as per Key Site Requirements
 2. A full Transport Assessment, particularly in respect of the impact of HGV movement at the junction of Cullaville Road/ Dundalk Road
- 5.9 In response, an amended drawing (Drawing P03 – Proposed Road Frontage,) Transport Assessment and correspondence from the agent (dated 13.02.2023) were submitted to the Planning Authority and issued to DfI Roads for further consideration.
- 5.10 In further comments (dated 21.09.2023) DfI Roads advised that the application was still insufficient and additional details and amendments were required for further assessment.

Following a review of the details, formal re-consultation was further carried out with DfI Roads on the details provided by the agent on 24.11.2023. In a final response dated 17.04.2024, DfI Roads advise that there are no objections in principle to the proposal subject to submission of detailed plans at reserved matters stage.

This is to ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users. DfI Roads also note that the stipulated requirements within their detailed response are on the basis that Planning are content with the residential element being an exception to the Key Site Requirements listed under the Newry, Mourne & Down Area Plan. For reasons set out within the assessment below, the principle of including residential development on this site is fundamentally contrary to policy.

- 5.11 In the event of an approval on this site, matters relating to Road Safety and Policy requirements would need to be fully addressed prior to the commencement of any development on the site. However given the advice of DfI Roads following consideration of the revised details, who are the competent authority in relation to road safety matters, it is considered that initial concerns have been addressed and the revised proposal does not warrant a reason in relation to road safety matters.

5.12 **2. Noise:**

- *An industrial estate in a residential area will lead to a rise in noise pollution;*
- *With the noise of extra traffic including HGVs etc stopping at our house and traveling up and down the road it will greatly affect our quality of lives, coupled with the potential noise coming from industrial units which have the potential to run late in to the night or start early morning this will affect all residents on the road*

- 5.13 NMDDC EHD advise that the proposal has the potential for noise pollution and requested further details in relation to detailing to assess this in full, including:

1. Intended business class use for the proposed industrial units.

2. The proposed hours of operation including deliveries for the proposed industrial units.

3. Some residential units are to be located adjacent to industrial units. Information is requested to demonstrate that noise/odour will not affect these units including information on how these impacts will be mitigated. This may be in the form of building design/construction information or an acoustic assessment which shows effective mitigation measures.

4. Details of any noise producing equipment which would be proposed to be located outside the fabric of the building for example extraction systems, air handling units etc. acoustic information must be supplied to demonstrate that noise will be controlled so as not to cause noise disturbance. This should include type of equipment, location, barriers etc.

Depending on the information provided, a noise impact assessment be submitted.

- 5.14 A response from the agent (dated 13.01.2023) was submitted in an attempt to address EHD's requirements, which notes the following :

"1. Intended business Class use for the proposed industrial units

As per the proposal description the proposed mixed-use development will potentially include business/office units, light/general industrial and storage units. Therefore, all uses under Part B of The Planning (Use Classes) Order (Northern Ireland) 2015 from Class B1 to B4 are applicable. The individual

use of each unit will be proposed at reserved matters stage, should the current application proceed to a positive recommendation.

2. The proposed hours of operation including deliveries for the proposed industrial units.

This will be confirmed at reserved matters stage, when the operations of each individual unit are confirmed. However, it is unlikely that the hours of operation or any associated deliveries will take place outside of normal working hours i.e. 8.00am – 6.00pm Monday to Friday and 8:00am – 1:00pm Saturday.

3. Some residential units are to be located adjacent to industrial units. Information is requested to demonstrate that noise/odour will not affect these units including information on how these impacts will be mitigated. This may be in the form of building design/construction information or an acoustic assessment which shows effective mitigation measures.

The building design construction information will not be finalised until a reserved matters application has been submitted. As noted on drawing P02, it is a concept plan only with the approximate location/layout of proposed dwellings and units. This layout is subject to change and the information under point 3 would be better requested at reserved matters stage. Of the proposed industrial units, aside from specific building design measures, all doors of the units will be closed during operating hours to reduce the noise levels from those units. The applicant intends to install double glazing windows to each of the proposed dwellings, which will effectively ensure that worst-case internal noise levels due to industrial noise sources do not exceed the guideline internal noise levels as stipulated in BS8233:2014.

- 5.15 *Furthermore, it is proposed to install acoustic ventilation which will ensure windows do not have to be opened at any time. The ventilation should provide a sound reduction equivalent to the glazing. These measures will reduce the potential for noise entering the dwellings as ventilation openings and single glazed windows can be contributors to noise entering a building and so the applicant will be acting to prevent this. An acoustic fence may be installed along the boundary of the development, to the rear of any properties backing on to the proposed units, to further mitigate against any potential noise, this will be confirmed once the site layout has been finalised, at reserved matters stage."*

- 5.16 NMDDC EHD having reviewed this response have further responded on 10.11.2023 advising that: *"the agent states the individual use of each unit will be proposed at reserved matters stage, as will the operational and delivery hours. Also, the information requested to demonstrate that noise/odour will not affect these units including information on how these impacts will be mitigated and any noise producing equipment located outside the fabric of the building will be outlined at reserved matters stage. At reserved matters stage Environmental Health must have submitted their informatives / conditions prior to this stage and therefore at this point in a planning application it is after the fact that any informatives /conditions are stipulated, and it is too late for Environmental Health's input. Therefore, should the applicant submit a formal planning application Environmental Health would request the following information before further comment can be made:*
1. *Intended business class use for the proposed industrial units.*
 2. *The proposed hours of operation including deliveries for the proposed industrial units.*
 3. *Some residential units are to be located adjacent to industrial units. Information is requested to demonstrate that noise/odour will not affect these units including information on how these impacts will be mitigated. This may be in the form of building design/construction information or an acoustic assessment which shows effective mitigation measures.*
 4. *Details of any noise producing equipment which would be proposed to be located outside the fabric of the building for example extraction systems, air handling units etc. acoustic information must be supplied to demonstrate that noise will be controlled so as not to cause noise disturbance. This should include type of equipment, location, barriers etc.*
 5. *The bin storage area should be of sufficient size to accommodate 3 bins per apartment. The councils refuse collection system is now a three-bin system Blue: Dry recyclables, Black: General waste, Brown: Food and garden waste. The applicant should provide information on how they will be able to accommodate the number of bins required alongside the waste from the commercial premises.*

Depending on the information provided this department may ask that a noise impact assessment be submitted."

- 5.17 NMDDC's EHD were further reconsulted to request clarification and the provision of conditions or reasons for refusal on the basis of details available for assessment. In a response dated 20.06.2024, NMDDC EHD advise that there is potential for the amenity of nearby residential properties and the proposed properties to be adversely impacted from odour and noise and on the basis of the information provided by the applicant would not be in support of this application.
- 5.18 A further updated noise impact assessment was submitted (Aug 24) by the agent. EHD have reviewed and whilst they have noted that the proposals still have potential to cause noise, air pollution, general impact to amenity and air quality. However, have no objection subject to planning conditions.

On the basis of information available for assessment and advice from NMDDC EHD, the Planning Authority has strong concerns in relation to the residential amenity of the occupants of the proposed dwellings, in addition to those of existing surrounding properties. This is considered further below within the detailed planning assessment.

5.19 3. "Sky Line-view:

- *"With a mixed development directly facing our property we believe this will have an impact on how much light enters our property;*
- *We also believe having properties across from us will result in a loss of privacy not only from the properties across from us but also from extra traffic stopping to enter the development and over looking into our property."*

5.20 No. 70 Cullaville Road is located approximately 25m from the application site. Any buildings on the site would need to ensure that there is not an unacceptable loss of residential amenity to existing properties by way of loss of light, dominance, overlooking / privacy, overshadowing etc. It is noted that a Key Site Requirement of the Area Plan includes a 3m belt of trees and shrubs to be planting along the Cullaville Road frontage to not only help screen development but also in the interests of residential amenity and any development on this site must meet this requirement, as a minimum.

5.21 4. "Industrial units:

- *"As industrial units are planned for this development we would have major concerns about what these units will be used for, there is potential for the use of hazardous materials, potential pollutants and smells which will affect the local residents and have potential health effects and with it being so close to a local youth club and football pitch the health of children in the area could be effected as well."*

5.22 The principal of the proposal is considered unacceptable to planning policy in relation to the residential development and is therefore being recommended for refusal. In the event outline permission is granted, planning conditions should be used to control the operational development of the site, as necessary and reasonable, to ensure that there is no unacceptable degree of noise and odour pollution and an unacceptable loss of residential amenity as a result of future development on the site.

5.23 5. "Precedent:

- *By granting planning for this development it is setting a precedent in the Crossmaglen area where by land that is not zoned for housing use can now be re zoned if they add some form of industrial usage, this may lead to an upsurge of residential properties being developed in areas previously not zoned for building on.*
- *we feel the implications of such a large scale development with industrial usage will have too much of a negative impact on our daily lives and those of our neighbours."*

The subject land is zoned for mixed use and the land zoning (CM11) specifically states that development shall not contain retail or residential uses. This is considered in the detailed assessment below, however the residential element of the proposal is considered contrary to the Area Plan Requirements and as such, refusal is recommended by the Planning Authority.

5.24 **Letter of support**

As outlined, 1 letter of support was submitted to the Planning Authority on 24.04.2024 by Justin McNulty MLA on behalf of the applicant. The following is a summary of the points made within this letter, for consideration:

5.25 *The inclusion of a small residential element does not compromise the LDP zoning Key Site Requirement which states that a minimum area of 1.75Ha shall be set aside for economic development, which the applicant has exceeded;*

The BNMAP 2015 states the following in relation to Mixed Use: "Where certain uses are inappropriate, these are set out in the key site requirements." **Under zoning CM11, the key site requirements clearly stipulates:**

"Development shall not include the following uses as specified in the Planning (Use Classes) Order (Northern Ireland) 2004;

- **Class A1: Shops**
- **Class C1: Dwelling houses"**

The Area Plan went through a rigorous process, including the publication of the draft Area Plan in 2006 allowing statutory period for submission of representations including objections to the draft plan policies and proposals. The time for objecting to the Key Site requirements was during the development of the Area Plan and the statutory consultation processes. The above point does not overcome the issue of including a use which has been purposely excluded from this mixed use zoning.

5.26 *Industrial land can generate around 50 jobs per hectare. The zoning measures 3.36Ha of which less than 25% is proposed for residential purposes, leaving a minimum of 2.5Ha free for industry. 2.5Ha of industry at 50 jobs per Ha could generate 125 jobs for Crossmaglen;*

It is noted that this statement is not backed up with any supporting evidence. However this point only further adds to the rationale to exclude residential uses from this zoning. Using the above figures, 3.36Ha developed for industry (as zoned) would equate to 168 jobs for Crossmaglen and the inclusion of residential units lowers this figure (43 less jobs.)

5.27 *The applicant proposes one dwelling for himself and 5 additional dwellings. The houses are intended to be 'lifetime homes' with downstairs bedrooms and bathrooms, which are in short supply in Crossmaglen;*

This point has limited weight in planning policy terms. Concerns in relation to residential amenity relate to the principle of residential units being included within this site, regardless of the number of dwellings. For reasons set out within the assessment below, including residential development would stifle the planned and orderly development of this zoning.

- 5.28 *The process of zoning this land was very lengthy and the public inquiry found that there was no need for housing on the entire site, however the zoning ultimately adopted 'mixed use,' but did not specify why it would be unacceptable to have housing on any part of the site;*

As noted, the time to object or raise concerns in relation to the Area Plan and its zonings was during the plan development process and statutory consultation stages. Nonetheless, the Local Development Plan team were further re-consulted following receipt of this letter of support, given the nature of the points raised. In relation to this point, the LDP team advise (response 13.05.2024) that the PAC's report in relation to zoning CM11 needs to be read in conjunction with the section on housing provision in Crossmaglen, (paragraphs 3.2.1-3.2.3), the Commission noted that at current build rates there was sufficient zoning land for residential developments to meet housing requirements for 25 years.

- 5.29 *Housing is a key component of mixed use developments elsewhere. Nowhere else in the plan or indeed any plan, has there been a mixed use development that prohibited residential use.*

The Planning Authority have not been provided with supporting evidence to corroborate this statement. In any case, each land zoning and site is considered on its own merits and plan requirements. There is little weight in this argument given the rigorous adoption process of the current Area Plan.

- 5.30 *Residential use is necessary to complement this economic development because it is more sustainable to have people living close to where they work;*

The site is located within the settlement development limit of Crossmaglen and walking distance to residential areas. In addition, there is an adjacent land zoning for housing beside the site which has been undeveloped (zoning CM05.) In addition, there are additional proposals recently approved and currently under consideration for residential developments within Crossmaglen (including LA07/2022/1493/F and LA07/2021/1064/F (44 units, permission granted July 2024, zoning CM08) and the LDP team have confirmed there is sufficient zoned housing land to meet the housing needs within the settlement. Therefore this point bears little weight in justifying developing housing on this site.

- 5.31 *The residential development will be an enabler for the commercial development. Enabling works is a concept whereby permission can be granted for something that may not otherwise have secured permission, subject to a Section 76 legal agreement that helps a planning authority to secure some important objective that otherwise could not be secured;*

'Enabling development' is a development proposal that is contrary to established planning policy and in its own right would not be permitted. PPS23 sets out that such a proposal may however be allowed where it will secure a proposal for the long term future of a significant place (emphasis added.) PPS23 goes on to clarify a 'significant place' to mean any part of the historic environment that has heritage value including scheduled monuments, archaeological remains, historic buildings (both statutorily listed or of more local significance) together with any historically related contents, industrial heritage,

conservation areas or a historic park, garden or demesne. The proposal does not constitute a 'significant place' in this regard and does not warrant approval under Policy ED1 of PPS23, the relevant policy test for enabling development.

- 5.32 *It is pertinent that NIW has identified capacity issues with its infrastructure in Crossmaglen. The applicant has carried out a Wastewater Impact Assessment, whereby NIW indicated it would consent to this development's connection to the public mains IF the applicant would carry out some other works that are required to be carried out by NIW (but which cannot be completed by NIW due to budgetary constraints.) The applicant could potentially agree to same IF he was able to raise some additional revenue from a small private residential development on his land. These matters could be dealt with by a Section 76 legal agreement;*
- 5.33 *The Planning reasons warranting departure from a single Key Site Requirement must be emphasised – the applicant is not departing from the zoning altogether AND to fund infrastructure improvements that are presently required to be undertaken by NIW but whom have no means of doing so;*
- 5.34 In its consultation response dated November 14th 2022, NI Water recommended that the proposal be refused due to the lack of a public foul water sewer and insufficient network capacity.

The Planning Department have been provided with evidence that a Wastewater Impact Assessment has been submitted with NIW. The Executive Summary of the WWIA states it will need to be demonstrated whether or not the developer's preferred option of offsetting storm water is technically feasible at this location and therefore detailed site investigation and design is needed. The conclusions of the WWIA state that once this Concept Design for the preferred option has been confirmed as viable by NIW for its assessment and that all relevant third party permissions be obtained before moving to the Detailed Scheme. The report states in red that *"Planning cannot be conditioned until stage 2 of the waste water impact assessment has been completed and signed off by NIW with all necessary third party sign offs in place."* To date there is no information that such further steps have been carried out. Nor have any details as to the potential costs of implementing this solution been provided and why the provision of residential development is needed to fund these works.

- 5.35 *Local residents who attended a pre-application public consultation event were unanimous in stating that they would be opposed to the development had the applicant not created a residential buffer to ensure residents opposite the site were not exposed to possible noise, nuisance or general disturbance from a new economic development;*
- 5.36 The key site requirements requires that a 3m belt of trees and shrubs is planted along the Cullaville Road frontage of the site, to augment the existing vegetation to screen development and in the interests of residential amenity. Using residential properties to act as a 'buffer' between future economic development on the site is considered wholly inappropriate and for reasons set out in the development assessment below, would result in unacceptable degree of

adverse impact on the amenity of occupants within those residential units. The Planning Authority has also received an objection to this application which raises concerns in relation to residential amenity if dwellings are located across from their property, which contradicts the assertion that there is 'unanimous support' for the proposal locally. Notwithstanding this, the assessment below goes into more detail in the consideration of the relevant material planning matters raised.

- 5.37 It is in the interests of good planning and better conducive to good townscape to have a row of residential properties facing each other, and to leave the economic development to the rear of this site, than it would be to have a row of suburban bungalows at the urban fringe, facing directly towards commercial or industrial development;*
- 5.39 This site is the last within the settlement limit. It would be more aesthetically pleasing to complement the detached houses opposite with other new housing;*
- 5.40 Whilst there is some merit in the above points in relation to visual amenity along the road frontage, a 3m belt of trees and shrubs is to be planted along this roadside boundary which will help to soften the visual aspect of the site and also assist in resisting urban sprawl in this edge of settlement location. This argument does not therefore override the fundamental concerns in relation to residential development on this site and reasons for refusal, as detailed further below.
- 5.41 The industrial development whilst necessary, should be located to the rear of the site;*
- 5.42 The zoning allows for a mix of uses comprising B1 (business,) B2(Light industrial,) B3(General Industrial) and B4 (Storage and Distribution.) The acceptability of siting is a matter for detailed assessment, following receipt of a planning application, however the layout provides the option to locate B1 use classes to the front of the site to address these concerns.
- 5.43 Approval of this application would not set a precedent because there are no other mixed use zonings in the entire plan area that has such an onerous or unexplained key site requirement attached.*
- 5.44 The Planning Authority would contend that the potential precedent extends beyond this type of zoning as it would relate to all zoned lands that have Key Site Requirements identified by the Plan Document. The supporting text of Policy SMT2 – Development on Zoned Land, states that 'while complementary uses may be permitted on a zoned site, these are envisioned relating to the land zoning and not one that deviates from it. It has not been demonstrated sufficiently how residential development on this site would complement the primary use, and therefore the LDP Team advise that there is in fact significant potential for a precedent to be set in allowing departure from the LDP without sufficient justification.

- 5.45 *Departure from this single aspect of the Plan's KSR is therefore justified based on the specifics of this proposal;*
- 5.46 The SPPS (Para 6.94) directs that: 'LDPs should also identify opportunities for mixed use development, including economic development uses, where this would create synergy and underpin the economic viability of the development as a whole. Plans should indicate, through key site requirements, the types of economic development that will be acceptable and seek to avoid uses that would have a detrimental impact on the environment and / or residential amenity.' To include residential development on this site would have a detrimental impact on residential amenity, as set out in the detailed assessment below and the key site requirements within zoning CM11 reflect that. Departure from the KSRs is not considered justified in this regard.
- 5.47 *The development is needed to provide employment and new investment in Crossmaglen. There has been no comparable investment in Crossmaglen in the previous 30 years and the development of this site has been frustrated and stymied by an unnecessarily onerous planning restriction for the last 12 years;*
- 5.48 The argument that excluding housing from this zoning has stifled the development bears little weight when there are additional undeveloped housing lands within the town, including CM05 adjacent to the site.
- 5.49 *We ask that the Council be mindful that the applicant is fulfilling all the objectives of the mixed use zoning. All that's required is an acknowledgement that the Plan makers did not provide reasons why there should be no housing on this land, how a small amount of housing would compromise the Plans Housing allocation or indeed the desired economic development on this land;*
- 5.50 Based on the advice from the LDP Team, the prohibition on residential development appears to stem from the fact that sufficient housing commitments exist with Crossmaglen to meet the local housing requirement.
- 5.51 *Oddly, the Plan gives no hint of what might occur on the other half of the zoning, other than suggesting it should not include shops or houses;*
- 5.52 The application site encompasses all of zoning CM11. The Key Site Requirements are clear in what may be developed and what the requirements are to be met. Clearly with the exception of use classes A1 and C1, there is the potential in principle to develop other use classes on the zoning provided to a minimum of 1.75Ha being developed for Economic Development Uses comprising Classes B1, B2, B3 and B4.
- 5.53 *The prohibition of residential development empties the Designation of its purported flexibility. The PAC report of the Draft Plan stated, "while the principle of development has been accepted on most of the site, there is no need for over 3 hectares of land for housing" Whilst the PAC said there was no need for over 3Ha of land for housing, their report didn't suggest there should be no ancillary residential development, despite this being regarded as a key component in any mixed use development elsewhere.*

- 5.54 As noted above, sufficient housing commitments exist with Crossmaglen to meet the local housing requirement.
- 5.55 *The reduction in economic development land in this zoning is not fatal; the prescribed minimum level of economic development is still being delivered (1.75Ha.)*
- 5.56 This comment takes no account of future proofing of development. For reasons outlined below under PPS4 assessment, it is considered that the residential element is incompatible with the zoned lands and would potentially stifle its development as intended (including B1-B4 uses,) arising from issues in relation to residential amenity of the potential occupants on this site. In addition, the figures provided within the proposal (TA) relate to 0.44Ha of economic development.
- 5.57 *There is no reason why a small and ancillary amount of residential development (as this is) should not accompany the economic development sought.*
- 5.58 The Planning Authority considers that there are several reasons why residential development should not accompany the economic development on this site. These are set out in the detailed assessment below.
- 5.59 *Provided the residential development is small, ancillary and the minor part of the mixed-use development, residential development should be regarded as "windfall" and will not impact on the Plan's housing allocation for Crossmaglen.*
- 5.60 Based on the advice provided by the LDP in this application consideration, this point does not override the concerns with this proposal.
- 5.61 *We would ask the following questions:*
- *Is there scope for negotiation here – would the development plan team have a different view if the level of residential development was reduced again?*
 - *Had there not been the changes made, following community consultation, might the Development Plan Team have responded differently?*
 - *What is the purpose of a mixed-use zoning, if residential development is not permissible.*
 - *What does the Council consider a mixed-use zoning should entail?*
 - *Does the Council truly think there is sufficient flexibility to stimulate the zoning?*
 - *If there was truly enough flexibility in all likelihood a development proposal would have been put forward before now.*
- 5.62 The submitted correspondence makes reference to the Simpson v Edinburgh case in which it was held that LDP's and planning policies can be departed from if there is good reason. The LDP team advise in their response (13.05.2024,) that whilst this principle is recognised, the onus is on the applicant to demonstrate that such good reasons exist that would justify a departure from the extant plan. Whilst the supporting details make reference to the level of

support from the local community for the proposal, and whilst this is a material consideration, it is in itself not determinative, nor would it justify the departure from the LDP.

- 5.63 Although the SPPS was published after the adoption of BNMAP, the LDP team considers that paragraph 6.94 is relevant to this application; *"LDPs should also identify opportunities for mixed use development, including economic development uses, where this would create synergy and underpin the economic viability of the development as a whole. Plans should indicate, through key site requirements, the types of economic development that will be acceptable and seek to avoid uses that would have a detrimental impact on the environment and / or residential amenity."* BNMAP 2015 specifies that residential development isn't acceptable due to sufficient land being available to meet the projected housing need, again no explanation as to why the provision of residential development would "underpin the economic viability of the development as a whole."
- 5.64 **Both representations (in objection and in support) have been considered in full. In considering the advice of the LDP team, who conclude that insufficient justification has been provided to allow the relaxation of the Key Site Requirements, the Planning Authority considers that the proposal is fundamentally contrary to the BNMAP 2015, as considered further in the detailed assessment below.**

6.0 CONSIDERATION AND ASSESSMENT:

6.1 Proposal Summary:

The proposal seeks outline permission for a mixed-use development to include economic development units and detached dwellings, with the conceptual layout indicating 9 no. economic development units positioned to the rear / western area of the site and 6 no. detached dwellings located along the front / eastern area of the site fronting Cullaville Road.

- 6.2 The conceptual layout references c.5574m² of commercial floorspace, with provision of approximately 120 car parking spaces and 20 HGV spaces. It is noted there may be scope for additional car parking if required. The proposal protects the mature trees on the eastern boundaries of the site and the northern boundary vegetation. The existing internal field boundaries (hedgerow) will be compromised / removed, however it is noted new planting is proposed to offset this loss.
- 6.3 The proposed detached dwellings are low density, with one dwelling to be occupied by the applicant. The proposal includes 3 vehicular accesses off Cullaville Road; one serving a single detached dwelling, one serving the remaining 5 dwellings and one in the south-western corner of the site serving the economic development located rear of the dwellings. The Planning

Statement notes that the dwelling heights along the road frontage are anticipated to be comparable with the residential units opposite, with larger dwellings in a second tier, to graduate the roof profiles towards the economic development to the rear. This is in an attempt to ensure the existing residents' outlook will not be dominated by new economic development units and to ensure a proper townscape with consistency and order, in terms of roof profiles.

6.4 The planning application has been supported with the following details (as additional and / or amended,) which form the basis of this assessment, together with the material considerations outlined above under Section 3.0. A copy of the latest drawings is included in Appendix 1:

- Drawing No. P01 Rev A – Site Location Plan (submitted 24.11.2023)
- Drawing No. P02 REV A – Site Layout Concept Plan (date stamp received 10.10.2022)
- Drawing No. P03 – Proposed Road Frontage (submitted 30.08.2023)
- Supporting Planning Statement (dated Oct 2022)
- Pre-Application Community Consultation Report (dated Oct 2022)
- Transport Assessment Form (date stamp received 10.10.2022)
- Further letter from O'Callaghan Planning (dated 13.01.2023) in response to Environmental Health requirements;
- Copy of Schedule 6 Consent from DfI Rivers Agency (DfI Rivers Agency correspondence dated 01.03.2022)
- Transport Assessment (as prepared by Lisbane Consultants, dated July 2023)
- P1208V2 Drainage Assessment (dated 06.10.2022, as prepared by OSM Environmental Consulting)
- NI Water Wastewater Impact Assessment Engineer Report (dated 08.08.2023)
- Correspondence from O'Callaghan Planning (submitted by email 24.11.2023) in response to DfI Roads comments.
- Supporting Planning Statement from O'Callaghan Planning (June 2024 Addendum, together with email correspondence 06.06.2024 and written correspondence dated 05.08.2024.)
- Noise Impact Assessment Report (Alive Environmental, Aug 2024)

6.5 **Regional Development Strategy for Northern Ireland (RDS,) The SPPS for NI and The Planning Strategy for Rural Northern Ireland (PSRNI:)**

The RDS seeks to promote sustainable economic development in an environmentally sensitive manner, with Policy RG1 (Ensure adequate supply of land to facilitate sustainable economic growth) seeking to protect lands for employment uses rather than other uses. The RDS's regional strategic objectives in relation to housing include managing housing growth to achieve sustainable patterns of residential development, with Policy RG8 (Manage housing growth to achieve sustainable patterns of residential development) guiding that PPS7 and its Addendum set out the policy for appropriate housing in settlements.

