

<b>Planning Committee Report LA01/2018/1085/F</b>	<b>27<sup>th</sup> November 2019</b>
<b>PLANNING COMMITTEE</b>	

<b>Linkage to Council Strategy (2015-19)</b>	
<b>Strategic Theme</b>	Protecting and Enhancing our Environment and Assets
<b>Outcome</b>	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
<b>Lead Officer</b>	Development Management & Enforcement Manager
<b>Cost: (If applicable)</b>	N/a

<b><u>No:</u></b> LA01/2018/1085/F	<b><u>Ward:</u></b> Giant's Causeway
<b><u>App Type:</u></b> Full Planning Permission	
<b><u>Address:</u></b> 22 Portbradden Road, Bushmills	
<b><u>Proposal:</u></b> Proposed replacement dwelling	
<b><u>Con Area:</u></b> No	<b><u>Valid Date:</u></b> 06.09.2018
<b><u>Listed Building Grade:</u></b> No	
<b>Agent:</b> 2020 Architects	
<b>Applicant:</b> Mr Enda McDonald, 46a Belmont Road, Belfast	
<b>Objections:</b> 14	<b>Petitions of Objection:</b> 0
<b>Support:</b> 0	<b>Petitions of Support:</b> 0

**Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)**

## **1 RECOMMENDATION**

- 1.1 That the Committee has taken into consideration and agrees with the reasons for recommendation set out in Section 9 and the policies and guidance in sections 7 and 8 and resolves to **REFUSE** planning permission subject to the reasons set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The dwelling to be replaced is accessed via Portbradden Road and is located on a coastal location. It is part of a terrace of dwellings which are made up of traditionally styled narrow pitched dwellings which are 1.5 storey. A detached property is located at the end with a two storey front projection. The properties all step down in height to the replacement candidate. This dwelling has a single storey element to the front with a 1.5 storey section to the rear. These elements are conjoined by a one storey element. The existing dwelling is traditional in nature with a pitched roof and smooth render walls. To the north the site is bounded by the existing dwelling at 24 Portbradden Road and an existing row of trees and vegetation. To the south the site is bounded by a 1 metre high wall and hedgerow which bounds the dwelling at 22 Portbradden Road. To the east the site is bounded by an existing right of way and roadway used to access the dwellings located along this terrace. To the west the site is bounded by planting and a steep slope.
- 2.2 The dwelling is located in an iconic location on the North Coast. The grouping of 4 dwellings are set at the foot of a cliff with views from White Park Bay. Though the existing dwellings have been modified over time, they still reflect the vernacular characteristics of the area.
- 2.3 The proposed dwelling is located in the rural area as designated in the Northern Area Plan 2016. The site is located within the Causeway Coast Area of Outstanding Natural Beauty and is located in proximity to an archaeological site and monument.

The proposed development is located close to the Skerries and Causeway SAC and the North Antrim Coast SAC.

### **3 RELEVANT HISTORY**

LA01/2017/0409/PAD, 22 Portbradden Road Bushmills.  
Proposed replacement dwelling in the Countryside and within an AONB. Application Submitted 22.03.2017.

### **4 THE APPLICATION**

4.1 Site for replacement dwelling and garage.

### **5 PUBLICITY & CONSULTATIONS**

#### **5.1 External**

There has been a total of 14 representations from 6 separate addresses received as part of the application. The key concerns raised are as follows.

- Design and impact on character
- Impact of proposed finishes and the orientation of the dwelling.
- Impact of roof terrace and proposed fenestration.
- Excavation of the site.
- Impact of overlooking and overshadowing
- Accuracy of the contextual drawing
- Loss of a vernacular dwelling
- Doesn't respect the distinctive special character or the AONB
- Land Ownership named owner
- Sewage disposal
- PAD Discussion

#### **5.2 Internal**

**DAERA Drainage and Water:** No objection.

**DAERA Natural Environment Division:** Raised Concern re bats

**DFI Roads:** No objection.

**Environmental Health:** Has no objection to the proposal.

**Shared Environmental Services:** No objection

**NI Water:** No objection

**Geological Survey:** No objection

**Historic Environment Division:** No objection subject to condition.

## **6 MATERIAL CONSIDERATIONS**

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The development plan is:
- Northern Area Plan 2016 (NAP)
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as both a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