6.6 The SPPS is a material consideration in all planning applications and sets out core planning principles to achieve sustainable development. Of relevance to this application are the aims of supporting sustainable economic growth, good design and positive place making, while preserving and improving the built and natural environment. As the SPPS has not introduced any conflict in relation to the retained planning policies listed, the SPPS and provisions of the Local Area Plan (BNMAP 2015) will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS, together with the prevailing planning policies listed above (including PPS4 and clarification, PPS7 and its 2nd Addendum and PPS12.)

6.7 ***The proposal in principle, is considered to conflict with the sustainable development principles and policies of the SPPS and the RDS in that the inclusion of residential development would jeopardise the mixed use development on the site by virtue of non-complementary uses. This is discussed further below under the detailed policy considerations.***

6.8 **Banbridge, Newry and Mourne Area Plan 2015 (BNMAP:)**

Section 45 of the Planning Act (Northern Ireland) 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. BNMAP2015 operates as the current LDP plan for this location and identifies the site as being located within the settlement development limits of Crossmaglen (CM01) and on land for mixed use (zoning CM11.)

6.9 Vol 1 of BNMAP 2015, notes that:

"the zoning of land provides a basis for rational and consistent decisions on planning applications and provides a measure of certainty about which types of development will and will not be permitted..."

Allocation ECD1 (Economic Development) within Vol 1 of the Plan identifies 3.4Ha lands zoned for economic development within Crossmaglen, with zoning CM11 forming part of this overall allocation (1.75 hectares minimum.)

6.10 Policy SMT2 of Vol. 1 of The Plan directs that *"planning permission on zoned sites will be granted for the specified uses as well as any range of uses included within the Key Site Requirements and any specified complimentary uses."*

6.11 Proposals on zoned land will be considered in the context of all prevailing regional planning policy and with any relevant Plan policies and proposals, including, where specified, key site requirements. The policy text goes on to note that *"key site requirements have been used where appropriate to specify such uses and to identify unacceptable land uses"* (emphasis added.)

6.12 Zoning CM11 (Mixed Use, Cullaville Road) relates to 3.36Ha of land, as set out on map 3/03a Crossmaglen and the application site encompasses the entirety of lands within zoning CM11.



Under zoning CM11, there are 9 no. Key Site requirements (KSRs) to be met. These KSRs are listed below and numbered for the purposes of this assessment, with consideration text included below each:

6.13 KSR1: *Development shall not include the following uses as specified in the Planning (Use Classes) Order (Northern Ireland) 2004:*

- *Class A1: Shops*
- *Class C1: Dwelling houses*

The application seeks to deviate from KSR1 by providing housing. The justification for this provision is set out within the Supporting Planning Statement and letter of support, with the following summary points noted:

- *There is no rational reason for the exclusion of a complementary level of quality housing from this zoning;*
- *The development of the site has been stymied due to the unduly restrictive exclusion of any amount of housing at all from this site;*
- *The local community have expressed a wish to see an element of residential development to protect their residential character, the local environmental quality and their amenity in general;*
- *Elsewhere, the practice of zoning mixed use sites has, without exception, facilitated a small element of complimentary housing.*
- *The level of housing can be controlled by way of restrictive condition and / or legal agreement to ensure that the resultant environment is not at significant variance with the mixed use scheme anticipated in the LDP;*

6.14 The Planning Authority in its assessment, has consulted with the Planning Authority's Local Development Plan (LDP) Team, who provided a very detailed and robust response (dated 15.11.2023,) with the following points noted:

- In the draft BNMAP all of the application site was zoned for mixed use development. A representation was submitted by the landowner objecting to the mixed use zoning and requesting a residential zoning along with the adjoining field to the west. In their Public Examination report, the Planning Appeals Commission advised that sites of this size were not required for residential development and concluded "The site remains a logical and accessible location for the flexibility that a mixed use designation provides."

- The mixed use zoning was carried forward in the adopted plan published in 2013. BNMAP provides clarification on what mixed use sites entail, it states:

"Mixed use zonings are those zonings which can accommodate a variety of uses which may include light industrial (Class B2), general industrial (Class B3), business (B1), storage and distribution (Class B4), dwelling houses (Class C1), Community and cultural uses (Class D1) and leisure (Class D2)." It goes on to state "Where certain uses are inappropriate, these are set out in the key site requirements."

- Subsequently within the Key Site Requirements (KSRs) for Zoning CM11 it states: "Development shall not include the following uses as specified in the Planning (Use Classes) Order (Northern Ireland) 2004:
 - o Class A1: Shops
 - o Class C1: Dwelling Houses"
- The proposal as submitted is contrary to the mixed-use zoning CM11 and associated KSRs in that it entails provision for a small residential development.
- The most recent housing land availability data for the District covers the period up to the 31st of March 2023. This indicates that there are 5.71 hectares of committed housing land within the settlement of Crossmaglen which will deliver 118 housing units. There is also potential for up to 3.67 hectares/96 units to be delivered from uncommitted zoned sites. It is acknowledged however that development arising over the plan period from uncommitted zoned sites may be lower than the 97 figure with housing zoning CM05 unlikely to be developed for housing given its current use.
- At this stage of the plan process the allocation of housing units on a settlement by settlement basis has not been finalised. However a working draft of the Housing Strategy and associated housing land allocation for the Plan period 2020-2035 across the settlement tiers and individual settlements has been developed. Whilst still being refined, it is considered that this can serve as indicator of broad housing need over the plan period.
- Based on Housing Growth Indicators issued by the Department of Infrastructure and adjusted following application of the RDS Housing Evaluation Framework (HEF) Crossmaglen has a potential allocation of 113 units. Taking into account the current level of housing lands, the current HGI allocation to the District and Crossmaglen's potential allocation, Crossmaglen is likely to have sufficient housing land to meet its needs to 2035 and there is no immediate need for additional housing land to be brought forward.
- As part of the LDP process the availability of housing land will be kept under review as part of the annual monitoring report and should additional need arise additional housing land can be brought forward through the Plan review.
- There is no indication that the proposed development is seeking to address affordable housing need in Crossmaglen. The NIHE Housing Investment Plan

(HIP) 2023-2026 indicates that there is a social housing need for 60 units. Under the programmed schemes set out in the HIP Arbour Housing Association are programmed to deliver 24 general housing units (Carran Road) with onsite work commencing 2023/24. This development is currently under consideration by the Council (LA07/2022/1493/F.)

- The proposal will result in the loss of approximately 1.5 hectares out of 3.36 hectares of mixed use land within CM11 however the supporting information maintains that the proposal still complies with the KSR in that a minimum of 1.75 hectares of economic development land can still be delivered. The supporting statement indicates that the residential development is required to support the viability of economic use and it will bring economic benefits:
 - o "The mixed-use zoning cannot be developed unless a financially viable use can be found for the remaining 1.5 ha (after the minimum 1.75 hectares has been set aside for economic development)."
 - o "... granting planning permission for no more than 10 units as a means of releasing 2.25 hectares of land with the potential to deliver between 125 and 230 jobs is sufficiently meritorious as to outweigh the failure to abide by the Key Site Requirements."
- It should also be noted that the feasibility of delivering a housing scheme adjacent to an economic development use does not form part of this consideration. It is worth noting however that CBRE in their Employment Land Supply Report for the district did consider that the proximity of residential development to the zoning could constrain some industrial development. In their recommendation on suitability/fitness for purpose they stated that the mixed used zoning CM11 "could be suitable for a small industrial development, however may be limited for some uses due to neighbouring residential dwellings."
- The proposal is contrary to Policy SMT 2 and Zoning CM11 of the Banbridge, Newry and Mourne Area Plan 2015 as the site is zoned for mixed development use and the housing element of the proposed development does not comply with the Key Site Requirements.
- In terms of general housing need this can be met through the level of committed housing need and there is no indication in the applicant's submission that the proposal will seek to address affordable housing need.
- The enabling aspect of the proposal is noted and the fact that the proposal does comply with the KSR to deliver a minimum of 1.75 hectares of economic development land is acknowledged.
- It is also noted that changes to the proposal following the community consultation process saw a reduction in the amount of economic development on the site and corresponding increase in the number of detached dwellings from 6 to 10 (see map 5 Appendix D).

- The Development Plan team do not consider that there is sufficient justification to warrant setting aside the site KSRs to facilitate delivery of residential development on this mixed-use site.
- 6.15 Further to LDP comments dated 15.11.2023, further emails were submitted by the agent querying the acceptability of a reduced level of residential development within the scheme, with an amended scheme subsequently submitted (including Drawings P02REVA, P03REVA) with a reduction to 6 dwellings (from an original 10.) The LDP Team were reconsulted for further advice and guidance and in response comments dated 20.03.2024, the LDP advise the following:
- "Reference is made by the agent to decision reference LA07/2022/1122/F an application for householder development in Annalong, one of the elements of this application was the extension of the curtilage of a residential dwelling, into land zoned under Policy AN02 of BNMAP for housing. A layout plan submitted with this application indicates that despite the loss of part of the zoning it would still be able to accommodate the 10 dwellings approved under several previous planning applications.
 - However **AN02 was a committed housing zoning** within BNMAP and no Key Site Requirements were identified, in addition, the part of it concerned was being incorporated into the curtilage of an existing residential dwelling and there was no change of use of the lands in question. The units approved on Zoning AN02 had been included in the committed housing for Annalong over the plan period and were necessary. In contrast there is still no evidence of any shortfall in committed housing for Crossmaglen to the extent where allowing housing on lands that had not been zoned for this purpose are necessary. Therefore the Annalong site appears to be distinguishable from the application site.
 - Reference is also made to an apparent error in the mapping produced for BNMAP in which the boundary of Zoning CM11 passes through a residential dwelling that is situated on Cullaville Road. The Development Plan Team acknowledges that this appears to have been an error in the plotting of the GIS, however, it would contend that as the area of land in question is negligible when compared against the zoning as a whole and that a mixed use development could be provided on the zoning without this small area of land being needed to be incorporated.
 - In relation to the other issues raised, the prohibition on residential development appears to stem from the fact that sufficient housing commitments exist with the Settlement Development Limit (SDL) of Crossmaglen to meet the local housing requirement, the Housing Land Availability (HLA) study has again established that there is no current shortfall in general or social/affordable housing provision with the settlement, reference is made to the concerns of local residents about not wanting to see commercial development approved along the frontage of Cullaville Road which would be at odds with the existing pattern of development, which consists of detached dwellings situated on individual plots.

- While there is some validity in this argument, the settlement pattern could be preserved by locating the units to the rear of the site and incorporating landscaping between them and the road.
- Finally in relation to the claim that approval of the proposal would result in; "the creation of a genuinely mixed-use development (where people can live beside their place of work) as it is to do with addressing the need for low density housing in Crossmaglen." There is no evidence that the residents of the proposed dwellings would work within the proposed units, unless the occupancy of these units was tied by planning condition, or planning agreement, to persons who were employed in these units and their dependents.
- Reference is also made to one of the dwellings being intended for the applicant and suggests an occupancy condition to ensure this. Occupancy conditions are usually only applied in rural locations in cases where there are strong personal circumstances and it is necessary to prevent the onward sale of the dwelling, however this is in an urban area and there would not be the same need to restrict the occupancy of a dwelling.
- The applicant also refers to "potentially significant employment and economic benefits from this proposal," reference is subsequently made to "The inclusion of a small number of private dwellings, is required to enable the development of the land," it is not specified why enabling development is needed in this case.
- Conclusion

The Development Management Team is advised that insufficient justification has been advanced that would justify the relaxation of the Key Site Requirements and that the comments of 15th November 2023 remain.

It should be noted, as highlighted above, that this consultation response is confined to the provisions of the BNMAP 2015 and does not address the need for the proposal to comply with all other material considerations."

- 6.16 Following receipt of a letter of support by Justin McNulty MLA on behalf of the applicant, the LDP were further reconsulted given the nature of the comments and queries within this letter, as set out under section 5. The LDP team having considered the details submitted, advise in a further response (dated 14.05.2024) that insufficient justification has been provided that would justify the relaxation of the Key Site Requirements and that the comments of 15.11.2023, remain.
- 6.17 In response to the LDP Team's advice on 14.05.24, the agent has submitted additional details for further consideration, including:
- Email dated 06.06.2024
 - Supporting Planning Statement Addendum (June 2024)
 - Copy of NIW Solution Engineer's Report dated 08.08.2023
 - Extracts from Michael McArdle & Son's (Estate Agent) website and Property Pal regarding existing properties for sale in Crossmaglen.

- 6.18 NMDDC's LDP team were re-consulted for further advice given additional details are linked to the acceptability of residential development which goes against the Area Plan stipulations (KSRs.) Final comments received 04.07.2024 from the LDP Team are noted and are considered in conjunction with the earlier advice. The LDP team in this final response note that the weight to be attributed to consultation advice is a matter for the determining authority (i.e. Development Management section) and that it is not the LDPT's remit to re-assess why the PAC made recommendations during the BNMAP Inquiry.

The key points made in support of the application are considered below:

- 6.19 *The residential element of this proposal has not encroached into the economic development quantum of the zoning: there is no loss in economic development or employment land;*

For reasons set out under PPS4 assessment, the Planning Authority would disagree with this statement as the proposed development compromises the planned and orderly development of economic uses on this site. As noted figures provided within the Transport Assessment are below the required figures (4400m² economic development proposed) and the conceptual layout raises concerns in relation to residential amenity (including future proofing of dwellings and economic development.)

These concerns are further signified by EHD's requirements for conditions in order to protect residential amenity, which arguably restrict the hours of operation and nature of economic development to occur on the site, in the interest of protecting residential amenity. This is counterintuitive to the proposal submitted, which includes business/office units, light/general industrial and storage units as part of the economic development. The conditions suggested by EHD would arguably limit the nature of general industrial units that could be developed on this site as a result of residential units in close proximity.

- 6.20 *Dispensation can be given because it is not the key or the main KSR that is affected. The overarching aspiration for the zoning is still being delivered;*

The Area Plan doesn't differentiate between KSRs in terms of their significance i.e. they are not hierarchical: it is a requirement that all KSRs must be satisfied unless sufficient justification is advanced that allows for them to be relaxed. For reasons set out within the detailed policy assessment, the Planning Authority disagree that the requirements for this site as set out within zoning CM11 are met based on details provided nor has overriding reasons been demonstrated to justify departure from the Area Plan.

- 6.21 *Approval can be justified because the secondary KSR that is being offended has not been rationally justified – there has been no justification offered as to why a small amount of housing could not compliment the economic development, and no attempt has been made to outline why this zoning was treated differently from every other zoning in the Plan (i.e. no other zoning had a Key Site Requirement that precluded any housing whatsoever);*

- 6.22 *When one looks at the rationale for the exclusion for housing from this entire site, it is obvious that the evidence-base used to inform that process was flawed (e.g. the Plan-makers made no acknowledgement of the fact that housing allocations were doubling between Draft Plan publication and adoption of the final Plan, despite the fact no additional lands were zoned) while it has become apparent that of the 359 houses zoned under the previous development plan, 170 have not been delivered) and insufficient weight was given to the historical problems of a slow rate of house building, land banking and infrastructure restrictions;*
- 6.23 As noted, the adoption of the existing Area Plan has undergone a rigorous process including examination by the PAC. The time to object the Area Plan zoning details has passed. Whilst a new Area Plan is currently being developed, this will afford the opportunity to put forward representations of this nature, however this argument is currently premature against the existing Area Plan. Insufficient justification has been advanced to set aside the KSRs as detailed within the assessment below.
- 6.24 *Approval of this application must be looked at in the context of this application, in isolation. As there are no other mixed use zonings in the Plan that preclude residential development, there are no comparables hence there will be no precedent arising;*
- 6.25 A precedent would be set in that there are not overriding reasons to justify departure from the Key Site Requirements in this case given the existing allocation of undeveloped housing land within the settlement limits.
- 6.26 *Approval of this application is needed to ensure the release of economic development land. The development of this site will incur significant costs, and it will simply not proceed absent some injection of external capital, such as may be recouped through the release of a small residential development;*
- NIW's sewage network is at capacity in Crossmaglen, with a significant risk of pollution due to storm water causing sewage spillage in times of storm water inundation (in the combined sewers). NIW has a statutory obligation to prevent such pollution but cannot commit to so doing due to budgetary constraints. The approval of this application will see the applicant contribute to the cost of upgrading the sewage network, on NI Water's behalf (Potentially £110,000.)*
- 6.27 A WwIA has been submitted to NIW on behalf of the applicant to determine if it is possible to allow the foul flow from the proposed development to connect into the NIW Wastewater Network. At present, no solution has been agreed and this remains under investigation. The Planning Authority note options for alternative private treatment solutions for the site have not been presented. Nonetheless, whilst the potential cost to the developer to connect to NIW mains foul network is a matter between NIW and the developer, the argument that dwellings should be permitted to fund this does not override the fundamental concerns in relation

to residential amenity and jeopardising the orderly development as planned under zoning CM11.

6.28 *Approval of this application is necessary to address a chronic shortage of supply in Crossmaglen, with no houses for sale in the town and importantly, no affordable housing for sale in the town and no affordable houses in the countryside surrounding Crossmaglen;*

6.29 The Planning Authority note that no information has been advanced to demonstrate a provision of social housing within the scheme for example an agreement with a registered housing provider for a specified number of social housing units on the site. Furthermore, the planning authority note there are recently approved and live applications in the planning system for residential developments within Crossmaglen, including but not limited to:

- LA07/2021/1064/F (zoning CM08, 44 units) permission granted 05 Jul 2024;
- LA07/2021/1493/F (partly on zoning CM03 - 24 units proposed, including social housing); application under consideration and;
- LA07/2023/3026/F (22 social housing units) application under consideration.

Total of 90 social housing units proposed within Crossmaglen.

6.30 Whilst these have not been approved, they are material in considering the agent's case in relation to a lack of residential properties within Crossmaglen.

This case is not considered strong enough to warrant an approval which is contrary to the Area Plan. The LDP Team re-iterate the following comment from their original response: *"Taking into account the current level of housing lands, the current HGI allocation to the District and to Crossmaglen's potential allocation, Crossmaglen is likely to have sufficient housing land to meet its needs until 2035 and there is no immediate need for additional housing land to be brought forward. As part of the LDP process, the availability of housing land will be kept under review."* In considering all of this, the above point bears limited weight to justify an approval for residential development on this site.

6.31 *The Council approved application LA07/2020/0089/F even though its access was not in accordance with the Key Site Requirements (the KSR indicated access should be taken from Upper Dromore Road however the access was taken from Spring Meadows). It is appreciated that there was planning history that was relevant in that case but it is pertinent that other material considerations (just as it was planning history in that case) can warrant departure or disapplication of a KSR.)*

6.32 The example provided above was for a change of house type on a site zoned for housing in the LDP and therefore there was no issue of a land use type contrary to that specified in the LDP being introduced to the zoning. In addition, there is no planning history on the proposed site to which weight can be afforded, so this example provided is arguably distinguishable from the proposed development. The Planning Authority considers that there is

insufficient evidence to justify the proposed departure from the KSRs of zoning CM11 specifically in relation to the inclusion of residential development.

- 6.33 Following receipt of the LDP team's response 04.07.2024 and further to the above consideration, further correspondence has been submitted by the agent (dated 05.08.2024) which notes the following further points, which are also considered below:

- 6.34 *Only where there is potential for significant impact on the LDP of the Plan process, through the cumulative effect of a considerable precedent, does the issued of prejudice arise. Note that the LDP team has omitted that the issue of precedent and prejudice do not arise if a proposal is distinguishable;*

For reasons set out within the assessment below, the proposed departure from the KSR and land zoning in this case would prejudice the planned and orderly development of zoning CM11.

- 6.35 *Just because a single KSR has not been complied with, this does not in itself, show that the plan is likely to be prejudiced or compromised;*

For reasons set out within the detailed assessment below, the proposal is considered to compromise the planned mixed use development of zoning CM11.

- 6.34 *A request for the decision maker to acknowledge the PACs recommendations were made in circumstances that have clearly moved on, enabling a judgement to be taken now, on merit;*

Until the new Local Development Plan has been adopted, the BNMAP 2015 remains as the statutory Local Development Plan for this site and overriding reasons have not been demonstrated to justify departure from the Area Plan's KSRs of zoning CM11.

- 6.35 *A request for the decision maker to recognise that the PAC's rationale does not suggest that this proposal should be refused (it only suggested there was no need for housing on the entire zoning.)*

This point bears little weight in this assessment, given the concerns in relation to residential amenity and the compromising of economic development on the site, as planned for within zoning CM11.

- 6.36 *The LDP team state that works were ongoing in relation to designation CM03, perhaps inferring that ongoing development in Crossmaglen is actively meeting housing need. The problems associated with that development have long been chronicled, with DfI Roads having to step in to carry out road works and residents having adequate services owing to the prior cessation of works. We have provided evidence to verify the lack of supply in new or indeed any housing in Crossmaglen. If work is advancing on CM03 it is not meeting current demand and is not available for sale in any case;*

This point has been covered in Para 6.30 consideration text whereby there are notably further applications for housing in Crossmaglen settlement limits currently under consideration by the Planning Authority.

- 6.37 *Whilst the LDP team acknowledged the provision of information relating to housing demand as well as information pertaining to sewage and infrastructure improvements, they did not comment on same, or contest the applicant's assertion that those factors in isolation, and cumulatively, serve to set this proposal (and this site) apart from other sites in the Plan area (upon which future applicants might expect not to be asked to comply with all Key Site Requirements) thereby limiting the potential precedent;*
- *We submit that any precedent is limited to mixed use zonings and only uncommitted and undeveloped ones at that – yet further limiting the potential extent of any precedent that might arise from approving this application;*

This point has been considered under Para 6.23. 'Precedent' is also not the only issue of concern. For reasons outlined within this assessment, the proposal would 'prejudice' the planned and orderly development of zoning CM11.

- 6.38 *The LDP Team notes that there is no distinction in text relating to zoning CM11 between primary and secondary KSRs. The applicant does not suggest this but rather that judgement must be exercised when assessing the consequences of any departure from the KSRs. Only where fundamentals of the zoning are liable to be compromised should the decision maker refuse permission;*

For reasons outlined within this assessment, fundamentals of zoning CM11 would be compromised as a result of this development, with detailed reasons for refusal are listed at the end of this report.

- 6.39 *For the avoidance of doubt, the applicant is not suggesting that the site is put forward for social housing but rather will provide 5 affordable housing units with the 6th for himself. The applicant suggested that as housing stock becomes freed up (as persons 'trade up' into the proposed new homes,) then those properties may become available for social and / or housing;*

There is no evidence provided to substantiate this point. Nonetheless, the provision of 5 houses does not overcome concerns in relation to the planned development for this site and concerns in relation to residential amenity that would arise if this proposal were approved.

- 6.40 *The LDP took the view that Crossmaglen "is likely to have sufficient housing land to meet its needs until 2035 and there is no immediate need for additional housing land to be brought forward." However 'likely' the LDP team considers housing allocation to be sufficient, a decision cannot be put back until 2035;*

There is sufficient zoned land to meet housing requirements at present within the settlement. Given there remains available lands this position is unlikely to change.

- 6.41** *Factually there are no available houses for sale in Crossmaglen at this time and there are no affordable houses available within Crossmaglen nor its surrounding hinterland, with a need for housing and in particular, affordable housing. The justification for some housing on the site must be taken in context – as an ancillary element that will enable and facilitate the development of a larger mixed-use zoning.*

This point is considered in detail below.

- 6.42** On the basis of the detailed advice provided by NMDDC's LDP team, the submitted justification (including supporting statement (and Addendum,) and letter of support 24.04.2024,) the inclusion of residential uses on this site does not warrant an approval, given the conflicts with the KSRs of zoning CM11 of the Area Plan and given there remains to be sufficient land located elsewhere in the settlement limit to meet the housing needs within Crossmaglen.

- 6.43** The Planning Authority note that there are recently approved and live applications in the planning system for residential developments within Crossmaglen, including but not limited to:

- LA07/2021/1064/F (zoning CM08, 44 units) permission granted 05 Jul 2024;
- LA07/2023/3026/F (22 social housing units) and;
- LA07/2021/1493/F (partly on zoning CM03 24 units proposed, including social housing);

therefore, the arguments in relation to a lack of residential properties within Crossmaglen are not considered robust to warrant an approval which is contrary to the Area Plan requirements.

- 6.44** Whilst the case is made in relation to infrastructural works, an agreed solution has not been achieved with NIW in relation to upgrading of infrastructure and there is no supporting economic details provided to support the claim that dwellings are required to enable these works to be provided by the developer to constitute 'enabling development.' To permit residential development on this land, would impede the sustainable economic and orderly development of these lands as planned within zoning CM11 and introduce concerns in relation to residential amenity for future occupants of proposed dwellings on the site (Including future proofing of dwellings for extension etc.) It is considered that approval of residential units on this site would set a precedent given all of the above.