The Northern Area Plan 2016

The Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2 – Natural Heritage

Planning Policy Statement 3 (PPS 3) – Access, Movement and Parking

Planning Policy Statement 21- (PPS 21) Sustainable  
Development in the Countryside

**Supplementary Planning Guidance**

Building on Tradition – A Sustainable Design Guide for the NI  
Countryside

**8 CONSIDERATIONS & ASSESSMENT**

**Planning Policy**

- 8.1 The main considerations in the determination of this application relate to the principle of development, access, integration and rural character, impact on AONB, flood risk, representations, impact on amenity, land ownership, loss of a vernacular dwelling, other matters and habitats regulations assessment.
- 8.2 The site is located within the rural remainder as identified in the Northern Area Plan 2016.
- 8.3 The proposal must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above.
- 8.4 Paragraph 6.73 bullet point 2 of the SPPS in relation to replacement dwellings echoes policy CTY 3 of PPS 21 with regards to the visual impact of the proposal not being significantly greater than the existing building.

**Principle of development**

- 8.5 The building to be replaced exhibits all the characteristics of a dwelling with all external and internal walls in place. The roof remains in place and there are existing chimney stacks. Externally all window and door openings remain in place. The proposal meets with the first part of the Policy CTY 3.
- 8.6 The proposed dwelling will be sited within the existing curtilage of the dwelling to be replaced. The existing dwelling is 1 storey to the front with a larger 1.5 storey rear return. The proposed

dwelling is two storey with a dual pitched, stepped frontage which extends 10.2 metres beyond the rear of the dwelling at 24 Portbradden Road. There is also a large roof terrace located at 1<sup>st</sup> floor level. The ridge height is higher than the existing dwelling and the adjoining properties located along this frontage. The visual impact of the proposed dwelling is emphasised by a large 3.8 metre high wall that surrounds and encloses the curtilage of the proposed dwelling. It is therefore considered that the proposed dwelling would have a visual impact significantly greater than the existing dwelling given the scale, gable depth at 2 storey and massing of the proposed dwelling.

- 8.7 The proposed design includes provisions for a large two storey dwelling with a dual pitched gabled frontage. The dwelling proposed will have large floor to ceiling windows and will be finished with smooth render, natural western red cedar cladding, timber slats and a grey zinc pitched roof. The proposed dwelling will be surrounded by a large wall which surrounds and encloses the site and the 1<sup>st</sup> floor roof terrace. At ground floor level the front elevation is more open and timber slats are used to provide privacy. The existing dwelling is part of a terrace of dwellings which are traditional in nature with a horizontal pitched roof which fronts the road. The two adjoining properties are 1.5 storey with dormer windows finished with smooth render. Given the proposed design, finishes, scale, fenestration, massing, dual pitched frontage and large scale 1<sup>st</sup> floor terrace, it is considered that the proposed development is not in keeping with the character of the area. Overall the proposed development would have a detrimental impact on the existing rural setting.
- 8.8 The rear section of the site will lead to significant excavation as the lands rise toward the west of the site. The proposed finished floor level at ground level is 4.50 while the land surrounding this section of the site is between 6.24 and 7.30 metres. Therefore there will an excavation of some two to three metres to the rear. This would be considered unacceptable and is not in keeping with the character of the area.
- 8.9 In regard to the proposed services, NI Water confirmed that there was no foul sewer or surface water sewer within 20 metres of the proposal but that there was a public water supply within 20 metres of the proposed site. Within the P1 form it is stated that foul sewage would be disposed by mains but this is not the case

and a septic tank would be required. This issue was raised with the agent but no amendment was received regarding this. Any proposed septic tank has not been shown on the plans. Therefore satisfactory sewage disposal has not been demonstrated.

### **Access**

- 8.10 The proposal is for a replacement dwelling. The development will use an existing access with large area of hardstanding to the front of the dwelling to be used for parking and turning and also space for 2 additional car parking spaces within the enclosed courtyard. DFI Roads was consulted in relation to this proposal and raised no concern regarding road safety or parking. Given this the proposed access will not have a detrimental impact on road safety or significantly inconvenience the flow of traffic, the proposal meets Policy AMP 2 of PPS 3.