- 6.45** *KSR2: A minimum of 1.75Ha shall be developed for economic development uses comprising Class B1, Class B2, Class B3 and Class B4 as specified in the Planning (Use Classes) Order (Northern Ireland) 2004;*

- 6.46 KSR2 requires that a minimum of 1.75Ha shall be developed for economic uses (use classes B1-B4.) This also coincides with EDC1 under Vol 1 of the Plan. The Supporting Planning Statement indicates that the level of economic development provided surpasses these requirements. In reading the Transport Assessment also submitted however, this conflicts with the supporting statement in that it refers to a total of 4400m² economic development or 0.44Ha (1500sqm industrial, 1500sqm storage and distribution, and 1400sqm of business/office space.)
- 6.47 **This provision is substantially lower than the minimum requirement of 1.75Ha. As noted by the LDP team in their response, the figures provided within the documentation submitted do not appear to be consistent and it has not been satisfactorily demonstrated that this KSR is met on the basis of details available for consideration and assessment.**
- 6.48 *KSR3: Access arrangements and layout shall ensure that buildings do not back onto Cullaville Road;*
- 6.49 The indicative layout provided in Drawing No. P02 REV A (Site Layout Concept Plan) **is in accordance with KSR3 in that the indicative access arrangements and layout ensure that buildings front onto Cullaville Road;**
- 6.50 *KSR4: Any open storage areas shall be located so as to ensure that they are screened when viewed from Cullaville Road;*
- 6.51 The indicative layout provided in Drawing No. P02 REV A (Site Layout Concept Plan) **is in accordance with KSR4 in that all open storage areas are located in such a way that they would be screened from views from Cullaville Road;**
- 6.52 *KSR5: Access to the site shall be from Cullaville Road;*

The proposal as presented, is in accordance with this KSR.

- 6.53 *KSR 6: Development of the site will require improvements including road widening, provision of footway and a right turn facility;*
- 6.54 KSR 6 relates to associated road widening provision of footway and a right turn facility in relation to the development of this site. DfI Roads initially advised that the application is insufficient in its current form and advise that amended and additional information is required, including an amended location plan and more robust traffic assessment.
- 6.55 Details have subsequently been submitted to the Planning Authority in the form of an Amended Site Location Plan and letter submitted 23.11.2023 confirming:
- a. The assigned traffic consultant has confirmed that the traffic surveys were completed on Thursday 4th May 2023.*
- b. The assigned traffic consultant has also confirmed that the percentage impact on the Cullaville/Concession Road Junction is provided under section*

6.0 of the previously submitted TA, titled Traffic Impact. Figure 6.1 details the percentages.

c. A safety audit is not required at this stage as the submitted access drawing is indicative as this application is at outline stage. Should this proposal be approved by the planning department, DfI Roads previously clarified this could be looked at in more detail at RM application stage.

The purpose of this indicative plan is to ensure that all lands required to achieve necessary road widening and sight visibility splays is feasible/ available. This is confirmed by the updated site location plan whereby the red line includes the required lands.

- 6.56 DfI Roads were re-consulted with these details in and final comments dated 17.04.2024, advise that there are no objections in principle to the proposal subject to submission of detailed plans at reserved matters stage. This is to ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users. DfI Roads also note that the stipulated requirements within their detailed response are on the basis that Planning are content with the residential element being an exception to the Key Site Requirements listed under the Newry, Mourne & Down Area Plan.
- 6.57 For reasons set out within the assessment below, the principle of including residential development on this site is considered fundamentally contrary to The Area Plan. In the event of an approval on this site, matters relating to Road Safety and Policy requirements would need to be fully addressed prior to the commencement of any development on the site.

However given the advice of DfI Roads following consideration of the revised details, the proposal does not warrant a reason for refusal in relation to road safety matters and meets KSR6.

- 6.58 *KSR7: Existing vegetation along the eastern boundaries of the site shall be retained and supplemented with a 5 metre belt of trees of native species;*

The indicative layout shows the retention of the existing boundary, augmented with new landscaping (single row.) **This would need to be increased to 5m width and clearly defined by way of detailed landscaping plans (existing and proposed) and supported with a detailed management plan.**

- 6.59 *KSR8: The existing vegetation on the northern and western boundaries of the site shall be retained and augmented by additional planting of trees of native species to be agreed with the Department at planning application stage;*

The concept drawing indicates the retention of northern and western boundaries, with further augmentation **which is in accordance with KSR 8.**

- 6.60** *A 3 metre belt of trees and shrubs shall be planted along the Cullaville Road frontage of the site to augment the existing vegetation to screen development of the site and in the interests of residential amenity*

The indicative layout whilst showing some planting along Cullaville Road, does not include a 3m belt of trees and shrubs, which is conflicting with the requirements of KSR9. However it is noted that proposals are for outline permission only which could be conditioned but such a condition may impact on the future layout, therefore this does not in itself, warrant a refusal reason.

- 6.61** **Overall, in having regard to the LDP, the proposal is considered contrary to Policies SMT2 (Vol1,) EDC1 (Vol1) and zoning CM11 (Vol 3) of the BNMAP 2015 in that:**

- *it includes Use Class C1: Dwelling houses and the justification for this does not override the rationale underpinning the Key Site Requirements of zoning CM11;*
- *it does not include a minimum of 1.75Ha to be developed for economic uses (use classes B1-B4.)*
- *failing to adhere to both the land zoning and key site requirements as set out within the area plan*

- 6.62** **Environmental Impact Assessment (The Planning EIA Regs. (NI) 2017 and DCAN 10)**

The Council determined on 21st November 2023 through and EIA screening that an Environmental Statement is not required for this application. A subsequent EIA determination letter was issued via email to the agent on 23rd November 2023 confirming the same.

- 6.63** **Habitats Regulations Assessment (Conservation (Natural Habitats, etc) (Amendment) Regulations (Northern Ireland) 2015,) SPPS and PPS2:**

A HRA screening was completed as part of this assessment, whereby the potential impact of this proposal on designated sites has been assessed. The application site does not appear to be hydrologically linked to any European Designated Sites, with Slieve Gullion SAC being located 12.6km away. In giving consideration to the site's location, nature and hydrogeology of the site, it is considered that the proposal will not have a likely significant effect on any European Sites.

- 6.64** Limited ecological details have been provided, however it is noted that the proposal will result in loss of vegetation across the site, currently in the form of field boundaries. There are no recorded Tree Preservation Orders over the existing trees. DAERA having been consulted on the proposal offer no comment or objection in relation to Natural Environment Division. It is noted that some of the hedgerow will be removed and these are priority habitat. All vegetation removal should take place out with bird breeding season and the proposed landscaping measures should be implemented and maintained in perpetuity.

6.65 *Overall, the proposal does not raise any refusal reasons under PPS2 on the basis of details provided, however in the event of approval, planning conditions would be necessary to ensure that landscape removal and implementation is carried out in accordance with the requirements of PPS2 to ensure protection of priority habitat and offsetting of any trees and vegetation removed.*

6.66 SPPS, PPS3, PPS13, DCAN15 and DOE Parking Standards

The proposal involves the creation of 3 no. new accesses off Cullaville Road to serve; 1 detached dwelling, the 5 no. remaining dwellings and a further separate access serving the economic development. The conceptual layout plan (Drawing P02 REV A) details these proposals and a Transport Assessment Form (TAF) has been submitted with the application.

6.67 As this is an outline application, detailed design in relation to layout of car / bicycle parking, pedestrian footways, areas for manoeuvring / turning within the site etc. are not required at this stage, however the principle will be assessed under the requirements of PPS3.

6.68 As considered above, KSR 5 of Area Plan zoning CM11 requires the access to the site to be from Cullaville Road. The proposal as presented, is in accordance with this KSR.

6.69 KSR 6 relates to associated road widening provision of footway and a right turn facility in relation to the development of this site. As noted within the assessment above, DfI Roads following amendments, offer no further objections subject to acceptable details being submitted and approved through a Reserved Matters application. Noting this is on the basis that Planning accept the residential element on the site (as specified requirements in the RS1 Form may differ if this is not the case.)

6.70 *For reasons outlined under the BNMAP 2015 consideration, the Planning Authority considers that the residential element of the application is fundamentally contrary to planning policy, however in giving consideration to the advice of DfI Roads, the proposal does not warrant a refusal in relation to PPS3 and DCAN15 as DfI Roads have confirmed requirements are achievable. It is noted that in the event of an approval, the requirements outlined in DfI's RS1 form may differ as these currently relate to both residential and economic development uses.*

6.71 SPPS, PPS4 – Planning and Economic Development, PPS4 PED7 Clarification

6.72 Policy PED1 - Economic Development in Settlements:

In terms of economic development, the proposal includes business/office (Class B1) units, light/general industrial (Classes B2 and B3) and storage and distribution units (Class B4.) Under Policy PED1, a development proposal for a Class B1 business use will be permitted in a city or town centre (having regard to any specified provisions of a development plan) and in other locations that

may be specified for such use in a development plan, such as a district or local centre. A development proposal for a Class B2 light industrial use or Class B3 general industrial use will be permitted in an area specifically allocated for such purposes in a development plan or in an existing industrial / employment area provided it is of a scale, nature and form appropriate to the location. And a development proposal for a Class B4 storage or distribution use will be permitted in an area specifically allocated for such purposes in a development plan.

6.73 *Owing to the requirements of zoning CM11, the economic development element within the proposal is considered to be acceptable in principle to the requirements of Policy PED1.*

6.74 **SPPS and Policy PED 7 - Retention of Zoned Land and Economic Development Uses:**

Policy PED7 directs that development that would result in the loss of land or buildings zoned for economic development use in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses.

6.75 An exception will be permitted for the development of a sui generis employment use within an existing or proposed industrial/employment area where it can be demonstrated that: the proposal is compatible with the predominant industrial use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally. Retailing or commercial leisure development will not be permitted except where justified as acceptable ancillary development.

6.76 The proposal includes residential development, which would result in a loss of land zoned for economic development under zoning CM11, which requires a minimum of 1.75Ha to be developed for economic uses (use classes B1-B4.)

This is evident in that the proposal does not provide the minimum level of industrial development required by zoning CM11 (1.75Ha, with 0.4Ha proposed.) This assessment is based on the figures presented in the Transport Assessment, which refers to a total of 4400m² economic development or 0.44Ha (1500sqm industrial, 1500sqm storage and distribution, and 1400sqm of business/office space.) It is noted that the supporting statement indicates that the level of economic development surpasses the Plan requirements, however this statement would appear to be at odds with the figures / breakdown provided within the Transport Assessment.

6.77 *As the land zoning has not been significantly developed for alternative uses, neither exception outlined under PED7 is engaged. As such, the proposal is considered contrary to PPS4 Policy PED7 in that it would result in the loss of land zoned for economic development to other uses (i.e. residential uses.)*

6.78 SPPS and Policy PED 8 - Development incompatible with Economic Development Uses:

Under this policy, a proposal for development in the vicinity of an existing or approved economic development use that would be incompatible with this use or that would prejudice its future operation will be refused. In considering the proposed residential element within this application, it is considered that the residential element is incompatible with the zoned lands and would potentially stifle its development as intended (including B1-B4 uses,) arising from issues in relation to residential amenity of the potential occupants on this site.

6.79 Zoning CM11 specifically states that residential uses will not be included within this zoning, with further requirements to provide a 3m belt of trees along the Cullaville Road boundary and a 5m belt of trees along the eastern boundary, in the interests of residential amenity.

6.80 In this context and in meeting these KSRs, the existing properties along Cullaville Road and No. 59 Cullaville Road to the north would be positioned some 30m away from development on the site. Separation distances of proposed dwellings within the development would need to meet similar requirements in order to protect the amenity of future occupants on the site, resulting in even further loss of economic land. Furthermore, any future proofing of economic buildings (e.g. change of use or extension) would be stifled by the close proximity of dwellings and potential future proof of dwellings (including permitted development rights) impacted by the proximity to the adjacent economic development. This is signified further by EHD's final response whereby conditions are attached in relation to operational hours and nature of the industrial units, in order to protect residential amenity.

6.81 *For these reasons, the proposal is also considered unacceptable under Policy PED8 in that the proposed scheme would result in incompatible uses and would jeopardise the implementation of mixed use zoning CM11.*

6.82 Policy PED 9 - General Criteria for Economic Development:

Under Policy PED9, a proposal for economic development use, in addition to the other policy provisions of PPS4, will be required to meet all the criteria a-m:

- a) ***For reasons outlined under PED8, the development would be incompatible with surrounding land uses (in relation to residential development on the site;***
- b) ***The proposal is likely to harm the amenity of residents of the proposed dwellings on the site owing to their proximity to the site and requirements to achieve a minimum level of economic development, leaving less capacity for required separation distances to achieve an acceptable degree of separation. Depending on the details proposed, the proposal has the potential to harm the amenity of existing surrounding residents, though it is acknowledged that this can be dealt with by way of planning***

conditions and / or amendments to the scheme as considered necessary, and as advised by EHD in their final response dated 11.09.2024, however to achieve this requirement, would arguably compromise the planned and orderly development of zoning CM11;

- c) The proposal subject to conditions in relation to removal of vegetation and implementation of new landscaping in addition to agreed construction methodology, is not likely to adversely affect features of the natural or built heritage;
- d) The development is not located in an area at flood risk and subject to conditions being met in relation to the drainage details, is not likely to exacerbate flooding on the site or elsewhere;
- e) The proposal has the potential to create noise nuisance. A NIA Report (Enlive Environmental, dated Aug 2024) has been submitted for consideration. As no specific use of the proposed units has been determined at this stage, the NIA report is based on a 'worst-case' scenario. Mitigation measures have been recommended within the report to offset any potential noise impacts caused by the units in relation to: operating hours, building design, building openings, restricting the use of external areas, use of quieter forklift models, restricting externally mounted plant / equipment, provision of noise barriers.

The Council's EHD having reviewed the submitted details, advise that there are no further objections to the proposal, subject to the following conditions being attached to any permission granted in order to protect the amenity of nearby residential properties.

1 The mitigation measures as detailed in Section 6 of the noise impact assessment produced by Alive Environmental Ltd dated August 2024 and submitted to the Planning Service in support of this application shall be implemented in full.

2. In addition to the mitigation measures stated in Section 6 of the noise impact assessment the hours of operation of the commercial/industrial units shall be restricted to:

- o 08:00 -18:00 Monday to Friday
- o 08:00 14:00 Saturdays
- o No opening/operating on Sundays.

3 Acoustic barriers as described in Section 6 and illustrated in Figure 6.1 of the Noise impact assessment shall be erected prior to the commencement of any work on site. The barrier shall be constructed of either masonry, timber panelling (Close lapped with no gaps) or of earth and shall have a minimum self weight of 25 Kg/m2.

4 The commercial/industrial units shall not be occupied by businesses which as part of their operation emit odours to the atmosphere.

Whilst the Planning Authority has remaining concerns in relation to residential amenity, the submitted details arguably address concerns in relation to potential noise nuisance and it would be difficult to sustain a refusal on this basis.

f) **The proposal will generate foul waste, general waste and potentially operational waste and emissions, depending on the nature of uses within the development. The application proposes to connect to NIW mains water supply, dispose of foul sewage to a NIW mains sewers via proposed pumping station and dispose of surface water via NIW drains. NIW have been consulted and have issued detailed comments (dated 14.11.2022, expanded on below:)**

- There is available capacity at the Waste Water Treatment Works (this information is only valid for a maximum period of 18 months from the date of NIW's consultation response i.e. to 14th April 2024.)
- There is no public foul sewer within 20m of the proposed development boundary. A high level assessment has indicated potential network capacity issues. This establishes significant risks of detrimental effect to the environment and detrimental impact on existing properties. For this reason NI Water is recommending connections to the public sewerage system are curtailed. The Applicant is advised to consult directly with NI Water. The applicant will need to submit an application to NI Water for a Wastewater Impact Assessment. NI Water will assess the proposal to see if an alternative drainage or treatment solution can be agreed. Subject to successful outcome and subject to re-consultation, NI Water may reconsider its recommendation.
- There is no public surface water sewer within 20m of the proposed development boundary however access is available via extension of the existing public surface water network, or via direct discharge to a designated watercourse, at an agreed discharge rate.
- There is a public water main within 20m of the proposed development boundary which can adequately service these proposals. An application to NI Water is required to obtain approval to connect.

In response to these comments, the agent has advised that a WwIA has been submitted to NIW and have provide the Planning Authority with a copy of NIW's Solution Engineer's Report (dated 08.08.23) which is valid for 18 months. It notes that ***Planning cannot be conditioned until stage 2 of the waste water impact assessment has been completed and signed off by NI Water with all necessary third party sign offs in place.*** The recommendations from this report include:

- It is recommended that for storm offsetting outside the site, Option 1 should be investigated in further detail.
- If the options presented in this report are found to be unviable, then an alternative Storm Water offsetting location can be investigated.
- As part of any future development, the proposed development site will require separate foul and storm sewers, and any existing storm sewers must

exit the site via a dedicated storm outfall. This is a statutory requirement and is necessary to ensure the site meets the standards of adoption by NIW under Article 161

As such, it has not been fully demonstrated that the necessary sewerage and surface water drainage infrastructure is available, however it is noted that attempts have been made with NIW to achieve an appropriate solution and this remains ongoing. On the basis of details available however, the proposal is contrary to criteria f)

- g) Following amendments, DfI Roads have confirmed the proposal in principle is acceptable, subject to details being approved at Reserved Matters Stage. In the event of an approval, the requirements of DfI Roads would need to be met (in addition to KSR's) prior to commencement of any development;
- h) It is noted further access details have been provided and that layout and parking would be fully assessed at RM stage and as such, the proposal does not warrant a refusal on this basis given limited details available;
- i) As an outline proposal, detailed drawings are not available in relation to movement patterns in and around the site. In the event of an approval, a movement pattern should be incorporated that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;
- j) For reasons outlined in relation to the Area Plan and PPS4 PED8 requirements, the site layout (conceptual) is not considered to be of a high quality to assist in the promotion of sustainability in that it would result in incompatible uses on the site and stifle the implementation of the economic development, as planned.**
- k) Detailing on all boundary treatments and means of enclosure are not available at this stage, however it is noted that the proposed conceptual layout does not meet the minimum landscape boundary requirements along Cullaville Road. This is contrary to Plan requirements and is considered contrary to this requirement under PED9;
 - a) In the event of an approval, the detailed scheme should be designed to deter crime and promote personal safety;
 - b) As the proposal is not located in the countryside, criteria m is not applicable.

6.83 *For reasons outlined above, the proposal is considered contrary to the general criteria of Policy PED9 and specifically, criteria a, b, f, j, and k.*

6.84 SPPS, PSRNI, PPS12, PPS7, PPS7 2nd Addendum, PPS12, Creating Places, DCAN8:

- 6.85 PPS12 Policy PCP2 (Good Design):** Under Policy PCP2, all new housing developments should demonstrate a high quality of design, layout and landscaping. Whilst arguably, the detailed designs are not available at this stage, the proposed layout (in principle) is a consideration. The amplification text (para 92) of PCP2 highlights that there should be no acceptance of ill-conceived designs which do not contribute to making places better for people.

For this reason, the proposal fails to comply with the thrust of this policy in creating attractive and sustainable places for people to live.

- 6.86 PPS12 Policy PCP3 (Sustainable forms of Development):**

Whilst PCP3 encourages the use of sustainable forms of development, the proposal will introduce elements of residential amenity that will stifle the planned and orderly development of the site.

The proposed incompatible uses would stifle both the future proofing of residential properties and economic development. This is not indicative of sustainable development and is contrary to what PCP3 seeks to achieve.

- 6.87 PPS7 Policy QD1 (Quality in New Residential Development):**

The agents' comments in relation to PPS7 are noted (Statement in support of application.) Under this policy, permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment, with the key policy tests to be met set out under criteria a – I,) which are considered below.

- 6.88 DCAN8** also directs that a design led approach to housing in existing urban areas will help to safeguard urban and environmental quality. Furthermore, it is essential that proposals for housing, particularly in established residential areas, demonstrate that they have fully appreciated the context, leading to a design which reinforces local characteristics, while preserving the residential amenity of the area and respecting the privacy of existing residents:

- 6.89 PPS7 Policy QD1a):**

The proposal incorporates a mix of uses in principle, including residential and economic development (to include use classes B1, B2, B3 and B4.) An indicative layout is provided on Drawing No. which details the residential properties along Cullaville Road.

- 6.90** The supporting details explain the rationale behind this is to create a buffer between the existing properties along Cullaville Road and the economic development on the site, with the addition of landscape buffer along the road frontage to help visually integrate the development. However this 'buffer' with housing brought closer to an economic use will further amplify the issues already raised by those at Cullaville Rd by future occupants.

- 6.91 In terms of layout, this is considered inappropriate in principle; whilst the proposal may seek to respect the existing properties along Cullaville Road, it fails to protect the visual and residential amenity of potential occupants of the proposed dwellings. Future proofing of both proposed residential dwellings and economic development would be jeopardized by the incompatible uses in such close proximity to one another. The indicative layout raises concerns in relation to separation distances of proposed properties to for example HGV parking / turning area in addition to depth of rear gardens separating.
- 6.92 The proposal is considered inappropriate in the context of the mixed use land zoning for this site, which specifies residential uses will not be acceptable. It is inappropriate to use residential properties to act as a 'buffer' to surrounding residents; a matter that has been considered in the zoning of CM11, through the use of a substantial landscape belt along the road frontage of Cullaville Road.
- 6.93 **For the reasons outlined, the proposal is therefore considered unacceptable to the requirements of criterion Policy QD1 criterion a.**
- 6.94 **PPS7 Policy QD1(b):**
The proposal does not impact on features of archaeological and built heritage. There are no known protected trees or landscape features on the site, however the proposal would result in the loss of some vegetation / hedgerow and trees (mainly existing field boundaries) within the site and hedgerow are priority habitat in NI.
- 6.95 **As the proposal seeks to retain the existing boundary landscaping and offset the loss of vegetation with new planting, it would not warrant a refusal under criterion b, however conditions would be necessary in the event of an approval to ensure landscaping measures are implemented and maintained in perpetuity, in the interests of natural heritage and visual amenity.**
- 6.96 **PPS7 Policy QD1(c):**
The proposal demonstrates inadequate provision of private amenity space of the proposed dwellings and inadequate / inappropriate landscaped areas as an integral part of the development. For example, under zoning CM11, a minimum 3m belt of trees is required to be planted along the frontage of Cullaville Road in the interests of visual and residential amenity. Whilst some planted areas / discrete groups of trees are included within the scheme and along the Cullaville Road boundary to soften the visual impact of the development and assist in its integration with the surrounding area, the inclusion of dwellings compromises the landscape requirements along the road frontage and the proposed landscaping is unsatisfactory.
- 6.97 Furthermore, the quality and layout of private amenity / rear gardens to proposed dwellings are compromised; with inability to achieve a minimum 10m behind the building line, appropriate separation distances and protection of future proofing of houses (in accordance with the guidance of Creating Places.). The overall layout comprises incompatible uses which would result in a poor

quality residential development and jeopardise the overall economic development of the site.

6.98 Whilst the conceptual layout indicates small pockets of planted areas separating dwellings from industrial buildings, there is little usable public space incorporated into the layout and there is an inadequate provision of public open space.

6.99 Overall and for reasons outlined, as the proposal demonstrates inadequate provision of private amenity space of the proposed dwellings and inadequate / inappropriate landscaped areas as an integral part of the development, it is considered contrary to the requirements of criterion c.

6.100 PPS7 Policy QD1(d):

Given the scale and nature of development, there is no requirement to provide necessary local neighbourhood facilities as part of the development;

6.101 PPS7 Policy QD1(e):

The site is located within walking distance to Crossmaglen Town Centre. In the event of an approval, the design must incorporate pedestrian footways connecting to the existing footways and an overall movement pattern is 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;

6.102 PPS7 Policy QD1(f):

As this is an outline proposal, there are limited details provided to assess the amount of parking required. It is noted that the conceptual layout indicates an area for HGV Parking close to the rear gardens of proposed residential properties, which is considered unacceptable and inappropriate.

6.103 For this reason, and as it has not been demonstrated that an appropriate provision for parking can be achieved for the overall development, in accordance with DOE Parking Standards, the proposal fails to meet the requirements of criterion f.

6.104 PPS7 Policy QD1(g):

Matters relating the design of the development are left reserved, and as such, are not available at this stage for assessment.

6.105 PPS7 Policy QD1(h):

Under Policy DES2 of the PSRNI, new development should provide reasonable standards of amenity both in term of the environment which the development creates and in terms of the effect it has on neighbouring properties. For reasons outlined above, the design and layout will create conflict with adjacent land uses in having the residential and economic development uses in such close proximity (including uses B1, B2, B3 and B4.)

- 6.106 The proposed scheme would have an unacceptable adverse effect on proposed properties in terms of overlooking, noise and general disturbance. And depending on the scale and nature of buildings proposed within the economic development, may cause other concerns in relation to loss of light, overshadowing, air pollution, overall health.
- 6.107 Zoning CM11 is clear that residential uses will not be acceptable on this site as they would be incompatible with the mixed use zoning for economic development.
- 6.108 *To include dwellings would compromise both the amenity of proposed residents, the future proofing of dwellings and the sustainable development of economic uses on this site, for which it was zoned. The proposal in this regard also fails to satisfy the requirements of criteria h.***
- 6.109 PPS7 Policy QD1(i):

Design details are limited at this stage to assess whether the development is has been designed to deter crime and promote personal safety. On the basis of details provided, the relationship between rear garden areas of proposed dwellings and HGV parking causes some concern in terms of privacy and personal security.

- 6.110 PPS7 2nd Addendum (Safeguarding the Character of Established Residential Areas) Policy LC1 (Protecting Local Character, Environmental Quality and Residential Amenity):

Under Policy LC1, permission will only be granted in ERA's for the infilling of vacant sites with new housing, where all of the criteria under QD1 and the additional criteria (a-c) of Policy LC1 are met. The proposal as noted would result in incompatible uses and concerns in relation to residential amenity of the proposed occupants.

- 6.111 *In this regard, the pattern of the development is not in keeping with the overall character and environmental quality of the established residential area, which is contrary to criteria b) of Policy LC1.***
- 6.112 *Overall in giving regard to the requirements of prevailing policy in relation to housing, for reasons considered above, the proposal is considered contrary to PPS7 Policy QD1 (criteria a, c, f, h and j,) Policy LDC1 of PPS7 2nd Addendum (criteria b,) Policy DES2 of PSRNI, DCAN8 and Creating Places.***

6.113 PPS8 – Open Space, Sport and Outdoor Recreation

6.114 Policy OS2 (Public Open Space in New Residential Development):

Under Policy OS2, proposals for new residential development on sites of one hectare or more, where public open space is provided as an integral part of the development. The precise amount, location, type and design of such provision will be negotiated with applicants taking account of the specific characteristics of the development, the site and its context and having regard to the criteria set out under i) – iii) of OS2.