### **Integration and Rural Character**

- 8.11 Given the proposed scale, design, dual pitched frontage and enclosed courtyard, the proposed dwelling is considered a prominent feature on the landscape. Views of the site will be from Portbradden Road and the private roadway used to access the dwellings at 24, 26 and 28 Portbradden Road. It is considered that the proposed development fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop to the site. In terms of the ancillary works, the proposed enclosed courtyard will not integrate with its surroundings and would have a dominant impact on the area. The proposal does not respect the traditional pattern of development in the area.
- 8.12 The design of the proposed development has been considered fully under paragraph 8.6 and 8.7 of this report. It is considered that the two storey pitched gabled fronted dwelling with large roof terrace, enclosed courtyard and proposed finishes to include a zinc roof and red cedar cladding would not be appropriate to the site and its locality and would not respect existing development located around the site.
- 8.13 The proposed access would be contrary to Policy CTY 1, CTY 13 and CTY 14 of PPS 21.

## **Impact on AONB**

- 8.14 Within Planning Policy Statement 2 - Natural Heritage, Policy NH 6 - Areas of Outstanding Natural Beauty states 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 additional criteria must be met. The overall scale and design of the proposal appears unsympathetic to the special character of the Causeway Coast AONB and is not in keeping with the character of the existing dwellings located within the vicinity of the site. The proposal will lead to the demolition of an existing one storey dwelling with a horizontal pitched roof which is simple in form. The proposed dwelling will have a dual pitched gable frontage which is not in keeping with existing development located around the site. The proposed enclosed courtyard, 1<sup>st</sup> floor terrace and the finished materials are not consistent or sympathetic to this Area of Outstanding Natural Beauty. The proposal is therefore contrary to Policy NH 6 of PPS 2 Natural Heritage.

## **Flood Risk**

- 8.15 A very small portion of the site is located within the 1 in 200 year coastal floodplain but no development is proposed on this section of the site. This portion of the site is located 14 metres from any proposed development and is located on the other side of the existing laneway used to access the dwellings at 22, 24, 26 and 28 Portbradden Road. It is therefore considered that the proposed development would not lead to an increase in flood risk.

## **Impact on Archaeology**

- 8.16 The site is located in proximity to an Archaeological Site and Monument in the form of a scheduled ice house which is a monument of regional importance. Historic Environment Division was consulted in relation to this and raised no concern subject to a programme of archaeological works. The proposed development therefore meets with the policy requirements of PPS 6.



## **Impact on Natural Heritage**

- 8.17 Planning permission will only be granted for a development proposal that is not likely to harm a European 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. DAERA Natural Environment Division was consulted in regard to this application and requested additional information to consider the impacts on the bat population. A Bat Roost Inspection survey was submitted as part of the application and a further consultation was sent to DAERA. DAERA has requested additional information to consider the impacts of the proposal on the bat population. Further information has not been provided and therefore it has not been demonstrated that the proposed development would have a detrimental impact on the bat population. The proposal is therefore contrary to Policy NH 2 of PPS 2.

## **Representations**

- 8.18 Concern relating to design, impact on character, impact of proposed finishes, orientation, impact of roof terrace, fenestration, excavation of the site and impact on the special character and AONB has been considered in paragraphs 8.6, 8.7, 8.8, 8.11, 8.12 and 8.14 of this report. Concerns regarding sewage disposal has been considered under paragraph 8.9 of this report. Other concerns raised will be considered in the remainder of this report.

## **Impact on amenity**

- 8.19 Concern has been raised that the proposed development would lead to overlooking, loss of light and the overshadowing of the dwelling at 24 Portbradden Road. Paragraph 4.11 of the SPPS states that there are a wide range of environment and amenity considerations which should be taken into account by planning authorities when proposing policies or managing development. Paragraph 4.12 goes on to state that amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and

overshadowing. A site inspection was completed on site to consider the impact of the proposed development.

- 8.20 The dwelling at 24 Portbradden Road has a small balcony to the rear of the premises which is accessed through an existing bedroom. This space is considered the main amenity space for this dwelling. This dwelling currently shares a party wall with the dwelling to be replaced. The gable depth of the proposed dwelling will be extended along this party wall by approximately 10 metres from the rear boundary wall of the dwelling at 24 Portbradden. The rear return for the dwelling at 24 Portbradden Road is one storey and there is a kitchen and bathroom skylight located close to this party wall. This provides the main source of light to the bathroom and kitchen area of the existing dwelling.
- 8.21 It is considered that the proposed rear return by reason of its length and height would have a dominant impact on this dwelling, would reduce light and lead to unacceptable levels of overshadowing. There is also a kitchen, hall and door located at 1<sup>st</sup> floor level which will look toward the rear garden of the proposed dwelling at 22 Portbradden Road. There will also be the potential to overlook the existing balcony and also the skylights for the bathroom and kitchen to the dwelling at 22 Portbradden Road. The proposed development is therefore contrary to paragraph 4.12 of the SPPS.

### **Land Ownership**

- 8.22 Within several representation letters received as part of the application concern was raised that the applicant on the P1 form did not actually own the site and that section 27 of the P1 form had been filled in incorrectly. A land registry record relating to the site was provided as part of the application which appeared to confirm a different landowner to the applicant. This was raised with the agent but no additional information was provided in relation to this. All relevant neighbours have been notified as part of this application and it is considered that no prejudice has occurred against these neighbours.

### **Loss of a Vernacular Dwelling**

- 8.23 Within one of the representations concerns were raised that the proposed development would lead to the loss of a vernacular

dwelling. Having considered Annex 2 of the proposed development which relates to characteristics of vernacular dwellings it is not considered that the existing dwelling is vernacular in nature.

### **Other Matters**

- 8.24 Concerns were also raised in regard to drawing number 03 date stamped 7<sup>th</sup> December 2019 which provides a contextual of the proposed development. It was considered that the contextual drawing was not an accurate portrayal of what exists on site. It was stated that the dwellings at 16 and 16A Portbradden Road had been further emphasised while on site these dwellings are stepped back from the dwelling to be replaced. It was also stated that the visual impact of these is not as prominent as the contextual drawing has not included existing landscaping. The impact of the proposed dwelling and how it sits on site in relation to existing dwellings has been considered on site.
- 8.25 Another objection raised concern regarding a section of the P1 form where it is asked have you received any pre application advice from your Council in relation to the proposal in which it is answered no. It was stated that there had indeed been a PAD application relating to the application, see section 3 above. Having looked at the site history there has been a PAD application. Officials are aware of this PAD application and it is considered that there has been no prejudice caused by this error.

### **Habitats Regulations Assessment Screening**

- 8.26 The proposed development is located close to the Skerries and Causeway SAC and the North Antrim Coast SAC. Given this Shared Environmental Services was consulted in relation to the proposed development. SES stated that having considered the nature, scale, timing and duration and location of the development it is concluded that further information is required to assess the potential impacts of the selection features, conservation features and status of the site. SES also requested confirmation of the method of foul sewage disposal. This was requested but no additional information was provided as part of the application. It has therefore not been demonstrated that the proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

It is therefore contrary the requirements of Regulation 43 (1) of the Conservation (Natural Habitats) Regulations (Northern Ireland) 1995.