6.115 Whilst detailed design and layouts are not available at this stage, the conceptual layout which relates to 1 detached dwelling and 5 semi-detached dwellings, has not incorporated any usable public open space within the layout, with the focus on private amenity space and landscape boundaries / buffers.

6.116 *It would be difficult to sustain a reason for refusal in the absence of these details, however the Planning Authority would have concerns with the degree of usable public amenity space shown within the conceptual layout.*

6.117 SPPS and PPS15 (Revised) – Planning and Flood Risk

Dfl Rivers Agency Flood Maps indicate that the site is not within a river or sea floodplain, or an area of inundation for a Reservoir. Climate change maps do however indicate some surface flooding on parts of the site.

6.118 Dfl Rivers Agency advise in comments dated 23.10.23 confirm that as the site is not within a floodplain, Policy FLD1 (Development in Fluvial and Coastal Flood Plains) is not applicable to this assessment. In addition, Policy FLD2 (Protection of Flood Defence and Drainage Infrastructure) is not applicable. Rivers Agency also advise that Policies FLD4 (Artificial Modification of Watercourses) and FLD5 (Development in Proximity to Reservoirs) are not applicable to this site.

6.119 Policy FLD3 (Development and Surface Water) is applicable however, and requires a Drainage Assessment to be provided as the development exceeds the following thresholds:

- It is a development site in excess of 1 hectare;
- It is a residential development comprising of 10 or more dwelling units;
- It is a change of use involving new buildings and or hard surfacing exceeding 1000m²

6.120 A Drainage Assessment has subsequently been provided and following amendments, Dfl Rivers Agency advise that while not being responsible for the preparation of the Drainage Assessment, accepts its logic and has no reason to disagree with its conclusions. The responsibility for justifying the Drainage Assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional

advisors (in accordance with section 5.1 of Revised Planning Policy Statement 15).

6.121 The Drainage Assessment has demonstrated that the design and construction of a suitable drainage network is feasible, however the Drainage Assessment states that the drainage design requires further detailed design, therefore DfI Rivers requests that in the event of an approval a planning condition is imposed requiring a final Drainage Assessment to be submitted to the Planning Authority prior to the construction of the drainage network, which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event. This is in order to safeguard against surface water flood risk to the development and manage and mitigate any increase in surface water flood risk from the development to elsewhere.

6.122 *On the basis of advice provided by DfI Rivers Agency and details submitted, the proposal does not warrant a refusal reason under PPS15 (Revised.)*

6.123 Land Contamination:

Given the site condition (undeveloped agricultural land,) and that there are no known sources of contamination on the site, the potential for ground contamination is expected to be low, with Environmental Health advising the same in their consultation response dated 09.11.22. DAERA's Regulation Unit have also not commented on the proposal or raised any concerns in relation to contamination and standard guidance and advice would be appropriate for any future development on the site.

6.124 SPPS and PPS23 (Enabling Development):

Third party comments are noted in relation to 'Enabling development.' This is a development proposal that is contrary to established planning policy and in its own right would not be permitted. PPS23 sets out that such a proposal may however be allowed where it will secure a proposal for the long-term future of a significant place (emphasis added.) PPS23 goes on to clarify a 'significant place' to mean any part of the historic environment that has heritage value including scheduled monuments, archaeological remains, historic buildings (both statutorily listed or of more local significance) together with any historically related contents, industrial heritage, conservation areas or a historic park, garden or demesne.

6.125 *The proposal does not constitute a 'significant place' in this regard and does not warrant approval under Policy ED1 of PPS23, the relevant policy test for enabling development.*

7.0 RECOMMENDATION: Refusal

8.0 DRAFT REASONS FOR REFUSAL:

1. The proposal is contrary to Para 6.94 of The Strategic Planning Policy Statement for Northern Ireland (SPPS) and Banbridge, Newry and Mourne Area Plan 2015: Policies SMT2 (Vol1,) EDC1 (Vol 1) and Zoning CM11 (Vol 3) in that:

- there is no justifiable or overriding reason why this development is essential at this location and could not be located elsewhere within the development limit in accordance with the sustainability objectives of the plan;

- proposals fail to adhere to the land zoning; and

- proposals fail to meet the key site requirements associated with the site.

2. The proposal is contrary to Para 6.84 of The Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy PED7 of Planning Policy Statement 4 (Planning and Economic Development,) in that it would result in the loss of land zoned for economic development to other uses.

3. The proposal is contrary to Para 6.84 of The Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy PED8 of Planning Policy Statement 4 (Planning and Economic Development,) in that it would result in development which is incompatible with economic development uses and would prejudice the future land use.

4. The proposal is contrary to Para 6.84 of The Strategic Planning Policy Statement for Northern Ireland (SPPS) and Policy PED9 (criteria a,b,f,j and k) of Planning Policy Statement 4 (Planning and Economic Development,) in that:

- it is incompatible with surrounding land uses;

- it would harm the amenities of nearby residents;

- it is incapable of dealing satisfactorily with any effluent;

- the indicative site layout is not of high quality to assist the promotion of sustainability;

- inappropriate landscape boundary treatment is proposed along Cullaville Road;

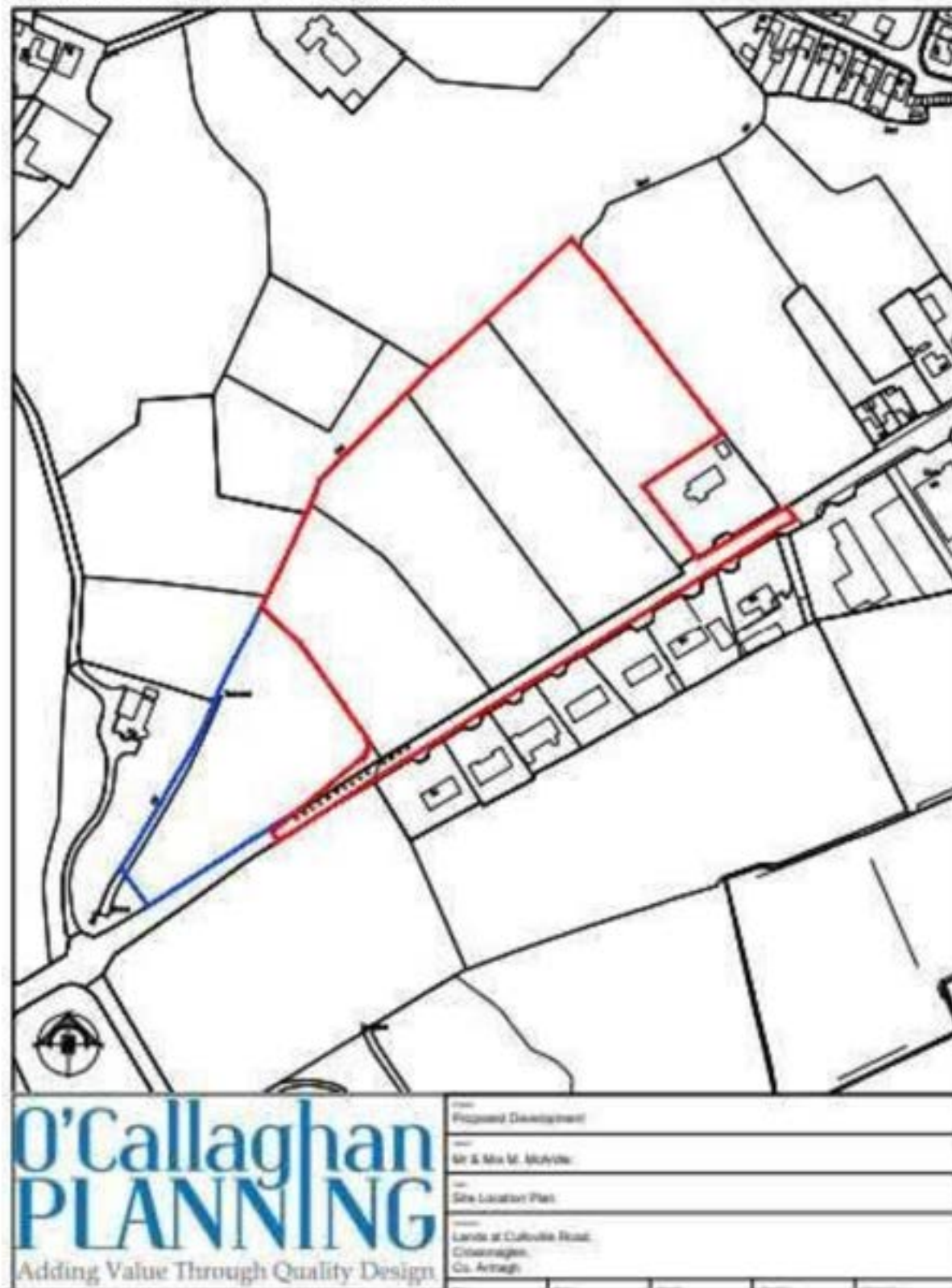
5. The proposal is contrary to Para 6.137 of The Strategic Planning Policy Statement for Northern Ireland (SPPS), Policy QD 1 (Criteria a, c, f, h and j) of Planning Policy Statement 7 (PPS7): Quality Residential Environments, Planning Control Principles 2 and 3 of Planning Policy Statement 12 (PPS12): Housing in Settlements, Policy LC1 (criteria b) of the Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas, Policy DES2 of the Department's Planning Strategy for Rural Northern Ireland, Development Control Advice Note 8 (DCAN8: Housing in Existing Urban Areas and: Creating Places, as the applicant has

failed to demonstrate that the proposal would create a quality residential development in that:

- It does not respect the surrounding context and is inappropriate to the character and topography of the site in terms of layout and landscaped and hard surfaced areas;
- Inadequate provision is made for public and private open space and landscaped areas as an integral part of the development;
- Inappropriate provision is made for parking;
- The design and layout will create conflict with adjacent land uses and the proposal would result in an unacceptable adverse effect on both existing and proposed properties in terms of overlooking, overshadowing or other disturbance;
- The development is not designed to deter crime and promote personal safety;
- The pattern of the development is not in keeping with the overall character and environmental quality of the established residential area,
- The proposal is not a sustainable form of residential development, with incompatible land use.

Appendix 1 – Proposed Drawings (As Amended)

Drawing P01 Rev A – Site Location Plan



Speaking note for LA07/2022/1648/O

1. Outline planning permission is sought for a mixed-use development which will deliver 2.25 hectares of economic development land and 6 dwellings with the broad support of the local community. The site is zoned for mixed-use development in the Banbridge Newry and Mourne Area Plan (CM11) but has sat undeveloped for years. This application presents elected members with a rare opportunity to enable major sustainable development in Crossmaglen which will deliver significant economic benefits and much needed housing within the village for local people.
2. Whilst officers present a significant number of refusal reasons, they really boil down to a single issue: the CM11 site zoning, whilst zoning the site specifically for mixed-use development, says that development "*shall not include [...] dwelling houses*". This proposal conflicts with that key site requirement as it includes six dwellings. Officers raise concerns about this and off the back of these concerns raise a series of design and amenity objections related to the provision of housing.
3. But just because CM11 says that development on this site "*shall not include [...] dwelling houses*" does not mean that members cannot grant permission. It has repeatedly been emphasised by the courts that planning policies are "*not [...] a straitjacket and do not have to be slavishly followed in all circumstances*" (*Re Stewart* [2003] NICA 4). The real question for members in this case is whether they agree that there is good reason for permitting a modest number of dwellings as part of this wider mixed-use development. If they consider so, then permission can be granted.
4. Here are a summary of the reasons to do so.
 - (1) There is a need for housing in Crossmaglen: Officers do not agree and point to other applications for residential development within Crossmaglen that are in the system and have been granted permission. They also point to undeveloped residential zonings in Crossmaglen. They say that when assessed against the housing requirement figure in the Banbridge Newry and Mourne Area Plan 2015 that the need for housing does not justify an element of housing on this site. But these arguments should be rejected:
 - (i) Officers are mainly basing their argument on need off the figures in the Banbridge Newry and Mourne Area Plan. But that plan is now out of date and is in the process of being replaced. Things have moved on since it was adopted in 2013.
 - (ii) The housing requirement figure in the Banbridge Newry and Mourne Area Plan—like all housing requirement figures—is not a cap that cannot be exceeded in any event. It is a minimum—the minimum amount of housing "*require[d]*" to meet assessed need. There is nothing to stop the figure being exceeded.
 - (iii) Throughout the application process, we have pointed out that there are concerns about the availability and deliverability of some of the existing zonings and sites that officers consider form part of the available housing supply—in other words, we are more sceptical than officers are about future housing supply in Crossmaglen.
 - (iv) Members are entitled to bring their local experience to bear on this matter. They know the perception on the ground is that there is a housing shortage and prices are going up. Regardless of what the figures in the books might say, there is a real housing supply problem on the ground. The applicant is himself an estate agent in the area and he has provided evidence during the application process of the housing shortfall in Crossmaglen.
 - (2) This proposal strikes the right balance: Zoning CM11 is a mixed-use zoning. It requires a "*minimum*" of 1.75 hectares of economic development uses. That requirement is exceeded here with the delivery of up to 2.25 hectares for economic development uses. The thrust of CM11 is not being undermined through the provision of a modest amount of residential development.
 - (3) This proposal will deliver jobs and investment: Despite having been zoned for over a decade, no development has come forward on this site. This application provides an opportunity for members to unlock the development potential of this site and to bring with it jobs and investment for Crossmaglen.
 - (4) This proposal has broad community support: This was a major application subject to pre-application community consultation. The feedback received as part of that process was that

the local community supported the provision of housing in order to seek a better interface between existing residential and proposed industrial / commercial premises. It is unlikely that a proposal which simply sought to deliver economic development uses—which is in effect what officers seek—would be supported by the local community.

5. Before addressing in summary the reasons for refusal, two further points should be noted.
 - (1) This is an outline application with all matters reserved—matters of detailed design, landscaping, layout etc. will all be dealt with at the reserved matters stage. Whilst a conceptual plan has been submitted, this is conceptual only and can be further revised.
 - (2) Where a matter can be dealt with by condition, it should be—conditions are meant to be used to overcome issues that would otherwise lead to refusal, as recognised in the Strategic Planning Policy Statement (“*Conditions can enable planning authorities to approve development proposals where it would otherwise be necessary to refuse planning permission*”).
6. None of the reasons for refusal are justified.
 - (1) RfR 1 focuses on the conflict with CM11; and specifically the prohibition on “*dwelling houses*” within the Key Site Requirement. It has already been explained above why there are good reasons for departing from that Key Site Requirement on the facts of this case. Other Key Site Requirements are either met or accepted to be capable of being met here.
 - (2) RfR 2 cites a breach of PED 7 of PPS 4. PED 7 guards against “*the loss of land or buildings zoned for economic development use*”. But this proposal will not involve the loss of any such land—it will in fact deliver 2.25 hectares of economic development land. As for the delivery of housing on the remainder of the land, this is not in breach of PED 7 because the land is not “*zoned for economic development use*” but is instead “*zoned for mixed-use*” (CM11). If officers were right about PED 7, it would mean that PED 7 would bite against any non-economic use on this site even though it is zoned for mixed-use—that is wrong.
 - (3) RfR 3 cites a breach of PED 8 and says that the residential use would be incompatible with the economic development use. That is mainly on the basis that if permission was granted, controls—like on the hours of operation—would have to be imposed on the economic development uses. But given the location of the site close to other established residential dwellings, controls would inevitably have been necessary on this site. The small amount of housing on this site would not fatally prejudice economic uses elsewhere.
 - (4) RfR 4 deals with a number of issues centring around amenity and design.
 - (i) Amenity: Although the Planning Department offers an objection on amenity grounds, the Environmental Health Department in its latest response took the opposite view, confirming “*no objections [...] subject to conditions*”. It is clearly the case that with suitable conditions no harm to amenity would arise. The concern over effluent can be dealt with by imposing a negative condition.
 - (ii) Design: The site layout and landscaped boundary treatment are matters to be dealt with at the reserved matters stage.
 - (5) RfR 5 raises further specific design concerns and repeats the point about the land uses being incompatible. These specific design concerns are all capable of being addressed at the reserved matters stage. None of them warrant the refusal of outline permission. They are all based on the concept layout plan which is in concept only and is at a high level at this stage pending detailed design at the reserved matters stage. Conditions can be imposed to ensure that these matters are the subject of consideration at reserved matters.
7. If members feel that this application would benefit from further revision to address some of the more specific concerns raised before a final decision is made, they should defer with a direction to officers to engage with the applicant on the design concerns raised. The applicant would welcome this opportunity. Regrettably officers have declined to facilitate a meeting. The applicant is disappointed that he was not made aware of or given a chance to address the very many detailed design issues now raised by officers and feels that he has been taken “*unfairly by surprise*” in this respect (*Belfast City Council [2018] NIQB 17*).
8. Members should either vote to approve now or to defer this application.

Delegated Application

Development Management Officer Report	
Case Officer: Fionnuala Murray	
Application ID: LA07/2023/3683/O	Target Date:
Proposal: Dwelling and garage on a farm under Planning Policy CTY 10 of Planning Policy Statement 21	Location: Approximately 130m East of 6 McCleans Close, Kilcoo, Newry (amended address)
Applicant Name and Address: Martin McClean 11 Aonach Court Hilltown Newry BT34 5WZ	Agent Name and Address: Martin McClean 11 Aonach Court Hilltown Newry BT34 5WZ
Date of last Neighbour Notification:	N/A
Date of Press Advertisement: last	17.07.2024
Date of Neighbour Note expiry:	31.07.2024
ES Requested: No	
<p>Consultations:</p> <p>NIEA Water Management Unit – responded with standard advice suggested conditions and informative. Natural Environment Division – acknowledges the bio diversity checklist submitted and offers standing advice.</p> <p>NI Water was consulted in relation to the proposal and responded with no objections subject to conditions.</p> <p>DFI Roads was consulted on several occasions in relation to the proposal however has responded to the latest submission with no objections subject to conditions.</p> <p>DAERA was consulted and responded advising that the farm business has been active and established for a period of 6 years or more and farm payments have been claimed in each of the last 6 years.</p> <p>Environmental Health was consulted and responded to consultation with no objections in principle.</p>	
<p>Representations: The application was advertised and neighbours notified as detailed above, there have been two representations made in relation to the application both relating to a P2 challenge from a Mr Adrian McClean. Initially the applicant had amended the certificate</p>	

to certificate C and served notice on the owner of lands at the access point however Mr McClean was of the opinion that his lands were required to achieve access splays therefore the applicant was asked to submit a 1:500 scale plan to demonstrate that the splays could be achieved within the red line of the application site and not relying on any additional lands, this was submitted and it was drawn to the attention of Mr McClean who responded with no further objections.

Letters of Support	0
--------------------	---

Letters of Objection	0
----------------------	---

Petitions	0
-----------	---

Signatures	0
------------	---

Number of Petitions of Objection and signatures	0
---	---

Summary of Issues: No outstanding issues as a result of the publicity and consultation process.

Site Visit Report

Site Location Plan:



Characteristics of the Site and Area

The site in question is located off the Tullyree Road outside Kilcoo and located approx. 130 East of 6 McCleans Close. The site is located on elevated agricultural lands spanning 3 agricultural fields. The site is accessed of what is an existing agricultural lane that will require modification to serve a dwelling. The site is on elevated lands and rises in an eastern direction up to the crest of the hill. The site is located over three fields therefore there are various field boundaries across the site. There are also two recent structures on the lands at present, one being the body of a cattle lorry and the other being an open sided structure of tin attached to wooden uprights and an earth floor, this structure is an open fronted shelter.

The site in question is not located within any settlement limits as defined in the Ards and Down Area Plan 2015. The site is within the Mourne Area of Outstanding Natural Beauty. There are no other specific site constraints identified.

Description of Proposal

A dwelling and garage on a farm under Planning Policy CTY 10 of Planning Policy Statement 21 is sought under this permission.

Planning Assessment of Policy and Other Material Considerations

PLANNING HISTORY

There is no relevant site history in the lands within the red line of the application site. A history search was also carried out on all the lands associated with the farm business as identified on the DAERA maps submitted and there is no relevant history associated with the lands in question. There are no permissions or certificates obtained or sought in relation to the two structures on the lands in question.

CONSIDERATION AND ASSESSMENT

The proposal has been assessed against the following policies and plans:

- The Ards and Down Area Plan 2015
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 2 Natural Heritage
- Planning Policy Statement 3: Access Movement and Parking
- Planning Policy Statement 15 Planning and Flood Risk
- Planning Policy Statement 21: Sustainable Development in the Countryside
 - Policy CTY 1 Development in the Countryside
 - Policy CTY 10 Dwellings on Farms
 - Policy CTY 13 Integration and Design of Buildings in the Countryside
 - Policy CTY 14 Rural Character

Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the local development plan (LDP), so far as material to the application. Section 6(4) of the Act requires that where in making any determination under the Act, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The LDP in this case is the Ards and Down Area Plan 2015 (ADAP).

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.

Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside.

There is no conflict between the SPPS and the provisions set out in PPS 21 CTY 10 Dwellings on Farms therefore this assessment is made under CTY 10 which states that

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.**

DAERA has responded to consultation confirming that the farm business has been established for 6 years or more and that there have been farm payments claimed in each of the last 6 years, for the purposes of this policy it appears that the farm business is active and established and has been for a period of 6 years or more. This requirement of policy has been met.

- (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.**

From the information provided and taking account of the planning history on the lands associated with this holding there is no evidence to suggest that there have been any development opportunities sold off from the holding within 10 years from the date of this application. This requirement of policy has been met.

- (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.**

The established group of farm buildings is located on lower lands at McCleans Close accessed off an existing laneway that serves a number of dwellings and agricultural facilities. The proposed site is located beside with two unauthorised structures located away from the main farm grouping. The siting involves the extension to an existing laneway and use of a current agricultural access to serve the dwelling.

In terms of the chosen site having the ability to cluster with an established group of buildings on the farm, the site is not located adjacent to established buildings on the farm nor does it cluster with an established group of buildings on the farm.

The unauthorised structures in place adjacent to the proposed site cannot be considered as an established group of buildings on a farm moreover the type of structures in place are of a temporary nature being a lorry body and a 3 sided tin structure with no foundation or floor. As stated the two structures do not have the benefit of planning permission nor has a certificate of lawfulness been submitted to demonstrate the structures meet the associated permitted development requirements as per The Planning (General Permitted Development) Order (NI) 2015 and as they have no formal status the structures cannot be considered to a group of established buildings on the farm.

The applicant makes the case that an access cannot be achieved from the existing access used by the current farm buildings onto McCleans Close rather than taking an

access directly out onto Tullyree Road, the siting away from the main farm buildings forces the use of a new lane however there is an existing lane known as McCleans Close that currently serves several dwellings as well as the existing farm buildings at the main farm building group that could be utilised.

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).**

A Health and Safety Report was submitted to justify not locating adjacent to the established group of farm buildings, the report focuses on the presence of slurry gases and the exposure and effects of locating in close proximity to slurry storage. The report includes reference to additional feed sheds that are noted as due to be constructed but for which there are no verifiable plans. The report does not contain any unique or persuasive evidence to support not locating a farm dwelling at the main farm complex noting there are already a number of dwelling houses in equally close proximity to the farm complex as the likely site would be. There are no unique circumstances demonstrated to support an alternative siting d away from the main farm complex.

The health and safety report also comments on the access arrangements however it has not been demonstrated that the existing lane or access cannot be utilised to serve a dwelling at this location. The proposal does in part make use of an existing agricultural lane but it will require a considerable extension.



The proposal fails to meet with part C of CTY 10 dwellings on farms.

Consideration of CTY 13 Integration and Design of Buildings in the Countryside

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

(a) it is a prominent feature in the landscape.

The application site submitted was a considerable size therefore there is the ability within the red line of the application site to position the dwelling on a lower part of the site therefore allowing the development to make use of additional lands to the rear of the site the rise up steadily that can provide a back drop to the development therefore it is not considered that the development would result in being a prominent feature within the landscape taking account of the topography of the site and surrounding lands.

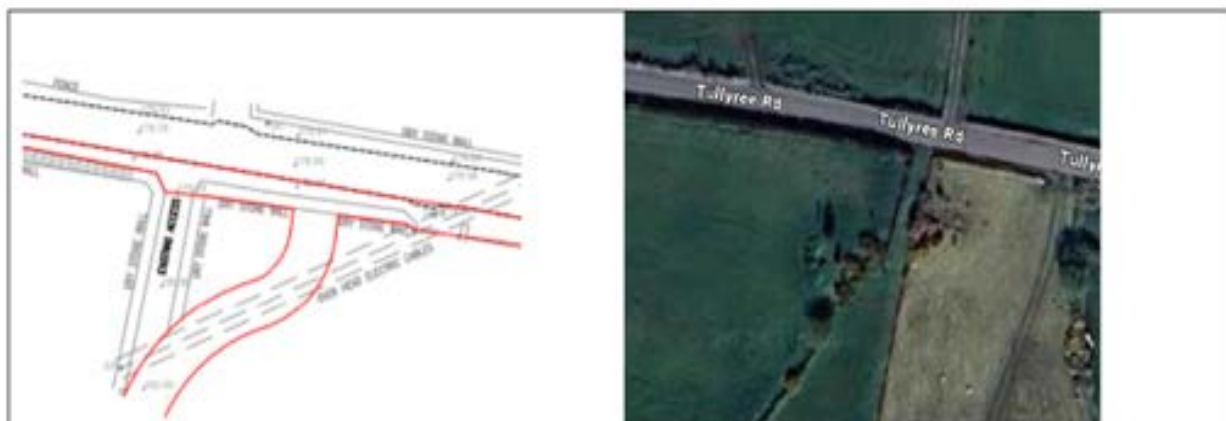
(b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.

(c) it relies primarily on the use of new landscaping for integration.