## **9 Conclusion**

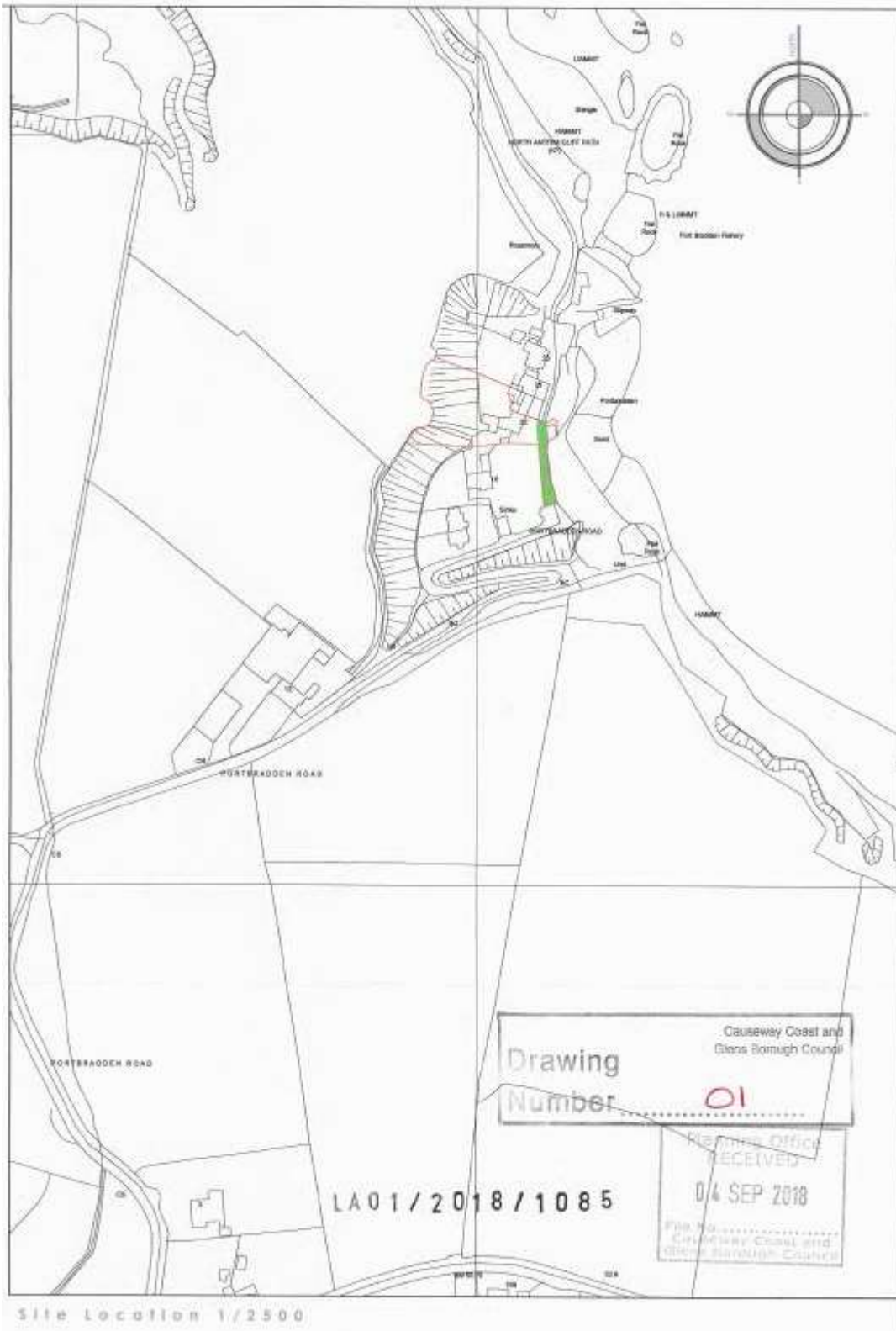
- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan, and other material considerations, including the SPPS, PPS 2 and PPS 21. The proposal fails to meet the tests of the SPPS, Policy NH 6 of PPS 2 and Policy CTY 3 of PPS 21, in that the proposal will have a visual impact within the AONB significantly greater than the existing building due to its scale, massing and design. In addition the development would adversely affect 24 Portbradden Road by reason on dominance and overshadowing. Refusal is recommended.