Again given the size of the application site there are several boundaries of fields within the red line. The applicant has indicated two sites of choice, none of which meet the requirements of CTY 10. It is not considered there are sufficient long-established boundaries at the site in question to provide a suitable degree of enclosure, it is also noted that in order to gain access to the site via the proposed lane there will be a requirement to extend the lane considerably. It is not considered that there are sufficient boundaries at the site to achieve a suitable degree of enclosure, the site is an exposed site which will require a substantial element of new boundaries to be created and will rely in new planting and landscaping to allow the works to integrate.

(d) ancillary works do not integrate with their surroundings.

The proposal will require the addition of a considerable length of lane to serve the dwelling, this lane would run along the face of the hill therefore it will be visible in the landscape. In order to achieve splays an additional access point has to be created roadside to gain access onto the road resulting in an unsightly arrangement and one that is not in keeping with the rural surroundings, it has not been made clear what will happen at the small area of grass between the two lanes but the general arrangement is not in keeping with the character of the area and will have a detrimental visual impact where at present there is a simple single track lane.



- (e) the design of the building is inappropriate for the site and its locality.**
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.**

This is an outline application therefore the full design particulars have not been presented however it is noted that the lands associated with this application are elevated lands that can be seen clearly from numerous public view points within the surrounding area and it is considered that the development of a dwelling, garage, access lane and all the trappings associated with domestic development would be inappropriate at this site and within this locality with views of the site from Tullyree Road, Dromena Road and McCleans Close. The Authority cannot be content that the development of this site would be appropriate for the site and locality given the scenic nature of the area and the character and topography of the site.

The site can make use of lands to form a back drop but would be located on elevated lands of open countryside and would alter the character and appearance of the rural setting by harming the natural rural setting.

- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.**

As dealt with previously within the report the site does not meet the requirements of CTY 10 as it is not considered to be sited beside or visually cluster with an established group of buildings on the farm therefore this aspect of CTY 13 is not considered to have been met.

Consideration of CTY 14 Rural Character

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

(a) it is unduly prominent in the landscape.

Due to the topography of the land with an existing back drop it is not considered that the dwelling would result in being a prominent feature in the landscape. This aspect of policy has not been offended.

(b) it results in a suburban style build-up of development when viewed with existing and approved buildings.

While there are concerns with the development of the site it is not considered that there would be a suburban style build-up of development at this location. The site sits away from other existing and approved buildings and the overall character of the area would not become akin to suburban if the site was developed.

(c) it does not respect the traditional pattern of settlement exhibited in that area.

The development pattern in the area is predominantly of single dwellings however development is along existing lanes and roads and the cutting into the agricultural lands on a hill in the rural area along with the extension and upgrade of what is essentially an agricultural access to the proposed arrangement along the roadside with a dual access off the road onto a lane is not considered to respect the traditional pattern of development within the area and would have a detrimental impact on the overall character of the area if developed.

(d) it creates or adds to a ribbon of development (see Policy CTY 8).

There is not an existing row of development at this location nor is there sufficient development that would result in the development creating or adding to an existing ribbon of development at this location.

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

As discussed previously within this report it is considered that the ancillary works would impact on rural character in particular the peculiar arrangement of the access lane which essentially only serves agricultural lands but will result in a dual access with a piece of ground between the two not suitable to be utilised for anything. The extension of the long lane to access the site would also be considered to have the potential to harm rural character.

Consideration of PPS 3 Access to Public Roads

AMP2 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.**
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.**

The sight splays cannot be achieved utilising the existing access due to land ownership. The applicant has proposed to create an additional access point that would feed into the existing access lane where the splays can be achieved. Splays of 2.0m x 60m are required and DFI Roads are satisfied that they can be achieved. In terms of the requirements of AMP2 the application is satisfactory.

Consideration Of PPS 2 Natural Heritage

Consideration is given to Policy NH5 of PPS 2 Habitats, Species or Features of Natural Heritage Importance. While there has been concerns in the general principle of the land being used for a dwelling it is noted that a dwelling could be accommodated on the lands without the requirement of the removal of trees, significant stretches of hedging or other features of natural heritage importance. It is not considered that any further surveys or information is required in relation to this.

The site is located within the Mourne Area of Outstanding Natural Beauty and therefore is considered against NH6 Areas of Outstanding Beauty which states that planning for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met.

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

Again this is an outline application therefore the full design particulars have not been supplied however it is considered that the siting in general is not appropriate for the area or sympathetic to the setting of the AoNB. The rural area operates a restricted planning regime where there is a presumption against development unless one of the exceptions of PPS 21 have been met. In approving farm dwellings it is a requirement that dwellings are located adjacent to existing established development. This development does not

meet any of the exceptions set out in PPS 21 and would result in the erosion of the rural setting in the area and undisturbed lands that are at present agricultural

B) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape.

The main feature at this location is the unspoilt remote nature of the lands. There are no man made features in close enough proximity to the site to be impacted upon. The dwelling, access and general trappings associated with the dwelling would encroach on the unspoilt rural character of the area that contributes to the character and appearance of the landscape and would erode this unspoilt landscape that is a key character of the AoNB.

c) the proposal respects:

- local architectural styles and patterns.
- traditional boundary details, by retaining features such as hedges, walls, trees and gates.
- local materials, design and colour.

Again this is an outline application however if permission was to be granted it would have to be on the condition that all of the above design aspects were secured by condition to ensure the scale and design and overall character of the dwelling would as far as possible respect the existing area.

Neighbour Notification Checked

Yes

Summary of Recommendation

Having considered the proposal as detailed in the above report the application is not considered acceptable for the reasons outlined below therefore a recommendation of refusal is made.

Reasons for Refusal:

1. The proposal is contrary to Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and contrary to Policy CTY 10 of Planning Policy Statement 21, Sustainable Development in the Countryside and the Strategic Planning Policy Statement for Northern Ireland, and does not merit being considered as an exceptional case, in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings

on the farm nor has it been demonstrated that an alternative site is justified for health and safety reasons or verifiable plans to expand the farm business at the existing building group(s).

3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and contrary to criterion (b), (c), (d), (f) and (g) of Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside and the Strategic Planning Policy Statement for Northern Ireland, in that:

- 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;
- the new dwelling relies primarily on the use of new landscaping for integration;
- ancillary works do not integrate with their surroundings
- it fails to blend with the landform, slopes and other natural features which provide a backdrop and
- the new dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore, would not visually integrate into the surrounding landscape.

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

- it does not respect the traditional pattern of settlement exhibited in that area
- the impact of ancillary works would damage rural character

and would therefore result in a detrimental change to or further erode the rural character of the countryside.

5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and contrary to Policy NH6 of Planning Policy Statement 2 Natural Heritage in that the siting and access arrangements of the proposal is not sympathetic to the special character of the Mourne AoNB in general and of the particular locality.

Case Officer Signature: Fionnuala Murray

Date: 09.01.2025

Appointed Officer: A.McAlarney

Date: 10 January 2025

Response to Refusal Reasons

The crux of the Departments argument is that they do not consider the proposed dwelling to visually link with the existing group of buildings on the farm & that the applicant has not demonstrated that an alternative site is justified for health and safety reasons or verifiable plans to expand the farm business at the existing building group(s). We respectfully disagree with this assessment, as there are two sheds which were constructed using permitted development rights within 20m of the proposed site & an extensive Health & Safety Report was submitted to the Department clearly demonstrating the reasons why the proposed dwelling could not be sited any closer to main cluster of farm buildings, including the slurry tank.

In terms of clustering with an existing group of buildings on the farm, the Department do not consider the site complies with this criteria, however there are in fact two buildings within 20m of the site which were **constructed under permitted development**. The case officer states, *"The unauthorised structures in place adjacent to the proposed site cannot be considered as an established group of buildings on a farm moreover the type of structures in place are of a temporary nature being a lorry body and a 3 sided tin structure with no foundation or floor."*

Policy CTY10 does not apply a permanency test to the buildings for the purposes of policy. However, given that the posts for the three sided structure is concreted into the ground, and this cannot be readily moved, the applicant would disagree that this is a temporary structure. Moreover, the second building is a dry storage building used for storing animal feed, which is essential to the operations on the farm. Both these structures fall within the definition of a building for the purposes of the Planning Act, which defines a building as, *"Any Structure or Erection"* and whilst the case officer refers to these structures as "unauthorised" structures, we would point out that these structures are built using permitted development rights, as they are within 75m of the main group of farm sheds & are not within 75m of any neighbouring dwelling. Therefore, they do not require planning permission. Therefore respectfully, we consider them buildings for the purpose of Policy CTY10, thus the site can be considered compliant with the clustering requirements of Policy CTY10.

During the course of the application, the Applicant was advised by the Case Officer that the proposal did not comply with the clustering element of Policy CTY10, and while he respectfully disagreed with this point, he put forward an exceptional case under Criteria C of Policy CTY10. Criteria C allows for alternative sites away from the farm holding, where there are *"demonstrable health and safety reasons"*. Para. 5.42 of PPS21 goes on to state that *"Where an alternative site is proposed under criteria (c) which is removed from existing buildings on the farm, the applicant will be required to submit appropriate and demonstrable evidence from a competent and independent authority such as the Health and Safety Executive or Environmental Health Department of the local Council to justify the siting"*.

The applicant commissioned Quantam Safety Consultancy(QSC) to carry out a detailed health and safety report. The conclusion of this report recommended (amongst other recommendations) that the dwelling should be sited at least 100m away from the slatted shed with underground slurry, as this would result in a high risk to human health due to toxic fumes.

The case officer unreasonably dismissed these conclusions, stating that we have not provided any unique or persuasive evidence. Respectfully, **QSC are a chartered member of the Institute of Occupational Health and Safety and accredited on the Occupational Safety and Health Consultants Register**. We feel that dismissing their conclusions without any evidence of their own to contradict QSC recommendation's is highly unreasonable. If QSC recommendations were incorrect, then they would risk losing their chartered status and accreditation, therefore these reports must hold material weight in this assessment. The report satisfies Criteria C of Policy CTY 10, in that we have demonstrated health and safety reasons as to why the dwelling cannot be sited closer to the buildings. This has been evidenced through an independent and component health and safety report, in accordance with para.5.42 of PPS21.

In addition, a dwelling immediately east to the farm complex would significantly hinder his plans to expand the business in the future, as this is the only land available to construct further farm buildings.

In terms of criteria (b), (c), (d), (f) and (g) of Policy CTY13, we consider that the proposal is not reliant entirely on new landscaping for integration. The applicant has forwarded two potential sites, which he is happy to be conditioned to either site. Both sites contain existing boundaries, and views from the public mitigated by the vast landscape it is set within, the undulating topography of the surrounding land, the intervening natural screening and the built development to the west. Additional planting can be proposed/conditioned to augment the existing boundary features, which will further aid integration.

The access lane follows a historical route to the farm and field beyond. The upgraded lane runs alongside existing hedgerows, in accordance with paragraph 5.72 of PPS21.

In terms of (c) and (e) of Policy CTY 14, and NH6 of PPS2, as the site is considered to comply with the criteria set out within Policy CTY10 of PPS21, it therefore falls that the proposal complies with the policies Policy CTY14 and Policy NH6. This has been established through recent appeal decisions.

To conclude, the applicant is considered an active farmer, therefore entitled to a dwelling under Policy CTY10. Him and his wife have recently had a baby, and they now intend to build on his farm so he can be close to his farm holding while raising his child in a safe environment. While it can be argued that the applicant complies with the clustering requirements of Criteria C of CTY10, given the site is adjacent to buildings constructed under permitted development, the location of the site would also form an exception to Criteria C, in that the applicant has submitted demonstrable health and safety reasons as to why the dwelling cannot be located adjacent to the main farm complex. The Planning department have unreasonably dismissed this report and its conclusions. We therefore respectfully request the planning committee afford these material considerations their appropriate weight and overturn the case officer's recommendation to approve the application.

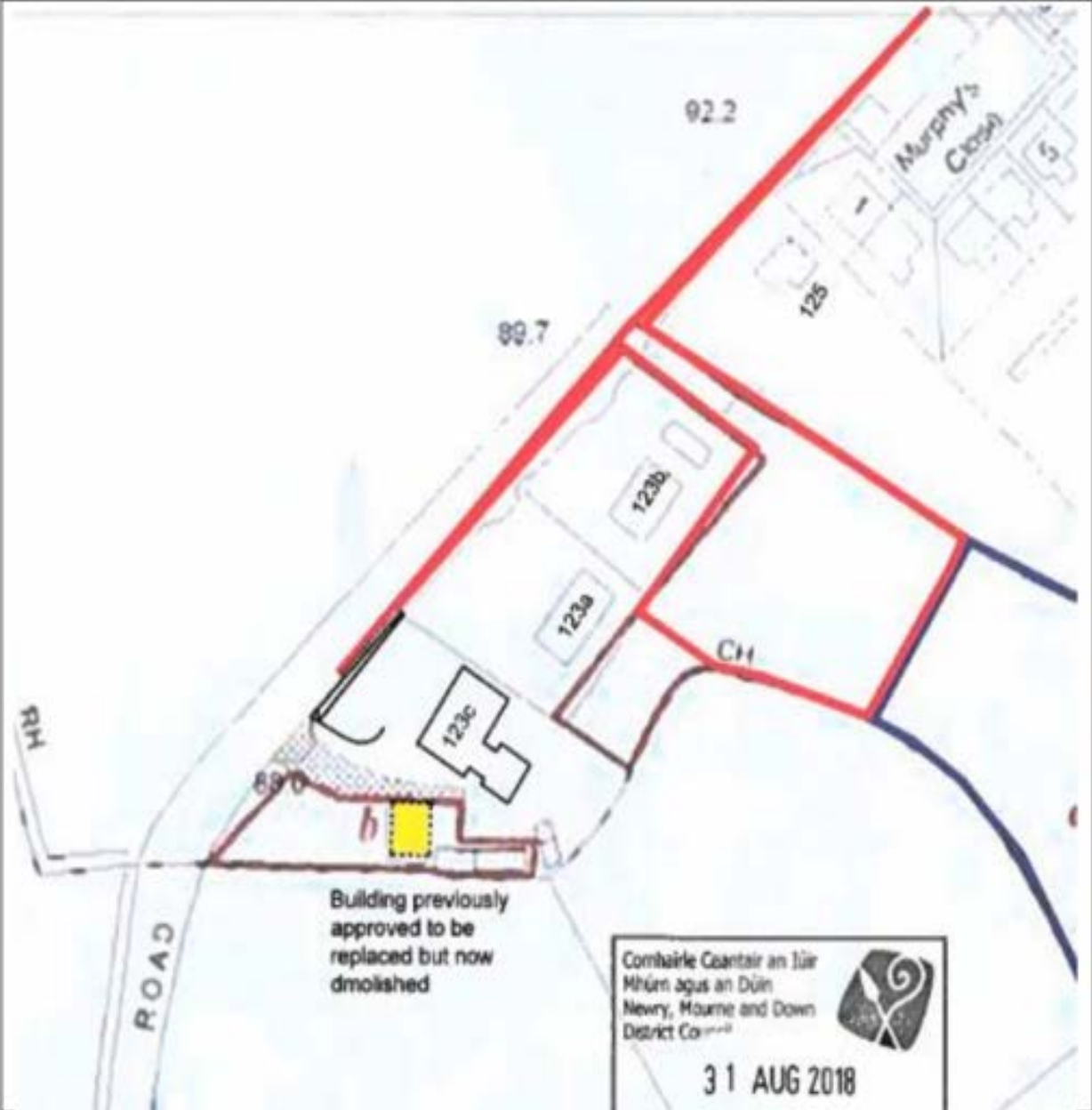
Delegated Application

Development Management Officer Report	
Case Officer: Fionnuala Murray	
Application ID: LA07/2024/0090/F	Target Date:
Proposal: Removal of condition 2 of planning approval of planning approval LA07/2018/0995/F	Location: To the rear of 123b, Ballylough Road, Castlewellan, BT319JQ
Applicant Name and Address: Noel Galagher 12 Slievehanny Road Castlewellan BT319LN	Agent Name and Address: Declan Rooney 32a Bryansford Avenue Newcastle BT330LG
Date of last Neighbour Notification:	29.04.2024
Date of Neighbour Note Expiry:	14.05.2024
Date of Press Advertisement:	14.02.2024
Date of Press Expiry:	28.02.2024
ES Requested: No	
Consultations: DFI Roads was consulted in order to seek clarity in relation to the provision of the splays as conditioned as part of the LA07/2018/0995/F approval – DFI Roads responded confirming that the splays have not been put in place as previously conditioned.	
Representations: 2 objections were received on behalf of 4 people and the objections were on the following basis: <ul style="list-style-type: none"> - They still believe that the existing site entrance poses a significant road safety concern for all residents in close proximity of the agricultural entrance, particularly those who are elderly. <p>A further objection was received on 3rd December 2024 from a neighbouring dwelling and was on the basis that they agreed with Roads Service concerns in relation to the access at present and to note that they had to assist a vehicle to exit the access on 30th November by stopping traffic.</p>	
Letters of Support	0
Letters of Objection	3
Petitions	0
Signatures	0

Number of Petitions of Objection and signatures	
Summary of Issues: 0	

Site Visit Report

Site Location Plan:



Characteristics of the Site and Area

The site in question is located off the Ballylough Road, Castlewellan. The site in question is part of an agricultural field that has a large gravel access lane running to the north of the site which is fenced off from the remainder of site with timber fencing. the eastern boundary of the site is not defined with the southern portion of the boundary is defined by mature boundary hedging and planting. A portion of the site directly to the rear of no 123B Ballylough Road is fenced off from the remainder of the field and currently is used for the storage of round bale silage.

The site is not located within any settlement development limits as defined in the Ards and Down Area Plan 2015. There are no specific site constraints identified on the lands in question other than the site being located in the Mourne Area of Outstanding Natural Beauty.

Description of Proposal

Removal of condition 2 of planning approval of planning approval LA07/2018/0995/F

Planning Assessment of Policy and Other Material Considerations

Planning History

LA07/2022/0083/F - 140m SE of 123b Ballylough Road, Castlewellan - Proposed Sand Arena and Stables – approval – 31.10.2023

LA07/2018/0995/F - Site south-east of 123b Ballylough Road, Castlewellan - Replacement dwelling previously approved under application R/2011/0332/F with new access – permission granted – 17.09.2019 - appeal of condition withdrawn – 20.09.2019

LA07/2016/1479/F - Adjacent to 125 Ballylough Road, Castlewellan – 16.06.2017

R/2011/0332/F - 123 Ballylough Road, Castlewellan, Co Down - Proposed replacement single storey dwelling with detached garage –approval - 11.10.2011

Appeal History

2019/A0168 – Replacement Dwelling – condition 2 – Site SE of 123B Ballylough Road, Castlewellan – appeal withdrawn.

Consideration and Assessment

Planning Policies & Material Considerations:

The proposal has been assessed against the following policies and plans:

- The Ards and Down Area Plan 2015
- Regional Development Strategy (RDS)
- Strategic Planning Policy Statement for Northern Ireland (SPPS)
- Planning Policy Statement 3: Access Movement and Parking
- Planning Policy Statement 15 Planning and Flood Risk

- Planning Policy Statement 21: Sustainable Development in the Countryside
 - Policy CTY 1 Development in the Countryside

Permission was granted on 17th September 2019 for a replacement dwelling which was previously approved under R/2011/0332/F with a new access, this permission was approved by the planning committee going against the recommendation of the professional officer by placing determining weight on special circumstances therefore it was necessary to condition the approval accordingly in accordance with the relevant provisions of CTY 6 Personal and Domestic Circumstances therefore the following condition was placed on the approval:

The dwelling hereby approved shall be occupied only by the applicant Mr Ian Taylor, his wife and dependants and when the dwelling ceases to be occupied by the aforementioned the dwelling hereby permitted shall be removed and the land restored to its former condition.

Reason: To ensure that the dwelling is occupied by the named person and does not inure for the benefit of the land.

CTY 6 clearly states that permissions granted under this policy will be subject to a condition restricting the occupation of the dwelling to a named individual or their dependents therefore the condition restricted the occupation to Ian Taylor.

Part of the justification in making this application is that the agent advises that it was never the intention to seek an approval weighted on special circumstances however the correct method to dispute a condition of an approval is through the planning appeals commission which the applicant did by submitting an appeal of condition 2 under appeal 2019/A0168 however the appeal was subsequently withdrawn by the applicant with the PAC taking no further action or making comment.

There has been no suitable justification submitted to justify the removal of the condition from the previous approval.

Moreover the previous permission has since expired (expired 16th September 2024) and it has not been demonstrated that the permission LA07/2018/0995/F was ever lawfully commenced. DFI Roads have confirmed that alterations are still required to provide the previously approved splays and there is no physical evidence of any part of the splay having been implemented on the ground.

It is also noted that condition 5 was required to be discharged by the Planning Authority before any development has commenced, no such request or evidence has been received by the Authority to date.

The site was inspected on 28th October 2024 and the only evidence of an intention to commence development was a small section of top soil had been removed, a small

section of a foundation dug and concreted, this work, by the appearance of the ground had been carried out in very recent times.



The agent states that the pouring of the part of the foundation was carried out on 14th September 2024 and that evidence can be provided however given other conditions of the outline do not appear to have been met this is not the correct method to demonstrate commencement.

It is also noted that the implementation of LA07/2022/0083/F for the arena which has been developed does impact the ability to fully implement the entirety of the approval of LA07/2018/0995/F.

It has not been demonstrated through the submission of a Certificate of Lawful Development that development has commenced correctly of the dwelling approved under LA07/2018/0995/F nor has there been any compelling argument made in relation to the removal of the occupancy condition imposed as part of that approval therefore the Authority could not justify the removal of the condition.

It is noted that the applicant is noted as Noel Gallagher who has signed certificate A of The Planning Application Certificate under Section 42 of The Planning Act (Northern Ireland) 2011 to state that he is in actual possession of all the lands the application relates to, this has not been disputed during the processing of the application.

Neighbour Notification Checked	Yes
---------------------------------------	-----

Summary of Recommendation

Based on the justification set out above and for the reason stated below a recommendation of refusal is made.

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS) policy CTY 1 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 SPPS and CTY 6 Personal and Domestic Circumstances which requires all permissions granted under CTY 6 must be subject to a condition restricting the occupation to a named individual and their dependents.

Case Officer Signature: Fionnuala Murray Date: 06th December 2024.

Appointed Officer: A.McAlarney Date: 19 December 2024

Response to Refusal Reasons

The Department have recommended refusal of this application, as they consider it necessary that the previous approval should have a condition attached to the decision notice (LA07/2018/0995/F), which restricts the occupancy to Mr. Ian Taylor and his dependants. We feel that the occupancy condition is unnecessary as outlined below.

The history of the site is pertinent to whether the condition should be attached:

- **R/2011/0332/F**

Planning approved for a replacement dwelling – R/2011/0332/F. The then applicant, Mr. Taylor, demolished the shortly after the intention to rebuild.

As a direct result of the life changing injury Mr Taylor suffered, him and his wife were forced to sell the home, however retained the site, with the hope to one day build.

The approval then expired in October 2016, however had lawfully commenced prior to this expiry.

- **LA07/2018/0995/F**

Following the sale of the house in 2014, Mr. Taylor sought permission for an amended scheme, with an amended access onto Ballylough Road- LA07/2018/0995/F. The reason for the submission was to approve the alternative access onto Ballylough Road was proposed, as it was considered the original permission had lawfully commenced.

The application was forwarded to the Planning Committee, whereby it was highlighted to the Planning (Demolition – Description of Building) Direction 2015 states that demolishing buildings under 115 cubic meters does not constitute development. As the replacement dwelling measured over 180 cubic meters, it thus fell that demolishing the building constituted development, therefore the applicant had lawfully commenced development on the site.

The Committee accepted that demolition of the dwelling constituted commencement of development of R/2011/0332/F, with Councillors proposing to approve the application, contrary to the Officers recommendation on the basis that the applicant, by demolishing the existing building, had commenced work on the site. The latter point with regards to genuine hardship does not infer that that Policy CTY6 was a determining factor in that case, however it merely indicates that the personal injuries the applicant at the time experienced, should not prejudice his ability to complete the dwelling. The proposal itself did not meet the policy requirements of Policy CTY6, hence why we did not seek permission under that policy. Therefore, the Department issued the approved decision notice, however unnecessarily applied an occupancy condition on the application.

We immediately submitted an appeal to the PAC to remove this condition, however given the applicants ill-health at the time, he was unwilling to follow through with the appeal, therefore we were instructed to withdraw the appeal. Notwithstanding this, the lack of an appeal does not preclude the current applicant from applying to remove the unnecessary condition.

- **Land sold to Mr. Noel Gallagher in October 2021.**

Mr. Taylor then sold the land which included the site to the current applicant, Mr. Noel Gallagher. Mr. Gallagher, has since been running a successful equestrian business from the site, which is a significant

benefit to the local community, catering for all including those with learning difficulties and disabilities. Now the business is established, Mr. Gallagher wanted to proceed with building the house, and whilst he can lawfully construct the dwelling, the restrictive occupancy condition does not allow him to live in it. An application was therefore required to remove the occupancy condition, to enable his family to live and work on site.

- **LA07/2024/0090/F – Removal of condition 2 (occupancy condition)**

Based on the information outlined above, we submitted the current application, to remove condition 2 (Occupancy Condition) of the planning approval LA07/2018/0995/F. There was considered to be significant justification for this, with it being clear that LA07/2018/0995/F was never intended to be approved under CTY6.

The case officer has now recommended refusal of the application, and has noted in the case officers report that a determining factor in the approval of LA07/2018/0995/F was the special circumstances, thus requiring an occupancy condition. Respectfully, this is not the case as the Committee clearly accepted that demolition of the original dwelling constituted the lawful commencement of development, thus R/2011/0332/F remains live to this day. The medical evidence was submitted to demonstrate why the applicant could not finish the building, not justification against CTY6. An application under Policy CTY6 would have failed the relevant tests, in terms of site specific need.