## **10 Reasons for Refusal**

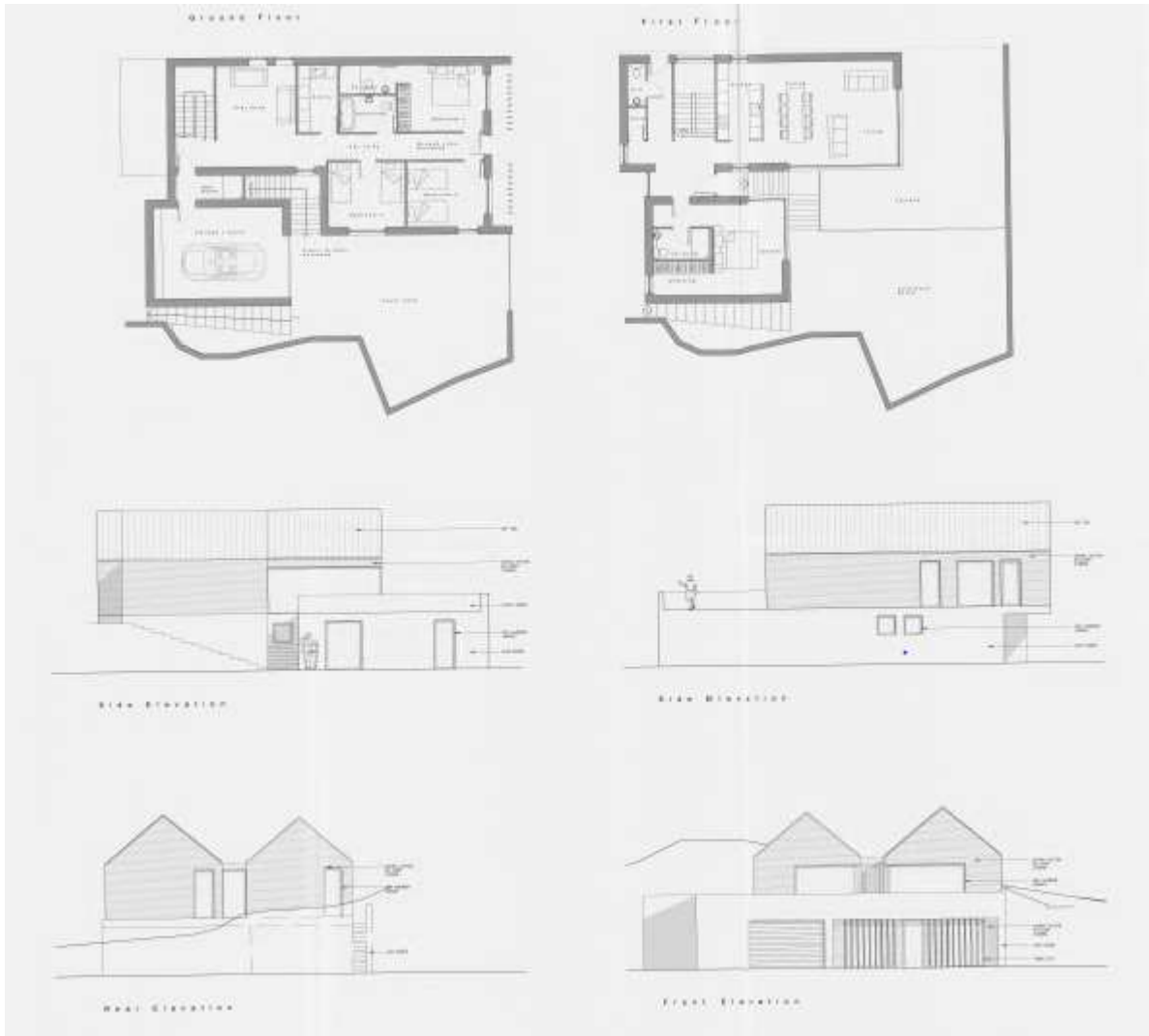
1. The proposal is contrary to Paragraphs 6.70 and 6.73 of the Strategic Planning Policy Statement for NI and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building; the design of the replacement dwelling is not appropriate to its rural setting and does not have regard to local distinctiveness.
2. The proposal is contrary to Paragraph 6.187 of the Strategic Planning Policy Statement for NI and Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the site lies within the Area of Outstanding natural beauty and would, if permitted, adversely affect the special character of the AONB and of the particular locality, by virtue of an unsympathetic scale and design.
3. The proposal is contrary to paragraph 6.224 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) Planning for Sustainable Development 2015, and contrary to Policy NH2 of Planning Policy Statement 2 Natural Heritage, in that it has not been demonstrated that the proposed development would not have an adverse impact on the bat population and insufficient information has been submitted on appropriate mitigation or compensation measures.

4. The proposal is contrary to paragraph 6.224 of the Strategic Planning Policy Statement for Northern Ireland (SPPS) Planning for Sustainable Development 2015, and contrary to Policy NH2 of Planning Policy Statement 2 Natural Heritage, in that it has not been demonstrated that the proposed development would not have an adverse impact on the Skerries and Causeway SAC and the North Antrim Coast SAC and insufficient information has been submitted on appropriate mitigation or compensation measures.
5. The proposal is contrary to Policy CTY 16 of Planning Policy Statement 21 Sustainable Development in the Countryside as satisfactory sewage disposal has not been demonstrated.

# Site Location









# Erratum

## LA01/2018/1085/F

Please note an error in paragraph 8.21 of the Planning Committee Report relating to a house number.

The penultimate sentence should read as:

“There will also be the potential to overlook the existing balcony and also the skylights for the bathroom and kitchen to the dwelling at 24 Portbradden Road.”