- **Commencement of LA07/2018/0995/F**

In terms of the case officers' comments regarding the expiry of LA07/2018/0995/F. This application was submitted 9 months before the expiry of LA07/2018/0995/F. The applicant was aware of the impending expiry, and while the original permission R/2011/0332/F remained extant (as it had lawfully commenced), Mr. Gallagher proceeded to pour the foundations for LA07/2018/0995/F prior to its expiration - evidence of this was submitted to the Council before it had expired, and we offered officers an opportunity to visit the site to confirm this. In respect to the pre-commencement condition relating to the splays, it was determined through the approval of LA07/2022/0083/F (an application for the stables, using the same access) that the access was acceptable subject to removal of a section of the wall to widen the access. This access had been upgraded well before the foundations had been poured, to the standards recommended by DfI Roads, therefore the thrust of the pre-commencement condition had been met (by providing a safe access).

As a result, LA07/2018/0995/F has lawfully commenced before its expiration, and Mr. Gallagher would now be lawfully entitled to complete the dwelling.

To conclude, it is our assertion that the Planning Committee in 2019 had accepted that the original permission (R/2011/0332/F) had lawfully commenced prior to its expiry, and recommended approval of the amended scheme, with relevant conditions delegated to the Planning Officer. The Planning Officer then misinterpreted the relevance of the medical evidence and assumed that the permission was being granted under Policy CTY6 (which requires an occupancy condition). This is not the case, as Policy CTY 6 was never discussed during the processing of that application, therefore the Department unreasonably applied an occupancy condition.

We are now requesting that the Committee overturn the case officer's recommendation and reinforce their recommendation from 2019, were it was considered that by demolishing the dwelling in 2011, the initial permission (R/2011/0332/F) had lawfully commenced, prior to its expiration, therefore the unnecessary occupancy condition attached to LA07/2018/0995/F can be removed.

Delegated Application

Development Management Officer Report	
Case Officer: Claire Cooney	
Application ID: LA07/2024/0066/F	Target Date:
Proposal: 2 Storey Dwelling and Garage	Location: 100 M South of 57 Wateresk Road Maghera Castlewellan
Applicant Name and Address: GARY BRANNIGAN 11 GRANGE AVENUE CASTLEWELLAN BT31 9UH	Agent Name and Address: MARTIN BAILIE 44 Bavan Road Mayobridge Newry BT342HS
Date of last Neighbour Notification:	9 March 2024
Date of Press Advertisement:	7 February 2024
ES Requested: No	
Consultations: <ul style="list-style-type: none"> • Northern Ireland Environment Agency (NIEA) • Northern Ireland Water (NIW) • DfI Roads 	
Representations: No representations or objections have been received from third parties or neighbours of the site.	
Letters of Support	0.0
Letters of Objection	0.0
Petitions	0.0
Signatures	0.0
Number of Petitions of Objection and signatures	
Summary of Issues:	

Site Visit Report

Site Location Plan:



Date of Site Visit:

Characteristics of the Site and Area

The site is comprised of a 0.25-hectare portion of land located 100m south of the No 57 Wateresk Road (a detached two-storey Dwelling).

The site sits on ground that rises gently northwards from where it forks at Nos 63 and 68 as shown in the google street view image below.



The site is defined at the roadside by mature vegetation.

Construction of a new dwelling is occurring immediately adjacent and north of the site on the intervening lands between the current site and No 57 Wateresk Road.

The site is located within the settlement limits of Maghera as designated in the Ards and Down Area Plan 2015. It is also located within the Mourne Area of Outstanding Natural Beauty.

Description of Proposal

2 Storey Dwelling and Garage

Planning Assessment of Policy and Other Material Considerations

PLANNING HISTORY

Enforcement

LA07/2019/0135/CA

Proposal: Alleged unauthorised construction of a dwelling house

Case Closed

Planning

LA07/2023/2551/F

Proposal: PROPOSED RESIDENTIAL DEVELOPMENT OF 4 DWELLINGS AND ASSOCIATED SITE WORKS

Decision:

Decision Date:

R/2001/0926/F

Proposal: Proposed semi-detached chalet dwellings

Decision: Permission Granted

Decision Date: 07 January 2002

.

R/2001/0927/F

Proposal: Proposed new dwelling.

Decision: Permission Granted

Decision Date: 08 January 2002

R/2003/0996/F

Proposal: Proposed semi-detached chalet dwellings and garages

Decision: Permission Granted

Decision Date: 15 December 2003

R/2006/0769/O

Proposal: Apartment development

Decision: Withdrawal

Decision Date: 01 April 2008

.

R/2008/0601/F

Proposal: Erection of dwelling & detached garage.

Decision: Permission Granted

Decision Date: 28 January 2009

R/2008/0927/F

Proposal: Extension to dwelling to provide living room with bedroom over

Decision: Permission Granted

Decision Date: 29 January 2009

.

R/2014/0031/O

Proposal: Proposed site for farm dwelling & garage

Decision: Withdrawal

Decision Date: 25 June 2014

LA07/2015/1067/F

Proposal: Erection of dwelling house and domestic garage

Decision: Permission Granted

Decision Date: 16 March 2016

LA07/2017/1181/F

Proposal: Dwelling and Garage on a farm

Decision: Permission Granted

Decision Date: 09 November 2017

LA07/2020/1900/O

Proposal: 2 dwellings and garages

Decision: Permission Granted

Decision Date: 06 July 2021

LA07/2020/1536/PAD

Proposal: Housing Development

Decision:

Decision Date: 20 October 2021

LA07/2022/1348/F

Proposal: Detached Dwelling and Garage

Decision: Permission Granted

Decision Date: 21 March 2023

LA07/2023/3155/F

Proposal: Business Park including sale and hire of goods, plant and equipment, storage, maintenance, distribution and associated office facilities.

Decision: Application Withdrawn

Decision Date: 12 October 2023

SUPPORTING DOCUMENTS

The application has been supported with the following documents

- Application Form
- Design & access Statement
- Supporting Statement
- Site Location Plan
- Site Layout Plan
- Proposed Elevations
- Proposed Floor Plans
- Proposed Garage Plans

CONSULTATIONS

- Northern Ireland Environment Agency (NIEA)
- Northern Ireland Water (NIW)
- DfI Roads

REPRESENTATIONS

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

EVALUATION

The proposal seeks Full planning permission for the erection of 1no. dwelling and garage to the south of no. 57 Wateresk Road. It follows the approval of 2no infill dwellings on this application site and a full application for one of the infill dwellings on the intervening land between this site and No 57 as shown below.

LA07/2022/1348/F site location plan

LA07/2020/1900/D location plan:



Ards and Down Area Plan 2015

The ADAP 2015 operates as the current local development plan for this area and identifies the site as being located within the development limits of Maghera.

SPPS

The Strategic Planning Policy Statement for Northern Ireland (SPPS), which sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area, retains certain existing planning policy documents and amongst these are: Planning Policy Statement 7: Quality Residential Environments (PPS 7); and the Addendum to PPS 7: Safeguarding the Character of Established Residential Areas and Planning Policy Statement 12. Creating Places also provides relevant planning guidance.

The SPPS states that the Local Development Plan process is the primary focus for assessing future housing land requirements and managing housing growth to achieve sustainable patterns of residential development, as well as fulfilling other SPPS objectives.

Principle of development

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

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

Policy DES 2 of the PSRNI

This policy requires development proposals in towns 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.

PPS 7

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

The settlement of Maghera Village contains a variety of dwelling types and styles on varying plots sizes. The character of the village therefore varies throughout e.g. at Maghera Court and The Tower developments, the character is typically two-storey terraced dwellings on narrow plots, while moving westwards towards The Old Mill, the density is slightly lower with semi-detached dwellings on modest plots typical. The area of Maghera within which the proposal site is located is notably less dense, plots tend to be more mature and the dwellings larger than those mentioned above.

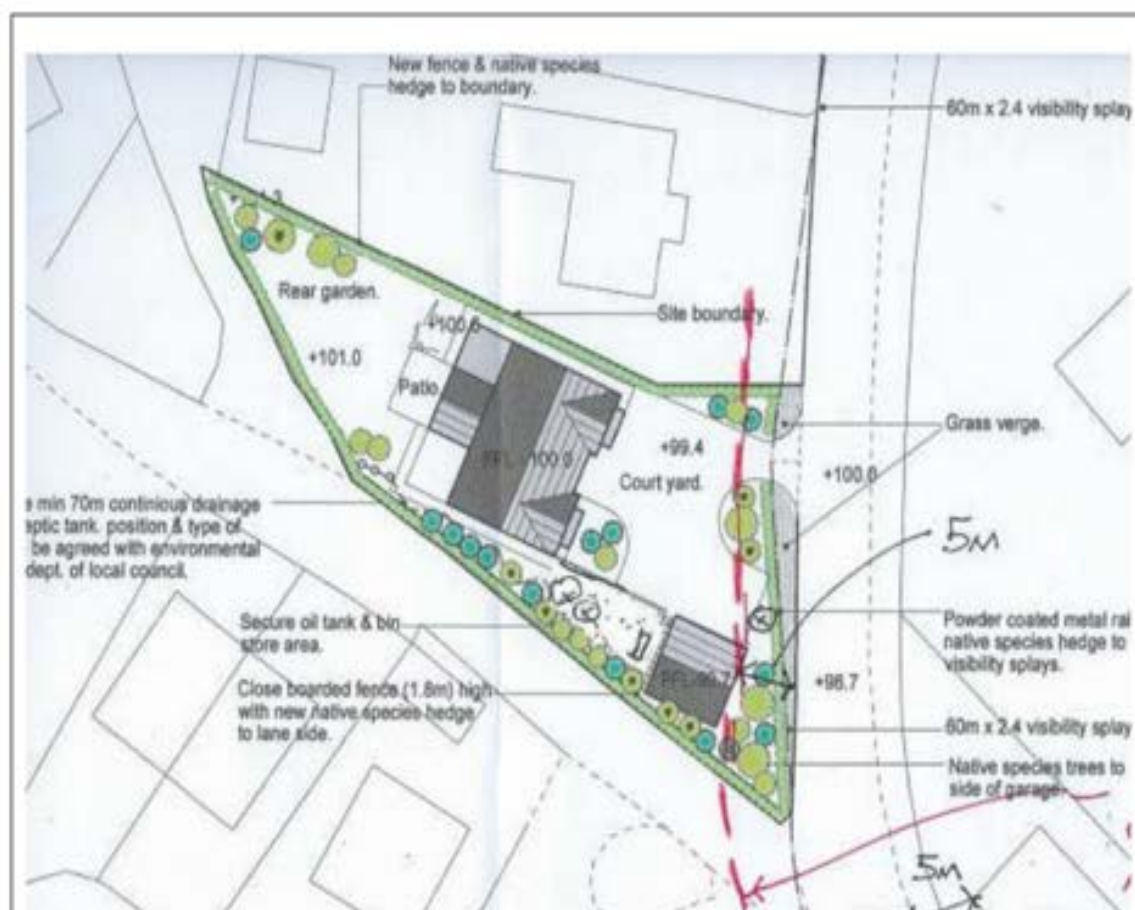


Officers consider that the character of development informing the site is limited to those properties Nos 57, 66, 68 69 and 70 Wateresk Road. When travelling through the village along Wateresk Road from the east, the eye is naturally taken along Wateresk Road, turning north towards No 57 given the curvature of the road. Officers therefore consider that it is these dwellings that inform the character of the area and influence how the site should be developed.

The area of land to the south of No 57 Wateresk Road has been approved for 2 x infill dwellings. This current application site seeks permission for one of those dwellings with the other currently under construction immediately adjacent and to the north.

Officers note that the layout approved in LA07/2020/1900/O was as shown below. It is noted that both plots were to be generously spaced with ample areas for parking, turning and amenity to the front and rear.

Officers note that garages did not form part of the outline approval for 2 infill dwellings.



The proposed layout as shown is a departure from what the Council previously considered appropriate for development. The two-storey dwelling proposed, fills the entire width of the site albeit for very narrow circulation space to the sides, providing pedestrian access to the rear. Officers note that this site is now approximately 18m whereby it was previously to be 22m wide across the central portion as per LA07/2020/1900/O.

Officers note that the dwelling is so large within the site, that in initial submissions a portion of the southern boundary was to be removed to enable the dwelling to be developed. This indicates to officers that the dwelling is too large for the site. Subsequently the southern boundary treatment has been amended as shown above, which proposes a new close board 1.8m timber fence with new native species hedging. The loss of this vegetation will alter the existing character of the site and area. A more sympathetically sized dwelling designed to be in proportion with the plot would enable the existing vegetation to be retained.

Further to this, the reduction in width has resulted in much smaller areas of amenity to the front and rear, while this is not fatal to the proposal, officers note that the applicant intends to erect a detached garage to the front of the dwelling at the roadside. This element of the proposal was not previously before the Planning Authority when considering approval of the outline application for 2 infill dwellings. Careful consideration is therefore required as to the siting of the detached garage.

Officers consider the proposed layout to be at odds with the character of the area. Routinely throughout the area, garages are predominantly located to the side or rear of dwellings, so as not to detract from the appearance of the dwelling and to respect the character of the area. Officers consider the reduced size of the site has resulted in a layout which is contrived and the

potential creation of a feature in the street scene which is repeatedly resisted given the poor aesthetics that such development will present.

Officers consider that the Addendum to PPS 7: Residential Extensions and Alterations supports the above stance. The Preamble to the addendum policy states that it must be read in conjunction with the policies contained within PPS 7 'Quality Residential Environments'. While the policy title states residential Extensions and Alterations the preamble advises that proposals for a domestic garage or an out-building, or other built development ancillary to a residential property will also be considered under the provisions of this Addendum. Officers consider therefore that the advice given in this addendum can be applied to the consideration and assessment of the proposed dwelling and detached garage.

Paragraphs A11 and 12 of the addendum provide guidance on garages and advise in A12 that garages wholly located in front gardens can over-dominate the front the property and detract from the street scene and will therefore generally be resisted.

In this case the detached garage is proposed entirely to the front of the dwelling and at the roadside. The proposed layout plan, indicates that the existing vegetation of the site will have to be removed in order to provide visibility splays. In addition, the southern boundary is to be defined by a fence and new hedging, indicating that it too is to be removed. As such the proposed detached garage will be visible in the street scene and officers consider that at this juncture in the road network a garage would detract from the street scene.

The applicant has been afforded an opportunity to comment on officers concerns and disagrees with the stance taken. They have in a supporting statement provided an example whereby a garage has been approved by the PAC on a site outside Newry Mourne and Down District Council. The example referred to relates to a site in south Belfast where the context is entirely different. Furthermore, the garage proposed in the referred case was flat roofed and screened by the roadside hedgerow of the existing dwelling. The circumstances of the appeal case 2016/A0207 are not directly comparable with the current proposal and officers cannot give it determining weight.

The applicant also provides No. 70 Wateresk Road, as an example of where ancillary buildings are located forward of the dwelling and directly along the roadside. Officers note that the roadside buildings at No 70 are a historical feature which does not set precedent for that which is proposed in this current application.

On the above basis officers consider that the proposal as shown above would be contrary to Criteria A of Policy D 1 of PPS 7 in that the development does not respect the surrounding context and is inappropriate to the character of the area in terms of layout. For this reason the application will be recommended for refusal.

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

The site falls within the consultation zone of two Souterrains. In consideration of the proposals impact on these heritage features a consultation was carried out with Historic Environment Division : Historic Monuments who have advised the Planning Authority that they have assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

In consideration of landscape features the site benefits from mature vegetation along the southern and eastern roadside boundaries. The proposed layout shows that, that existing along the southern boundary is to be removed to facilitate the dwelling, such removal of vegetation highlights the contrived nature of the development as discussed above.

(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 with its integration with the surrounding area;

The guidance document Creating Places advises in paragraph 5.19 that all houses should have an area of private open space behind the building line and that an average area of around 70sqm is considered acceptable. In this proposal, the private amenity space provision to the rear of the dwelling is approx. 215sqm which complies with the above requirements and guidance.

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

Neighbourhood facilities are not required as part of this development. Development is within the settlement limits of Maghera.

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

The development can access the public footpath within the village. Public transport is readily available.

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

The proposed layout has made sufficient provision for parking within the site to the front of the dwelling.

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

As alluded to above the design context of Maghera is varied with a mix of modern and traditional styles.



PROPOSED FRONT ELEVATION...1:100.

The dwelling proposed as shown above, is a substantial dwelling with a maximum ridge height of 8.8m above finished floor level, a frontage of 13.9m, a gable depth of 10.2m and return to the rear extending 5.4m. The dwelling will be finished with a natural slate roof, smooth rendered walls with painted plinth, upvc windows and rainwater goods and timber doors.

The dwelling has symmetry and good solid to void ratio, the windows are typically picture in form given their rectangular nature, but as the site is located within the settlement limit, this is acceptable.

While officers have concerns about the size of the dwelling in relation to the plot width, the design in terms of appearance and finish are considered 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

The proposed dwelling will sit gable to gable with that currently under construction adjacent. In assessment of the relationship between the two below are the respective gables



PROPOSED SIDE ELEVATION...1:100.

Current Proposal



Gable approved adjacent under LA07/2022/1348/F

The southern facing snug, living room, study and first floor bedrooms of the new dwelling under construction adjacent will face the proposed northern gable of the proposal. However, given the absence of any habitable rooms in the proposed development along this gable, there is not considered to be a detrimental impact from either dwelling on each other.

Both dwelling will however require robust treatment along the shared boundary to ensure maintained of privacy for the respective private amenity areas. Officers note that both proposed plans indicate planting along this boundary, this should be carried out prior to occupation.

The proposed dwelling will be sufficiently separated from those dwellings to the south at Nos 63, 63b and 63c Wateresk Road not to have a detrimental impact on their amenity / privacy.

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

The layout has been designed so as not to lead to an unsafe environment for residents.

PPS7 Addendum – Safeguarding the Character of Established Residential Areas.

Policy LC1 guides that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria (a) to (c) set out under LC1 are met:

(a) the proposed density is in keeping with that found in the established residential area is appropriate to its setting in this settlement location

(b) As discussed above the pattern of development is not considered to be in keeping with the overall character of the established residential area as discussed under PPS7 given the contrived way in which the site has been proposed for development and the proposal of a garage to the front of the dwelling;

(c) the proposed dwelling will be built in adherence to the details as set out in Annex A.

PPS3 – Access / Movement and Parking

The proposal seeks to create a new access onto Wateresk Road. DfI Roads are content that the proposal meets PPS3 and DCAN15 requirements, subject to attached conditions. The parking as discussed under PPS7 is acceptable to DOE Parking Standards.

PPS 6 – Planning, Archaeology and Built Heritage

The application site sits adjacent to an archaeological sites/monument – a souterrain. HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

Non-mains sewage

There is no capacity for mains waste treatment in the settlement of Maghera. A septic tank is proposed for this dwelling. NI Water have no objections to this proposal. Both septic tank and soakaways are contained within the application site.

Neighbour Notification Checked	Yes
---------------------------------------	------------

Summary of Recommendation

The reduction in size of the site from that previously approved in outline has limited that which is suitable on site. The reduced width does not enable the applicant to make provision for vehicular access to the rear of the site as approved adjacent. Consequently, their desire to have a dwelling and garage as proposed has resulted in development which is too much for the site. For this reason, the proposal is out of character with the area and contrary therefore to Criteria A of Policy QD1 of PPS 7 and Criteria B of Policy LC1 of the addendum to PPS 7.

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criteria A of Policy QD1 of Planning Policy Statement 7: Quality Residential Development in that the development does not respect the surrounding context nor is it appropriate to the character of the area in terms of layout.
2. The proposal is contrary to the Strategic Planning Policy Statement (SPPS) and Criteria B of Policy LC1 of the Addendum to Planning Policy Statement 7: Safeguarding the Character of Established Residential Areas in that the pattern of development is not in keeping with the overall character and environmental quality of the established residential area.

Case Officer Signature: C COONEY Date: 16 December 2024

Appointed Officer: A.McAlarney Date: 19 December 2024

Development Management Consideration

Details of Discussion:

Letter(s) of objection/support considered: Yes/No

Group decision:

D.M. Group Signatures _____

Date _____



Reference	LA07/2024/0066/F
Location	100m South of 57 Wateresk Road, Maghera
Proposal	Dwelling and garage

Response to Refusal Reasons

This application is being refused by The Planning Authority as they have considered the proposal does not respect the surrounding context nor is it appropriate to the character of the area in terms of its layout. In addition, the Department do not consider the proposal to be in keeping with the overall character and environmental quality of the established residential area.

First of all, the main issue we'd like to address is how the Planning Department have considered the character of the area, or established residential area. In the case officer report, Officers appear to have unreasonably restricted the character of the area to comprise of a handful of dwellings in the north western part of Maghera Village- Nos 57, 66, 68 69 and 70 Wateresk Road.

While we acknowledge that those dwellings referred to by the planning department are considered more generous plots, we feel that the department has unnecessarily restricted the character of the area to focus on only the largest plots within Maghera. There are a number of plots within close proximity which are located on more restricted plots than the application site. In addition to these plots, we feel that it is more appropriate to consider the wider character of the area, as the PAC have demonstrated this through various appeals (**2019/A0012;2018/A0251 etc.**) that the character of the area is not just those properties immediately adjacent to an appeal site, or within vicinity of the site, however the established character of an area includes properties within a wider search area.

Within the wider area (and examples can also be found in the immediate vicinity of the site) the character of the area is comprised of plots with a limited circulation around them and built development extending to the roadside. Therefore it is our assertion that the proposed layout does not offend Criteria A of Policy QD1 and Criteria B of Policy LC1 of the Addendum to PPS7.

Specifically, In terms of circulation around the dwelling, the Department have considered that we have provided narrow circulation around the dwelling. However, the development proposed a 2m separation distance to the northern boundary and 3m separation distance to the southern boundary. This is considered to be over and above what has already been accepted within close proximity to the site, for example LA07/2017/0392/F saw the approval of a pair of semi-detached dwellings, which comprised of separation distances as



little as 0.5m. The Planning Officer in this instance acknowledged the narrow separation, however considered that given it did not over-look any properties, it was acceptable. The Department have accepted that the current proposal does not overlook any properties, therefore we request a consistent application of the policy, given we have offered an increased separation that many of the surrounding properties.

In terms of the garage to the front of the property, the Department have referred to Paragraphs A11 and A12 of the addendum to PPS7: Residential Extension and Alterations as justification to refuse the position of the garage. While we acknowledge that the policy and associated guidance assists to form views on planning consideration, this specific policy has been prepared primarily to influence the development of extensions and alterations to **existing dwellings**. It must not therefore be elevated to the same status as policy for **new dwellings**, and the weight this specific guidance has in relation to proposals for **new dwellings is therefore limited**.

Notwithstanding this, this guidance does not specifically preclude new garages to the front of properties. This has been reinforced by the PAC through appeal decisions: 2018/E0016; 2016/A0207 etc. In the latter appeal, a garage was approved to the front of the properties, which was at odds with the established street scene. The commissioner considered the impact to be a visual test, and if the impact is barely discernible, then refusal cannot be justified. This appeal is comparable to the current application, in that the proposed garage is subordinate to the proposed dwelling, this combined with the retention of boundary treatments along the eastern boundary will therefore ensure that the actual visual impact of the proposal will be negligible. Therefore refusal based on the visual impact cannot be justified.

Additionally, when driving through Maghera and along Wateresk Road, there is a clear presence of roadside buildings; therefore, an ancillary garage close to the road would not be out of character for the area.

To conclude, the site is located within the settlement development limits of Maghera, on a site with OPP for two dwellings. It is not unreasonable for a dwelling, within the settlement limit, to be sited on a smaller plot, compared to the larger rural plots. The applicant now intends on settling in his home village, with his family. As discussed, the case officer has accepted that the character of the area, including plot sizes is varied. We request that the Planning Committee assess the wider character area, which would highlight the varying plot sizes. The actual visual impact of the proposal, including the location of the garage, is negligible therefore refusal on this basis cannot be justified. We therefore respectfully request the committee overturn the case officer recommendation and approve the application.

Committee Application

Development Management Officer Report	
Case Officer: Eadaoin Farrell	
Application ID: LA07/2022/1602/F	Target Date:
Proposal: Proposed 4 no. 3 bedroom semi-detached dwellings with in curtilage parking with access onto Queen Street	Location: To the rear and immediately North East of 7-9 Queen Street Warrenpoint
Applicant Name and Address: John Allen 4 Oak Grange Warrenpoint BT34 3TL	Agent Name and Address: Bernard Dinsmore Chartered Architect 19 Spring Meadows Warrenpoint BT34 3SU
Date of last Neighbour Notification:	26 th April 2024
Date of Press Advertisement:	26 th October 2022
ES Requested: No	
Consultations: DfI Roads Environmental Health NIEA NI Water DfI Rivers NIE Loughs Agency	
Representations: Two representations have been received from Nos. 3 and 4 Great George's Avenue. Main points of concerns are: <ul style="list-style-type: none"> • Loss of privacy • Vehicular access and intensification of Great George's Avenue 	
Letters of Support	0
Letters of Objection	2
Petitions	0
Signatures	0
Number of Petitions of Objection and signatures	0
Summary of Issues: Principle of development, density, siting and layout, design, access and parking, amenity and landscaping.	

Site Visit Report

Site Location Plan:



Date of Site Visit: 22nd April 2024

Characteristics of the Site and Area

The application site is within the settlement development limits of Warrenpoint as designated within the Banbridge, Newry and Mourne Area Plan 2015. The site is also within Warrenpoint Area of Townscape Character and Mourne Area of Outstanding Natural Beauty.

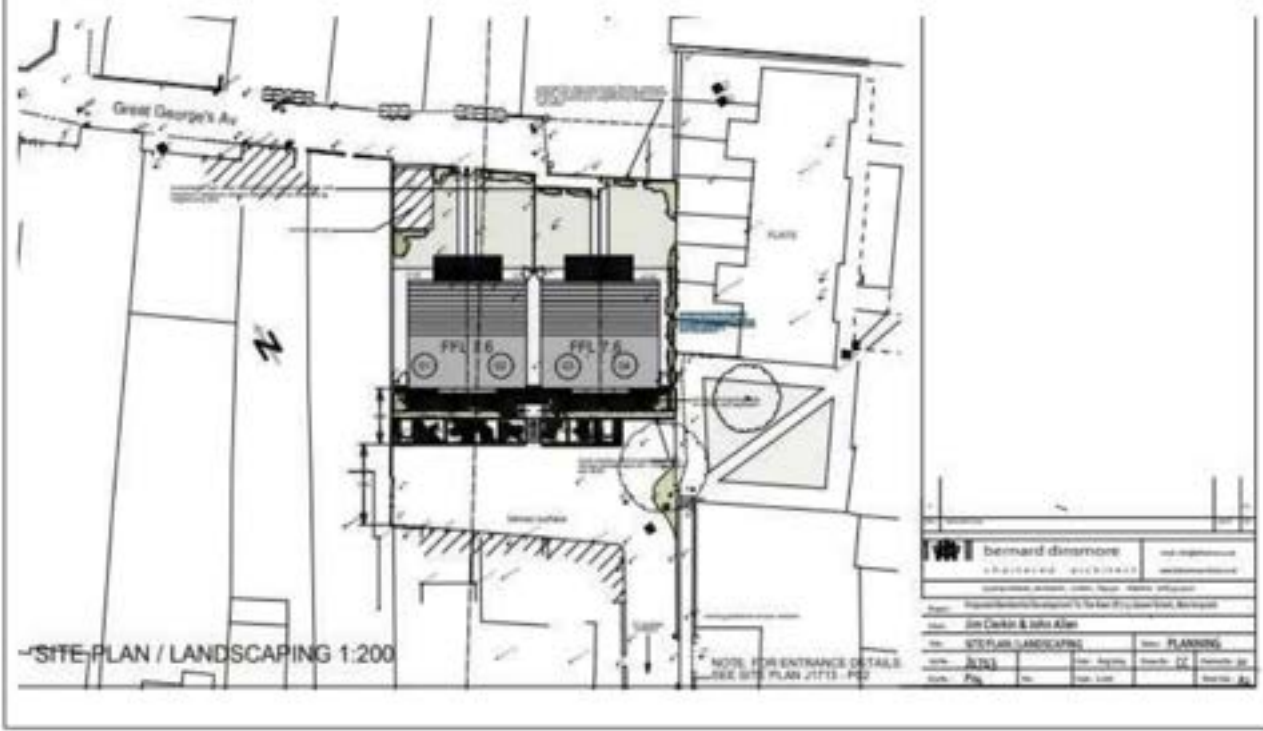
The red line boundary comprises a portion of land to the rear of 7-9 Queen Street that can be accessed from Great George's Avenue and Queen Street (Protected Route). The site consists of areas of hardstanding, a dense overgrown scrub garden with a mature sycamore tree, and two fire-damaged ancillary buildings. The site slopes downwards from Great George's Avenue but is at a higher level than Queen Street. The north western boundary, common boundary with No. 6 Queen Street, is defined by a block wall. The south eastern boundary, abutting Parkside, is defined by wall/fence/hedgerow. A retaining wall and steps are to the front of the site onto the Right of Way off Queen Street.

The immediate area is characterised by 2 and 3 storey terrace buildings of mixed uses, predominantly residential at this end of Queen Street.

Description of Proposal

The proposal involves the erection of 4 no. 3 bedroom semi-detached dwellings with in curtilage parking with access onto Queen Street. The dwellings will have a ridge height of 7.8m

from FFL. Proposed finishes include blue/black roof slates/tiles, finely textured rendered walls, uPVC windows and aluminium RWGs. Access and in-curtilage parking are to the front of the dwellings, off Queen Street. 2 spaces per dwelling are to be provided. 2 x 45m visibility splays are achievable onto Queen Street with the shared laneway to be upgraded and a minimum 4.8m wide for the first 10m. Rear gardens with pedestrian access onto Great George's Avenue is also part of the proposal. Landscaping/boundary treatments include the erection of a 2m high close board fence with hedgerow planted behind to act as screening along the rear gardens and eastern boundary of the site. The proposed plans are shown below.





Planning Assessment of Policy and Other Material Considerations

- Regional Development Strategy (RDS)
- Banbridge, Newry and Mourne Area Plan (2015) BNMAP 2015
- Strategic Planning Policy Statement of Northern Ireland (SPPS)
- Planning Strategy for Rural Northern Ireland (PSRNI)
- **Planning Policy Statements**
- PPS 2 – Natural Heritage
- PPS 3- Access, Movement and Parking
- PPS 6 Addendum – Areas of Townscape Character
- PPS 7 - Quality Residential Environments
- PPS 7 Addendum – Safeguarding the Character of Established Residential Areas
- PPS 15 – Planning and Flood Risk
- **Further Guidance**
- DCAN 8- Housing in Existing Urban Areas
- DCAN 15 – Vehicular Access Standards
- Parking Standards
- Creating Places, Living Places Urban Stewardship and Design Guide.
- Development Control Advice Note (DCAN) 15 – Vehicular Access Standards

PLANNING HISTORY

- P/1985/0552 – 7 Queen Street Warrenpoint - Change of use from living accommodation over shop to sauna room and gym – Refused

- P/1987/0126 – 7 Queen Street Warrenpoint – Internally illuminated fascia sign – Approved
- P/1993/0805 – 9 Queen Street Warrenpoint – Alterations to dwelling – Approved
- P/1996/0941 - Opposite 3 & 4 Great Georges Avenue Warrenpoint – Site for 2 dwellings – Refused

SUPPORTING DOCUMENTS

- Application form
- Drawings - site location map, site plan (existing and proposed), floor plans and elevations, landscaping plan
- Design and Access Statement
- NI Biodiversity Checklist
- Ecological Statement

CONSULTATIONS

- DfI Roads – No objections subject to conditions
- Environmental Health – No objections
- NIEA - Content that the proposal is unlikely to have any significant impact on natural heritage features.
- NI Water – Recommended refusal. Whilst there is a public foul sewer within 20m of the proposed development boundary, a high level assessment has indicated potential network capacity issues which establishes significant risks of detrimental effect to the environment and detrimental impact on existing properties. For this reason NI Water is recommending connections to the public sewerage system are curtailed. A WWIA application was submitted to NI Water in June 2023 and remains under consideration. The applicant has satisfactorily demonstrated engagement with NI Water for a resolution, therefore the Department can proceed with negative conditions, if approval was to be granted.
- DfI Rivers – No objections
- NIE – No objections
- Loughs Agency – No objections

REPRESENTATIONS

Two representations have been received from Nos. 3 and 4 Great George's Avenue. Main points of concerns are:

- Loss of privacy
- Vehicular access and intensification of Great George's Avenue

EVALUATION

Planning Act and Development Plan Considerations

Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan. The site is located within the development limit of Warrenpoint. The Area plan is silent on the land use for this area however The Plan Strategy and Framework confirms development proposals within the settlement development limits will be considered in the context of all prevailing regional planning policy and with any relevant Plan Policies and Proposals.

SPPS, PPS7, PPS7 (Addendum) Safeguarding Established Residential Areas, PPS 7 (Addendum) Areas of Townscape Character, PSRNI, Creating Places, DCAN 8 and DCAN 11, PPS3, Parking Standards and DCAN15, PPS 2 and PPS 15.

The Strategic Planning Policy Statement is a material consideration for this application however as there is no significant change to the policy requirements for residential dwellings following the publication of the SPPS and it is arguably less prescriptive, the retained policies as discussed below will be given substantial weight in determining the principle of the proposal in accordance with paragraph 1.12 of the SPPS.

The SPPS sets out core planning principles and the need to achieve sustainable development. Of relevance to this application are the aims of supporting good design and positive place making while preserving and improving the built and natural environment.

It is considered that the proposal is contrary to the principles set out in the SPPS for the reasons set out below.

Policy QD 1 of PPS 7 states, amongst other things, that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment based on an overall design concept that draws on the positive aspects of the character and appearance of the surrounding area.

The application site is within the development limits of Warrenpoint and is also within Warrenpoint Area of Townscape Character. WB 34 states the key features of the area which will be taken into account when assessing development proposals, including the key features of Queen Street. The BNMAP notes that Queen Street has a fine brick bank building, semi-detached urban villas and bay fronted terrace that overlook the Town Park opposite. In ATC's housing proposals will be required to maintain or enhance their distinctive character and appearance. In the primarily residential parts of these designated areas proposals involving intensification of site usage or site coverage will only be permitted in exceptional circumstances. The application site is within a primarily residential part of the ATC designation.

Policy ATC 2 of PPS6 relates to new development in an ATC. It states that the Department will only permit development proposals in an ATC where the development maintains or enhances its overall character and respects the built form of the area. Policy DES2 of PSRNI requires development proposals 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. Policy SP18 promotes high standards of siting and design within towns and villages.

The proposed development includes the demolition of the existing building on the site and 4 new two storey properties. The buildings sit to the rear of Queen Street. The FFL of the dwellings is 7.6, which is over 2.5m higher than buildings along Queen Street and the access laneway and parking area. External steps and a balcony over the parking area provides access to the front of the dwellings. The rear of the properties and private amenity space to the rear is at a similar level to Great George's Avenue. The size and scale of the new buildings individually are similar to adjacent development, both within and outside the ATC.

Protecting the existing character of ATC's is paramount when assessing housing proposals in ATC's and great care should be taken for proposals involving backland development.

This part of the ATC has strong street frontage with two and three storey, predominantly terraced, form of development with ancillary development to the rear.

Both buildings sited side by side are almost the full width of the site. The introduction of development of this scale in the historic garden area of a residential plot would be out of keeping with the surrounding context and that observed in the ATC. While there is currently a

substantial outbuilding within the site, the size, scale and ancillary nature of said building is not comparable to that proposed. The derelict condition of the building is also noted.

A fundamental requirement for successful backland development is for the backland plot to be of sufficient depth to accommodate new housing in a way which provides a quality residential environment. DCAN 8 indicates that backland development on plot depths of less than 80m is unlikely to be acceptable. In this case, the depth of the plot is less than half of this.

Whilst the demolition of the existing building is considered acceptable in reference to Policy ATC 1 of APPS 6 in that it is considered that the building does not make a positive contribution to the character of an Area of Townscape Character, the redevelopment proposed is not appropriate as it does not respect the surrounding context, particularly in relation to the layout and would result in overdevelopment.

Whilst the appearance of the buildings, with the exception of the materials proposed would not offend the character of the ATC, the parking arrangements, in particular the balcony over the parking area and appearance of the hard surfaced area to the front is not appropriate as it does not respect the surrounding context.

The development would not maintain or enhance the character of the ATC. It is also important to note the presence of development at a similar or higher density in proximity to the site, this is outside the ATC and does not form part of the character of the ATC.

The site is within Mourne Area of Outstanding Natural Beauty. For the reasons outlined above, given the siting and scale (backland development), the development is inappropriate for this part of the AONB and the proposal would be contrary to Policy NH6 of PPS2.

A Biodiversity Checklist and Ecological Statement was submitted and consultation issued to NIEA whereby NED is content that the proposal is unlikely to have any significant impact on natural heritage features.

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). It is not considered that the proposal will have a likely significant effect on this site or any other European Sites.

Given the number of dwellings proposed, provision of public open space and local neighbourhood facilities is not a policy requirement. Notwithstanding that, the location is within Warrenpoint town, close to existing shops, schools, places of worship, restaurants, GPs etc and directly adjacent a park. Private open space to the rear is proposed, approx. 60sqm per unit which is considered acceptable.

The movement pattern supports pedestrians and cyclists as respecting the right of ways. Access to public transport in proximity to the proposed dwellings. Level access into the dwellings is provided to the rear, off Great George's Avenue. Traffic calming measures are not required.

Parking Standards indicates that there is a requirement of some 9-10 spaces for the

proposed development (4 no. 3 bedroom semis). Two spaces per units are proposed. Given the urban context and proximity to public transport links, I am satisfied that sufficient parking has been provided. DfI Roads raised no objections subject to conditions in the final response.

The application site is not located within the fluvial or coastal flood plain. There are no watercourses within or abutting the application site. As such, the development would not impede the operational effectiveness of flood defence and drainage infrastructure or hinder access to enable their maintenance. A Drainage Assessment is not required as the proposal does not exceed the thresholds with FLD 3. The proposal does not involve the artificial modification of a watercourse. The site is not within the potential flood inundation area of a "controlled reservoir". The proposal complies with Policies FLD 1-5 of PPS 15.

The proposed dwellings are adjacent to a number of existing residential properties. Creating Places states that in low-density developments, 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. The guidance also indicates that where development abuts the private garden areas of existing properties, a separation distance of greater than 20m will generally be appropriate to minimise overlooking with a minimum of around 10m between the rear of new houses and the common boundary. It goes on to state that great care will be needed in designs where new residential schemes, such as apartments, include living rooms or balconies on upper floors as this can cause a significant loss of amenity to adjoining dwellings, particularly where they are close to the boundaries of existing properties. Where such development abuts the private garden areas of existing properties, a minimum distance of around 15m is recommended between the rear of the apartments and the common boundary.

While a reduction from 20m may be acceptable in certain circumstances, it is clear from the guidance in Creating Places that where there are living rooms on upper floors, or where development abuts private garden areas, great care is needed to protect residential amenity of adjoining properties.

The rear elevations of the units are between 9-10m from the rear boundary. A private laneway abuts the rear boundary, with detached dwellings directly north of the laneway. These dwellings are accessed from the laneway and therefore the rear elevation faces towards to the front gardens of these properties, namely Nos. 2, 3 and 4 Great George's Street Avenue. Given the similar levels of the proposed development and the properties referred to alongside the separation distances, I am satisfied these properties will not be impacted to an unacceptable level in terms of overlooking, loss of light, loss of privacy or dominance.

No. 6 Queen Street abuts the north western boundary. Unit 1 sits approx. 1.3m from this common boundary. No GF gable windows are proposed. One FF gable window is proposed; however, this window will serve a bathroom and will be fitted with obscure glazing. For this reason, I am satisfied that there will be no unacceptable overlooking of No. 6 Queen Street from the proposed dwellings. Plans do not include levels for No. 6, and given the overgrown condition of the site, I am unable to conclude if the development would impact the amenity of No. 6 given the limited separation distance.

Apartments within Parkside abut the application site to the southeast. Again, one FF gable window is proposed; however, this window will serve a bathroom and will be fitted with obscure glazing. For this reason, I am satisfied that there will be no unacceptable overlooking of THE development with Parkside from the proposed dwellings. Levels indicate that the dwellings and development within Parkside are on similar levels. Unit 4 will be approx. 1.5m from the rear

boundary of the apartment block within Parkside. As such, a 7.8m high gable wall will only be 1.5m from the private amenity space serving the existing apartments and only 5/7.5m from the rear elevation of the apartment block. The view as existing is shown below.



Whilst there is an existing building on site along this common boundary which is to be demolished for the development proposed, the size and scale of the semis is greater than the existing structure. Given the limited separation distance, I am not satisfied that the proposal will not impact the amenity of the adjacent apartment block in terms of overshadowing, loss of light and dominance.

The front elevation is approx. 12m from the rear boundaries of Nos. 7-9 Queen Street. The dwellings will have a FFL approx. 3m higher than those properties along Queen Street. The current relationship between the site and the development along Queen Street is shown below.





Despite the difference in levels, the separation distances between the front elevations of the proposed units and the rear boundaries of Nos. 7-9 Queen Street, alongside the existing intervening development and large rear returns, are sufficient to prevent any unacceptable impact on the amenity of Nos. 7-9 Queen Street in this inner urban area.

Two no. representations have been received from Nos. 3 and 4 Great George's Avenue. Main points of concerns are:

- Loss of privacy
- Vehicular access and intensification of Great George's Avenue.

As outlined above, the Department has no concerns regarding loss of privacy of the properties along Great George's Avenue. The vehicular access is via Queen Street. The plan shows pedestrian access only via Great George's Street. Concerns were also raised regarding bin storage. Environmental Health raised no objections in a final consultation response.

The application site is located along a key and link transport corridor (including designated arterial routes) within Warrenpoint (large town) and therefore is exempt from Policy LC 1 of APPS 7 Safeguarding the Character of Established Residential Areas.

Neighbour Notification Checked

Yes

Summary of Recommendation

Recommended for refusal. The Department advised the Agent of concerns regarding the no. of units proposed whereby the proposal constituted overdevelopment. No amendments to the proposal have been received. The Agent/applicant advised that it was not economically feasible to development the site with a reduced no. of dwellings; however, this is not a planning matter. The proposal fails to comply with (a), (g) and (h) of Policy QD 1 (PPS7), Policy ATC 2 (aPPS6) and Policies DES 2 and SP18 of PSRNI.

Reasons for Refusal:

The Proposal is contrary to The SPPS (Paras 3.8 and 6.21,) Policy ATC2 of PPS6 Addendum: Areas of Townscape Character and Designation WB34 of The Banbridge Newry and Mourne Area Plan 2015 in that the development does not maintain or enhance the overall character or respects the built form within the Area of Townscape Character.

The proposal is contrary to The SPPS (Paras 4.11 and 6.137) Policy QD 1 (Criteria A, G and H) of Planning Policy Statement 7 (PPS 7): Quality Residential Environments, Policies SP18 and DES2 of the Department's Planning Strategy for Rural Northern Ireland, DCAN8 and Creating Places, as the applicant has failed to demonstrate that the proposal would create a quality residential development in that:

- The development does not respect the surrounding context and is inappropriate to the character of the site in terms of layout, appearance of buildings and hard surfaced areas;
- The design of the development does not draw upon the best local traditions of form;
- The design and layout will create conflict with adjacent land uses in terms of overlooking, loss of privacy, dominance, loss of light, overshadowing, noise and general disturbance which will harm the living conditions of existing residents;
- The proposed density is significantly higher than that found in the established residential area;
- The pattern of development is not in keeping with the overall character and environmental quality of the established residential area;
- The design and layout constitute overdevelopment of the site resulting in a detrimental impact to the local character, environmental quality and amenity, and no exceptional circumstances have been outlined to permit development within an Area of Townscape Character.

The proposal is contrary to the SPPS (Paras 6.186 - 6.188), Policy NH6 of Planning Policy Statement 2: Natural Heritage (PPS2) in that the proposal is of an inappropriate design for this locality and:

- the siting and scale of the proposal is unsympathetic to the special character of the AONB.

Case Officer Signature: Eadaoin Farrell

Date: 19 December 2024

Appointed Officer Signature: M Keane

Date: 19-12-24

Representation against Decision to Refuse

Application reference:	LA07/2022/1602/F
Applicant:	John Allen & Jim Clerkin
Site Location:	To the Rear of 7-9 Queen Street, Warrenpoint
Proposal:	4 no. 3 bedroom semi-detached dwellings with in-curtilage parking and access onto Queen Street
Neighbour Notifications:	Planning Services are satisfied 2 no. objections not sustainable
Statutory Consultations:	No objections

The Proposal is contrary to The SPPS (Paras 3.8 and 6.21,) Policy ATC2 of PPS6 Addendum: Areas of Townscape Character and Designation WB34 of The Banbridge Newry and Mourne Area Plan 2015 in that the development does not maintain or enhance the overall character or respects the built form within the Area of Townscape Character. The proposal is contrary to The SPPS (Paras 4.11 and 6.137) Policy QD 1 (Criteria A, G and H) of Planning Policy Statement 7 (PPS 7): Quality Residential Environments, Policies SP18 and DES2 of the Department's Planning Strategy for Rural Northern Ireland, DCAN8 and Creating Places, as the applicant has failed to demonstrate that the proposal would create a quality residential development in that:

- *The development does not respect the surrounding context and is inappropriate to the character of the site in terms of layout, appearance of buildings and hard surfaced areas;*
- *The design of the development does not draw upon the best local traditions of form;*
- *The design and layout will create conflict with adjacent land uses in terms of overlooking, loss of privacy, dominance, loss of light, overshadowing, noise and general disturbance which will harm the living conditions of existing residents;*
- *The proposed density is significantly higher than that found in the established residential area;*
- *The pattern of development is not in keeping with the overall character and environmental quality of the established residential area;*
- *The design and layout constitute over development of the site resulting in a detrimental impact to the local character, environmental quality and amenity, and no exceptional circumstances have been outlined to permit development within an Area of Townscape Character.*

The proposal is contrary to the SPPS (Paras 6.186 - 6.188), Policy NH6 of Planning Policy Statement 2: Natural Heritage (PPS2) in that the proposal is of an inappropriate design for this locality and the siting and scale of the proposal is unsympathetic to the special character of the AONB.

This application, if approved, will deliver four affordable family based houses with private amenity space and off-road car parking close to the centre of Warrenpoint.

The site lies between Queen Street and Great Georges Avenue approached from an unsurfaced, badly lit lane. It is rundown, overgrown scrubland with two fire damaged buildings, and is a well know location for anti-social behaviour. This proposal will instead create a safe, compact, sustainable residential environment which will enhance the area and make a positive contribution to the townscape of Warrenpoint.

Planning Services have accepted the principle of residential development. They have also accepted, under PPS7, that the development could respect the surrounding context, that private amenity space meets published standards, that there is good access to public transport, that it meets parking standards and that the design and layout does not have an adverse effect on neighbouring properties by way of overlooking, loss of light, overshadowing, noise or other disturbance. Also that the design will deter crime and anti-social behaviour and promote personal safety.



The proposal as presented is recommended for refusal on the grounds of:

1. Design quality within Warrenpoint area of townscape character.
 2. Over-development
-
1. Due to internal pressures experienced by Planning Services the application has been through a protracted assessment period with three different Case Officers. At no time during the assessment have any design concerns been raised under the ATC designation or any other relevant policies now referred to in the reasons for refusal. This is regrettable and in my view unreasonable, and at odds with Standard Assessment Policy (e.g.) recent approval LA07/2022/1838/F and another application LA07/2023/2904/F currently under consideration. I am confident that given the same opportunity to do so, all reasons for refusal under design policies referred to can be satisfied (for example, refer slide 1).
 2. In relation to housing density the proposed density is 40 per hectare. This is reflective of other similar developments in Warrenpoint town and considerably less than approved densities within the ATC (refer to slide 2).

In summary Planning Services are supportive of residential development on this site. I believe, if given the opportunity to properly consult with them the two buildings proposed, together with access and boundary enhancement works, could be designed to provide a much needed family orientated quality residential environment in the centre of Warrenpoint. I also believe that a site visit by the Planning Committee is essential to appreciate the specifics relating to site context, the existing urban grain, and the opportunity for revitalization in compliance with all of the policies referred to.

Delegated Application

Development Management Officer Report	
Case Officer: Matthew Hunniford	
Application ID: LA07/2023/2514/F	Target Date:
Proposal: Proposed replacement dwelling with original dwelling retained for ancillary domestic storage, gym and home office (amended proposal description).	Location: 26 Station Road, Newry, BT35 8JH
Applicant Name and Address: Niall Finnegan 26 Station Road Dromintee Newry BT35 8JH	Agent Name and Address: Nadine Graham MMAS Architects 2nd Floor New Mill, Conway Mill 5-7 Conway Street Belfast BT13 2DE
Date of last Neighbour Notification:	5 July 2024
Date of Press Advertisement:	30 August 2023
ES Requested: No	
Consultations: See report below.	
Representations: None.	
Letters of Support	0.0
Letters of Objection	0.0
Petitions	0.0
Signatures	0.0
Number of Petitions of Objection and signatures	

Site Visit Report	
Site Location Plan: 26 Station Road, Newry, BT35 8JH	
	
Date of Site Visit: 25.01.2024	
Characteristics of the Site and Area	
<p>The red line boundary comprises a rectangular site with the dwelling to be replaced sitting adjacent to the roadside boundary. Sitting directly opposite is neighbouring property no.27 Station Road, adjacent and to the eastern boundary a new dwelling was under construction at the time of site visit.</p>	
<p>The application site includes a single storey vernacular style dwelling with more recent additions, a yard area located adjacent to the property with outbuildings and farm buildings also located close to the yard. The site also includes part of an agricultural field.</p>	
<p>The site is located within the rural countryside and is outside any settlement development limits as defined under the Banbridge, Newry and Mourne Area Plan 2015. The site is not zoned and lies within a designated Area of Outstanding Natural Beauty (AONB). The wider area is characterised by rural residential dwellings and farmland.</p>	
Description of Proposal	
<p>Proposed replacement dwelling with original dwelling retained for ancillary domestic storage, gym and home office (amended proposal description).</p>	
Planning Assessment of Policy and Other Material Considerations	
<ul style="list-style-type: none"> • SPPS - Strategic Planning Policy Statement for Northern Ireland (SPPS) • Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) • PPS 21 - Sustainable Development in the Countryside 	

- CTY 1 - Development in the Countryside
- CTY 3 - Replacement Dwellings
- CTY 13 - Integration and Design of Buildings in the Countryside; and
- CTY 14 - Rural Character
- CTY 16 - Development relying on non-mains sewerage
- PPS 3 - Access, Movement and Parking AMP 2 - Access to Public Roads
- PPS 2 - Natural Heritage NH2, NH5 & NH6 – Species Protected by Law, Habitats, Species or Features of Natural Heritage and Areas of Outstanding Natural Beauty
- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside

Site History:

- LA07/2019/1195/F - 26 Station Road, Dromintee, Newry, BT35 8JH. Refurbishment and single storey extension to existing cottage dwelling. Existing cottage curtilage extended and vehicular access relocated from along Station Road to come off adjacent laneway. Permission Granted.
- LA07/2019/0647/F - 26 Station Road, Dromintee, Newry, BT35 8JH. Proposed refurbishment and single storey extension to existing dwelling to provide new kitchen, dining, living and bedroom suite. Vehicular access relocated from along Station Road, to come off adjacent laneway. Invalid Application.
- LA07/2019/0219/CA - 26 Station Road, Jonesborough, Armagh, BT35 8JH. Alleged curtilage has been increase and new access plus mobile on site. Enforcement Case Closed.

Consultations:

- NI Water - Generic Response. Approved with standard planning conditions.
- DfI Roads – No objection to this application if proposed dwelling could be reasonably occupied at present or following minor modification and there is no intensification to the existing sub-standard access.
- Environmental Health - no objection in principal to this application, subject to informatives.