# **Erratum 2**

## **LA01/2018/1085/F**

There is an error in paragraph 8.20 of the Planning Committee Report relating to the location of a balcony to the dwelling at 24 Portbradden Road.

The first sentence in this paragraph should read as:

“The dwelling at 24 Portbradden Road has a small balcony to the rear of the premises which is accessed via the first floor landing.”

# Addendum

## LA01/2018/1085/F

### 1.0 Update

1.1 Following the receipt of amended plans, an amended P1 form, an amended certificate C and a bat survey, the application was withdrawn from the August Planning Committee schedule to allow further advertisement, neighbour notification and consultations. The key changes are as follows.

- Provision of a septic tank on the site layout plan and an amendment to section 18 of the P1 form to indicate septic tank as sewage disposal and not mains which was previously indicated.
- Amendment to section 27 of the P1 form and notice served on the owner of lands as shown within the red line.
- As requested by DAERA Natural Environment Division a bat survey was provided.

1.2 Further neighbour notification and advertisement was completed following this submission. Further consultations were sent to DAERA Water Management Unit and Natural Environment Division, Shared Environmental Services, Environmental Health and NI Water to consider the additional information provided.

1.3 Four (4) further letters of objection have been received. The points raised are:

- The modifications are slight and do not deal with the points set out in the Planning Committee report.
- The dwelling is out of keeping with the existing hamlet.
- It is out of keeping with the natural and built heritage of the locality within the ANOB.
- The amended plans remain inappropriate, overbearing, out of scale, out of character and destructive of the visual impact of the attractive hamlet.
- Does not address their major objections.
- Inappropriate design

- Scale of buildings relative to the existing buildings on site and to neighbouring dwellings.
- Severe overshadowing on the one storey extension of the neighbouring property.
- Not objecting to the principle of replacement

## 2.0 **Consideration**

- 2.1 NI Water and Environmental Health are content with the proposal subject to informatives. DAERA Water Management Unit raised no concern subject to standing advice. DAERA Natural Environment Division assessed the bat survey dated 19<sup>th</sup> August 2019 and are content that the building to be removed does not currently support roosting bats and therefore the proposed development is unlikely to significantly impact the local bat population. It was also recommended that informatives should be attached to any decision notice. Given this the proposal now complies with Policy NH 2 of PPS 2.
- 2.2 Shared Environmental Services stated that having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on the selection features, conservation objectives or status of any European site. Therefore 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. Given the consultation responses refusal reasons 3, 4 and 5 of the Planning Committee report can be removed.
- 2.3 As a septic tank has now been provided the proposed development is now also compliant to Policy CTY 16 of PPS 21. The location of the proposed septic tank is acceptable.
- 2.4 In response to the objection points, further assessment was carried out from the Whitepark Bay viewing point. There are views of the proposed site from this viewing point and although distant the proposal would have a significant detrimental impact on the character of the existing row of dwellings located at Portbradden

Harbour due to the dominance of the building through the scale, massing and design.

2.5 The objection points have been fully considered in the Planning Committee Report.

2.6 In regard to the overall design no changes were provided and the issues in regard to this as set out in paragraph 8.5 to 8.9, 8.11 to 8.14, 8.19 to 8.21 the Planning Committee report have not been addressed. Therefore refusal reasons 1 and 2 remain.

### **3.0 Recommendation**

3.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse the proposed development as it remains contrary to the SPPS, Policy CTY 3 of PPS 21, Policy NH 6 of PPS 2, in that the proposal will have a visual impact within the AONB significantly greater than the existing building due to its scale, massing and design. In addition the development would adversely affect 24 Portbradden Road by reason on dominance and overshadowing. Refusal is recommended for the following reasons.

### **4.0 Reasons for Refusal**

1. The proposal is contrary to Paragraphs 6.70 and 6.73 of the Strategic Planning Policy Statement for NI and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building; the design of the replacement dwelling is not appropriate to its rural setting and does not have regard to local distinctiveness.

2. The proposal is contrary to Paragraph 6.187 of the Strategic Planning Policy Statement for NI and Policy NH 6 of Planning Policy Statement 2, Natural Heritage, in that the site lies within the Area of Outstanding natural beauty and would, if permitted, adversely affect the special character of the AONB and of the particular locality, by virtue of an unsympathetic scale and design.