Objections & Representations

2 neighbours within close proximity of the site were notified on 21/06/2024. This application was advertised in the local press on 30/08/2023. No objections or representations have been received to date.

Consideration and Assessment:

Banbridge/Newry and Mourne Area Plan 2015

The application submitted is seeking full planning permission for a replacement dwelling in the countryside. Section 45 of the Planning Act (Northern Ireland) 2011 requires the Council to have regard to the local development plan, in so far as material to the application, and to any other material considerations. Section 6 (4) of the Act requires that the determination of the application must be made in accordance with the development plan unless material considerations indicate otherwise. The site is currently within the remit of the Banbridge, Newry and Mourne Area Plan 2015 as the new council has not yet adopted a local development plan. The site is located outside settlement limits and within open countryside. There are no specific policies in the Plan that are relevant to the determination of the application, and it directs the decision-maker to the operational policies of the SPPS and PPS21. The SPPS along with PPS 21 provide the relevant planning context for determining this application.

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Paragraph 6.73 of the SPPS provides strategic policy for residential and non-residential development in the countryside. In respect of replacement dwellings the policy is broadly consistent with the policies set out in PPS21 apart from a tightening of policy in relation to the replacement dwelling being located within the curtilage of the existing dwelling and not having a visual impact significantly greater than the existing building. Whereby the emphasis has moved from 'should' within CTY 3 to 'must'. 'Replacement dwellings must be located within the curtilage of the original dwelling where practicable'....'Replacement dwellings must not have a visual impact significantly greater than the existing building'.

Planning Policy Statement 21 - Sustainable Development in the Countryside Policy

CTY 1 of PPS 21 identifies a range of types of development which in principle are considered acceptable in the countryside. This includes replacement dwellings if they meet the criteria set out in CTY3. The proposal is for an off-site replacement dwelling with retention of the dwelling to be replaced. The proposed development will therefore be required to satisfy the following policies in PPS 21:

1. CTY 1 - Development in the Countryside
2. CTY 3 - Replacement Dwellings

3. CTY 13 - Integration and Design of Buildings in the Countryside
4. CTY 14 - Rural Character
5. CTY 16 - Development Relying on Non-Mains Sewerage

CTY 3 Replacement Dwellings

Following a site inspection, it is evident that the building coloured green on the site location plan is a dwelling. To the west of the dwelling is a yard area with a number of outbuildings. It is considered that the dwelling subject to this application exhibits the essential characteristics of a dwelling and is eligible in principle for replacement under Policy CTY 3.

Policy in relation to non-listed vernacular replacement dwellings states that *"retention and sympathetic refurbishment, with adaptation if necessary, of non-listed vernacular dwellings in the countryside will be encouraged in preference to their replacement. Proposals involving the replacement of such dwellings will be assessed as follows:*

- *if the dwelling makes an important contribution to the heritage, appearance or character of the locality planning permission will only be granted where it is demonstrated that it is not reasonably capable of being made structurally sound or otherwise improved.*
- *if the dwelling does not make an important contribution to the heritage, appearance or character of the locality, planning permission will be granted for a new dwelling. In such cases the retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary accommodation or a store, to form an integrated building group."*

The characteristics of the existing dwelling are noted. Annex 2 of PPS 21 provides guidance on what constitutes a rural vernacular dwelling. The dwelling proposed to be replaced has several traditional design tendencies including a linear plan form, gable end to the road, chimneys located along the ridge, and door and window openings located primarily on the front and back long walls and as such the dwelling is considered to be vernacular. Given that works have been recently carried out to the proposal it is however considered that the dwelling does not make an important contribution to the heritage, appearance or character of the locality and therefore the retention of the existing structure would be acceptable if it was sympathetically incorporated into the layout of the overall development.

In this application it is proposed to retain the original dwelling for ancillary domestic storage, a gym and a home office. Case Officers accept that the original dwelling whilst

containing more recent features does have some characteristics of a vernacular dwelling which could be further improved with restoration of the distinctive vernacular features and removal of recent modern non vernacular design additions, therefore the principle of retention is acceptable. In correspondence with the agent the Planning Department highlighted the design issue with regards to no visible or physical linkage between the dwellings and that materials proposed are of a high quality appropriate to its rural setting. Likewise, it was requested that the more recent non vernacular elements be removed and the curtilage of the proposed dwelling be reduced along with the size and scale of the proposed dwelling.

As stated above, following a review of the proposed plans the Planning Department communicated with the agent to request that the original dwelling be modified to remove non-vernacular elements. In this instance the proposed modifications would trigger a biodiversity checklist to be completed by an ecologist or a suitably qualified person. Following the Planning Department's request to remove the non-vernacular elements it was confirmed by the agent that the proposal would remain as originally submitted retaining all elements with no modification of the original dwelling. Given the retention of all elements the Biodiversity Checklist received did not have input from either an ecologist or a suitably qualified person. Case Officers are not satisfied that the proposal meets the requirements of Policy CTY 3 'Non-listed Vernacular Dwellings' by failing to accept the necessity to sympathetically refurbish and adapt the original dwelling. The retained building will continue to have the appearance of a dwelling and will read as such when viewed with the proposed dwelling. Its layout although annotated for use as stores, gym, study and utility will remain the same as the existing dwelling and as such the development will appear as two dwellings.



Fig 1. Drawing showing the proposed and existing dwelling when viewed from the roadside (Station Road).

In relation to the replacement of vernacular buildings PPS21 paragraph 5.17 also states that the retention of existing buildings is intended to promote imaginative design solutions that will help to retain a visual link with the past. Case Officers are not satisfied that the overall layout of the proposed development is physically or visually linked to the

proposed new dwelling and instead reads as two separate dwellings on a large site. Case Officers are not satisfied that the proposal meets the requirements of Policy CTY 3 'Non-listed Vernacular Dwellings' as the proposed replacement dwelling fails to be sympathetically incorporated into the layout of the overall development scheme and reads as two separate dwellings.

Additionally, Policy states that all replacements will only be permitted where all the following criteria met:

- *the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits;*
- *the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building;*
- *the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness;*
- *all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and*
- *access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.*

For the purposes of this policy 'curtilage' will mean the immediate, usually defined and enclosed area surrounding an existing or former dwelling house.

The SPPS 6.73 states that in the determination of replacement dwellings, the replacement dwelling 'must' be located within the curtilage of the original dwelling where practicable, or at an alternative position nearby where there are demonstrable benefits in doing so. Replacement dwellings must not have a visual impact significantly greater than the existing building. The SPPS provides the higher test therefore Case Officers must defer to the requirements of this policy when assessing this application.

Case Officers are of the opinion that the proposed development whilst it cannot reasonably sit within the existing curtilage, given the proposed retention of the original

dwelling, there is an excess of proposed curtilage to the new dwelling that sits to the rear. It is considered that the proposed new curtilage is excessive and that a more modest increase would still allow for development providing an acceptable living standard.

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 5.0 Replacement is relevant to this application. The guidance sets out how replacement projects can help to reinvigorate our rural landscape and further elaborates on the guidance set out with PPS 21 on eligibility for replacement, size, scale and form; it is imperative that these design principles are incorporated and considered when applying for a replacement dwelling. The guidance further explores how priorities should include retaining all mature trees, hedgerows, walls and boundaries where possible as well as access points. With regards to this application Case Officers are concerned with the size and scale of the proposed replacement dwelling as well as with some of the building materials and finishes proposed, as outlined above, are likewise contrary to advice in 'Building on Tradition' a Design a Sustainable Design Guide 5.3.

Para 5.2.1 of BoT states that *"the replacement dwelling should be of a form and scale that integrates well with the characteristics of the site. Replacement dwellings should not be of an excessive size in comparison to the original building or be located a significant distance away from the original footprint unless there are clear and evident benefits."* Para 5.4.0 goes on to state that *"replacement projects will tend to be most successful where they defer to the form and shape of the building they are replacing."* Case Officers are of the opinion that the size of curtilage, building materials and the increase in form and scale are contrary to both policy requirements and Building on Tradition' a Design a Sustainable Design Guide.

As outlined above policy requires that the new dwelling must not have a visual impact significantly greater than the existing dwelling. The proposed new dwelling is a 2 storey detached house which is considered to be a significant increase in size and scale from the original one storey dwelling. Case Officers accept that a larger dwelling to provide for modern day living standards may be required however the scale and size of the proposed dwelling in combination with the increase in the wider site to include the retention of the original dwelling, has caused Case Officers to consider that the proposal results in a visual impact significantly greater than the original dwelling.

The closest neighbouring dwelling to the north and opposite the site is a small single storey vernacular dwelling and to the eastern boundary there is a 1.5 storey newly

constructed dwelling. The dwelling to the north of the proposal, number 27 Station Road is white rendered with a slate roof similar to the original dwelling of number 26 Station Road which is likewise white render and a slate roof. The dwelling (number 24A) under construction to the western boundary of No.26 has a mix of off white render, slate roof and natural stone to side returns and front porch. To west and southwest of the sites are No.32A and No.30 Station Road which are separated from the site by a private laneway. No.32 is a 2 storey dwelling with a slate roof construction and stone cladding to the walls, whilst No.32A is 1.5 storey dwelling with slate roof and dash render. The proposed replacement 2 storey dwelling includes off white render, stone cladding, fibre cement roof tiles and corrugated fibre cement roof. In correspondence with the agent the Planning Department requested building materials of high quality appropriate to its rural setting to include slate roof tiles and further information of the type of stone cladding proposed. The current proposed finishes and materials are not considered to meet the requirements of Policy CTY 3 as high quality appropriate to its rural setting and have regard to local distinctiveness.

Case Officers are satisfied that all services can be provided without a significantly adverse impact on the environment or character of the locality.

Likewise, Case Officers are satisfied that *'access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic'* following DfI Roads consultation response.

DFI Roads stated in their response that they are satisfied with the proposed access arrangement provided the proposed dwelling to be replaced could be reasonably occupied at present or following minor modification and there is no intensification to the existing sub-standard access.

On assessment of policy requirements for CTY 3 - Replacement Dwellings Case Officers are of the opinion that the proposal fails to meet the required criteria for a replacement dwelling.

Integration, Design and Rural Character

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 new development is unacceptable in that it will sit as a new 2 storey dwelling prominent in the landscape. The application site is located on a roadside position which given the addition of the proposed new dwelling along with the existing dwelling to be retained and

a large increase in curtilage it is be considered that cumulatively the proposed development would be a prominent feature in the landscape. The offsite nature of the proposal requires new natural boundaries to provide a suitable degree of enclosure and to provide adequate screening. The design of the building as outlined above, in the assessment of CTY 3 is inappropriate for the site and its locality. The proposal is contrary to criteria a), b) and e) of CTY 13 of PPS 21.

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 new development results in a suburban style build-up of development when viewed with existing buildings and reads as two sperate dwellings when viewed from Station Road. The negative cumulative impact of the proposal is considered in light of the siting, scale and design of the proposal alongside the intervisibility of the proposed building with the retained building and neighbouring property No.24A. The proposal is contrary to criteria a) and b) of CTY 14 of PPS 21.

CTY 16 – Development relying on non-mains sewerage

The P1 form indicates that foul sewage will be disposed of via septic tank. The application complies with Policy CTY 16. A condition should be included in any approval to ensure a copy of a consent to discharge is submitted prior to commencement of development.

PPS 3 - Access, Movement and Parking

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 the sightlines that will be applied to a new access onto a public road. As set out above DFI Roads were consulted in relation to the proposed development and in a response dated 29/08/2023 have no objection to the proposed development, provided that proposed dwelling to be replaced could be reasonably occupied at present or following minor modification and there is no intensification to the existing sub-standard access. Having visited the site Case Officers are content the dwelling is at present occupied therefore the application is considered to comply with PPS 3.

Amenity

The site is situated opposite dwelling No.27 Station Road and to the west of newly constructed dwelling No.24A Station Road. Given the separation distance from No. 27 and the intervening existing dwelling (No.26 Station Road) there is not considered to be

any likely detrimental impacts on the amenity to No.27. The boundary with no.24A comprises an existing stone wall with a newly constructed blockwork wall (under construction) on the neighbouring boundary which is raised above the proposed site at No.26. Elevations on the eastern side of the proposal adjacent to No.24A introduce a limited amount of glazing to include one ground floor window, a first floor window and glazing associated with a front porch. The first floor window is a narrow window belonging to a proposed bedroom and the ground floor window belongs to the rear garden room and is raised limiting overlooking potential. Case Officers have no overriding concerns that the proposed ground floor window is detrimental to the amenity of No.24A, however should Case Officers be minded to approve a condition will be added to ensure obscure glazing is used to the proposed first floor window on elevation to No.24A. The dwelling proposed has been assessed in terms of possible unacceptable impact in terms of overshadowing and loss of light on neighbouring properties and given the separation distances involved, and the siting of neighbouring dwellings Case Officer have no concerns of unacceptable impacts. Accordingly, case officers consider the proposed dwelling will not result in any unacceptable impact on the amenity of any adjoining property.

Planning Policy Statement 2 – Natural Heritage

Policy NH 2 - Species Protected by Law

Planning permission will only be granted for a development proposal that is not likely to harm a European protected species.

In exceptional circumstances a development proposal that is likely to harm these species may only be permitted where:-

- there are no alternative solutions; and
- it is required for imperative reasons of overriding public interest; and
- there is no detriment to the maintenance of the population of the species at a favourable conservation status; and
- compensatory measures are agreed and fully secured. National Protected Species Planning permission will only be granted for a development proposal that is not likely to harm any other statutorily protected species and which can be adequately mitigated or compensated against.

Development proposals are required to be sensitive to all protected species, and sited and designed to protect them, their habitats and prevent deterioration and destruction of their breeding sites or resting places. Seasonal factors will also be taken into account.

Given the proposal is for a replacement dwelling a Biodiversity Checklist was completed by the agent. The Parts 1 and 2 of the checklist were completed and questions answered such that Part 3 was not necessary to be completed by an Ecologist or other suitably qualified person and no Ecological Statement or other surveys were submitted to accompany the checklist. The Planning Departments request to remove later non-vernacular elements of the existing dwelling would trigger the need for further information as outlined above. In communication with the agent Case Officers assessed the application on the basis that amended plans to remove non vernacular element was not to be considered as part of the proposal and original plans to retain all elements was to be considered only. On this basis Case Officers are not satisfied that the proposal to retain the existing building meets policy requirements of non-vernacular buildings and in order to do so would require some modifications to the existing dwelling. Having considered the development as currently proposed Case Officers are satisfied that the proposal would not have any impact on any European protected species.

Policy NH 5 - Habitats, Species or Features of Natural Heritage Importance

The proposal has been considered in respect of Planning Policy Statement 2 in terms of priority habitats, species and feature of natural heritage importance. Assessment of the site by Case Officers taking into consideration DAERA guidance and following site inspection did not observe any priority species, habitats or features of natural heritage importance that are likely to be impacted. Case Officers are satisfied that the proposal does not offend any part of Policy NH 5 of PPS 2.

Policy NH 6 - Areas of Outstanding Natural Beauty

Planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality. Case Officers consider the proposal is contrary to Policy NH 6 in that the scale of the proposal is not sympathetic to the special character of the AONB and of the particular locality. The proposal is therefore considered contrary to criteria of Policy NH 6 of PPS 2.

PPS 3 - Access, Movement and Parking

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 the sightlines that will be applied to a new access onto a public road. As set out above DFI Roads were consulted in relation to the proposed development and in a response dated 29/08/2023 have no objection to the proposed development, provided that proposed dwelling to be replaced could be reasonably occupied at present or following minor modification and there is no

intensification to the existing sub-standard access. Having visited the site Case Officers are content the dwelling is at present occupied therefore the application is considered to comply with PPS 3.

Neighbour Notification Checked

Yes

Summary of Recommendation

Refusal

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of PPS 21 Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 3 of PPS 21, Sustainable Development in the Countryside in that:
 - The retention of the existing structure has not been sympathetically incorporated into the layout of the overall development scheme proposed and reads as two separate dwellings.
 - The proposed replacement dwelling is not sited within the established curtilage of the existing building and it has not been demonstrated that the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling and that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.
 - The overall size of the new dwelling and retained building does not allow the development to integrate into the surrounding landscape and will have a cumulative visual impact significantly greater than the existing dwelling.
 - The design of the proposal is not of a high quality appropriate to its rural setting and does not have regard to local distinctiveness.

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 new development is a prominent feature in the landscape.
 - The site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.
 - The design of the building is inappropriate for the site and its locality.
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 new building is unduly prominent in the landscape.
 - It results in a suburban style build-up of development when viewed with existing and approved buildings.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and PPS 2 Policy NH 6 in that:
 - The scale of the proposal is not sympathetic to the special character of the AONB and of the particular locality.

Case Officer Signature: Matthew Hunniford

Date: 02/12/2024

Appointed Officer Signature: Maria Fitzpatrick

Date: 10/12/2024

Planning Committee 'Call in' Request Form

Delegated Application List w/c: 16th December 2024	Planning Application Number : LA07/2023/2514/F	Requested by:
--	--	---------------

PLEASE NOTE THAT SUBMISSIONS SHOULD BE ON THIS FORM AND LIMITED TO TWO PAGES. ANY ADDITIONAL INFORMATION BEYOND TWO PAGES WILL BE DISREGARDED.

Description of the application –Proposed replacement dwelling with original dwelling retained for ancillary domestic storage, gym and home office

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

1. The proposal is contrary to the SPPS for Northern Ireland and Policy CTY 1 of PPS 21 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 SPPS for Northern Ireland and Policy CTY 3 of PPS 21, in that:
 - The retention of the existing structure has not been sympathetically incorporated into the layout of the overall development scheme proposed and reads as two separate dwellings.
 - The proposed replacement dwelling is not sited within the established curtilage of the existing building and it has not been demonstrated that the curtilage is so restricted that it could not reasonably accommodate a mod- est sized dwelling and that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.
 - The overall size of the new dwelling and retained building does not allow the development to integrate into the surrounding landscape and will have a cumulative visual impact significantly greater than the existing dwelling.
 - The design of the proposal is not of a high quality appropriate to its rural setting and does not have regard to local distinctiveness.
3. The proposal is contrary to the SPPS for Northern Ireland and Policy CTY 13 of PPS 21, in that:
 - The new development is a prominent feature in the landscape.
 - The site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the land- scape.
 - The design of the building is inappropriate for the site and its locality.
4. The proposal is contrary to the SPPS for Northern Ireland and Policy CTY 14 of PPS 21, in that:
 - The new building is unduly prominent in the landscape.
 - It results in a suburban style build-up of development when viewed with existing and approved buildings.
5. The proposal is contrary to the SPPS and PPS 2 Policy NH 6 in that:
 - The scale of the proposal is not sympathetic to the special character of the AONB and of the particular locality.

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

In relation to the existing historic dwelling on the site, which has been in the applicant’s family for generations, it was accepted by the Case Officer that ‘the retention of the existing structure would be acceptable if it was sympathetically incorporated into the layout of the overall development.’ With regards to CTY3 and CTY 13 and CTY 14 of PPS21, We would contend that the proposal is sympathetically incorporated and does form a visually integrated group with the existing historic vernacular homestead cluster, and the overall size of the new dwelling allows it to integrate into the surrounding landscape and will not have a visual impact significantly greater than the existing building. as demonstrated in the below visualisations, with comparison also to local historic vernacular reference circa 1 mile away at Foughilletra Road, (unfortunately recently demolished for a replacement dwelling).

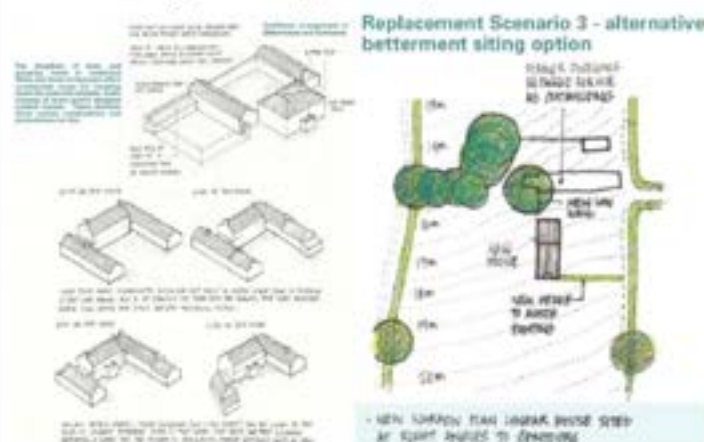


Note that the new dwelling will occupy a largely similar footprint to the replacement dwelling, on account of it being a low-slung two storey form. This adheres to Planning design guidance ('Building On tradition - Sustainable design guide for Northern Ireland Countryside'), which specifically suggests that dormer style storey and-a-half dwellings should be avoided as they are inappropriate in the Ulster rural context, and this advice has been followed. 'Building on Tradition' also gives drawn and photographed examples of acceptable contemporary interpretations of the Ulster Farmhouse, which have been illustrated in the accompanying Design and Access Statement.

Further to this, the historic maps below demonstrate that there was additional historic built footprint as part of the farmstead during the 1900s, that was demolished over the past century. The addition of our modest proposed footprint is in keeping with the historic evolution of this farmstead cluster.



The Case officer in his report states that, "The current proposed finishes and materials are not considered to meet the requirements of Policy CTY 3 as high quality appropriate to its rural setting and have regard to local distinctiveness". We find this statement remarkable given that the materials we have proposed refer directly to 'Building On Tradition: a Sustainable Design Guide for the NI countryside', and are materials we have used for decades on previously approved dwellings in the countryside and see everyday on other approved and built recent dwellings, as we will demonstrate in committee if given the opportunity.



Diagrams from 'Building on Tradition' guidance that we have referred to during our design development and that support our approach to replacement.

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

The case officer's report does not dispute the principle of development of the replacement dwelling. The key concern of the council is subjective and relates to the proposed design, appearance and scale. We can demonstrate at Committee, that 'Building on Tradition' Rural Design Guidance supports the proposed design, including its materials, and the proposed design is consistent with the established character of the area, including dwellings within close proximity to the site. This will address the reasons cited for refusal by the Case Officer's report.

We believe that the planning committee will give appropriate weight to the precedents identified within the area and to the assessment the applicant has put forward within their submission and presented to Members at the Planning Committee.

We would also like to point out that the recommendations in the Case officers report to remove the more recent appendages to the existing cottage, infer that these changes would make the application acceptable from a planning point of view. However, this contradicts the Case Officers advice via email on 28th May to the Agent, and during phone calls, that if we were to remove these non-vernacular appendages, the proposal would still be deemed unacceptable. We need clarity on whether previously submitted (but withdrawn for the above reason) revisions to remove appendages to the historic cottage would actually present a viable prospect of an approval with regards to PPS 21.

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 29 JUNE 2022					
LA07/2019/0868/F	Proposed commercial unit comprising creche and associated site works - 107 Camlough Road, Newry, BT35 7EE.	Removed from the schedule at the request of Planners	M Fitzpatrick	Readvertisement Aug 24 following amended proposal description. Under consideration.	N
PLANNING COMMITTEE MEETING 13 DECEMBER 2023					
LA07/2021/1479/F	Lands immediately opposite No.3 Newtown Road, Bellek, Newry - Erection of petrol filling station with ancillary retail element, car parking, rear storage and all associated site and access works	Defer for further legal clarification; to allow applicant to submit new information relating to retail and for a site visit.	M Fitzpatrick	Deferred for further legal clarification; to allow applicant to submit new information relating to retail and for a site visit. Agent contacted to advise retail info received and under consideration.	N
PLANNING COMMITTEE MEETING 7 FEBRUARY 2024					

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2022/1712/O	Lands between 51 and 53 Dunderinne Road, Castlewellan - 2no. infill dwellings and garages	Deferred – to allow applicants to submit amendments	A McAlarney	In progress	N
PLANNING COMMITTEE MEETING 10 JULY 2024					
LA07/2022/1777/F	75m SE of no. 169 Longfield Road Forkhill Newry - Erection of 2 agri sheds for the storage of machinery and animal feed. Provision of a hardstanding and underground wash water tank to facilitate washing agri machinery. Underground tank to be a precast concrete tank constructed and installed as per NAP requirements	Deferred for site visit	M Fitzpatrick	Deferred for a site visit. Assessment of amended information on-going.	N
PLANNING COMMITTEE MEETING 6 NOVEMBER 2024					
LA07/2024/0470/F	4 Cargagh Road Annacloy, Downpatrick, BT30 9AG - Retention of existing granny flat with single storey flatroof extension to side	Deferred as per operating protocol until enforcement issue is resolved.	A McAlarney	Awaiting submission of LDE from agent.	N

Minute Ref	Subject	Decision	Lead Officer	Actions taken/ Progress to date	Remove from Action Sheet Y/N
LA07/2023/2376/O	60m SW of 131 Derryboy Road, Crossgar - Proposed dwelling on a farm under Policy CTY10 of PPS21	Deferred for a site visit	A McAlarney	Site visit held 20 Jan 2025 – to be tabled at Feb Committee.	Y
PLANNING COMMITTEE MEETING 4 DECEMBER 2024					
LA07/2024/0275/F	Land 205m SE of 7 Dunturk Road Castlewellan - 1 ½ storey replacement dwelling and detached garage	Deferred for a site visit	A McAlarney	Site visit held 20 Jan 2025 – to be tabled at Feb Committee.	Y
PLANNING COMMITTEE MEETING 8 JANUARY 2025					
LA07/2023/3470/F	Site adjacent to and to the W of 15 Tullymacreeve Road, Mullaghbawn, BT35 9RD - Dwelling & detached garage.	Deferred for a site visit	M Fitzpatrick	Site visit held 8 Jan 2025 – to be tabled at Feb Committee	Y
LA07/2023/3475/F -	60m S of 68 Jericho Road, Crossgar, Downpatrick - Proposed new dwelling on a farm (under PPS21 CTY10).	Deferred for the consideration of additional information	A McAlarney	Considered – to be tabled at Feb Committee	Y