# Addendum 2

## LA01/2018/1085/F

### 1.0 Update

1.1 Following on from the assessment in paragraphs 8.19 to 8.21 of the Planning Committee report which relates to impact on amenity a further refusal reason will be added to the report. In regard to paragraph 8.21 it is stated that there will also be the potential to overlook the existing balcony and also the skylights for the bathroom and kitchen to the dwelling at 22 Portbradden Road. Having considered this further this is not the case. The refusal reason is as follows.

6. The proposal is contrary to Paragraph 4.11 of the Strategic Planning Policy Statement for NI as the proposal would adversely affect 24 Portbradden Road by reason of dominance and overshadowing.

1.2 A representation letter was submitted on 16<sup>th</sup> October 2019 which provided two visualisations, one relates to the impact of the proposal on Portbradden seafront and the other relates to the impact of the proposal on the one storey rear return of the dwelling at 24 Portbradden Road. The impact of the proposal on the Portbradden seafront has been considered in paragraphs 8.5 to 8.9 and 8.11 to 8.14 of the Planning Committee report. The impact of the proposal on the one storey rear return has been considered in paragraphs 8.19 to 8.21 of the Planning Committee report and paragraph 1.1 of this Addendum. The second visualisation attempts to show the overshadowing impact of the north wall and roof of the proposed dwelling on the dwelling at 24 Portbradden Road. This visualisation emphasise the dominant impact of the proposed dwelling.

1.3 A right to light demonstration was submitted by the agent on 21<sup>st</sup> October 2019. A light test was completed from the existing skylight. The scale for this drawing is 1:50 this should be 1:100. In addition, the shape and size of the skylight is shown incorrectly.

This information has been taken into account but on assessment it is considered that the proposed rear return by reason of its length and height would have a dominant impact on this dwelling, would reduce light and lead to unacceptable levels of overshadowing.

## **2.0 Recommendation**

- 2.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse the proposed development as it remains contrary to the SPPS, Policy CTY 3 of PPS 21, Policy NH 6 of PPS 2, in that the proposal will have a visual impact within the AONB significantly greater than the existing building due to its scale, massing and design. In addition the development would adversely affect 24 Portbradden Road by reason on dominance and overshadowing.

# Addendum 3

## LA01/2018/1085/F

### 1.0 Update

- 1.1 This application was heard before the Planning Committee on 23 October 2019. It was deferred so a full consideration of a previous permission for the erection of 2 semi-detached dwellings at land adjacent to 18 Portbradden Road (Ref: E/2001/0454/F, which was allowed at appeal Ref: 2004/A243 on 25 February 2005) could be fully considered. A further application E/2008/0346/F was granted permission for amendments to fenestration, dormers, floor levels, ridge height and overall footprint. However, the principle of this development was established under application reference E/2001/0454/F. This application was assessed under the Planning Strategy for Rural Northern Ireland and the North East Area Plan and not the SPPS, Planning Policy Statement 21 and the Northern Area Plan in which application reference LA01/2018/1085/F has been assessed.
- 1.2 The Planning Appeals Commission allowed the principle of development on the policy basis of Paragraph 21.6 of the North East Area Plan. This policy allowed development in small breaks in existing development. In assessing the scale and design of the building, the Commissioner commented as follows:

*“Notwithstanding the overall floor area of the appeal proposal I consider the impact of its scale and relationship to adjoining development has been effectively addressed in terms of disaggregating the building into several distinctive elements, accompanied by variations in roof lines and ridge heights and the incorporation into the design of features sympathetic to the existing built form in the area, such as dormers rising from the walls, a vertical emphasis to windows and the use of limited traditional external materials and colours. From the views identified by the parties the main one I judge to be from a limited area close to the corner adjoining No 18, I consider the appeal proposal*



*would not appear incongruous in the landscape or be so out of keeping with existing development as to be unacceptable.”*

- 1.3 A copy of the appeal decision is attached.
- 1.4 This appeal site is in a different context to the proposed site. The proposed site is more prominent and apparent from public viewpoints including those more distant views from Whitepark Road. While the appeal site sits more removed from existing buildings, the current proposal sits beside existing dwellings. These are two storey and traditional in nature. The appeal site sits separately from the existing terrace and reads in line with the dwelling at 18 Portbradden Road which sits forward of the appeal site. The appeal site is screened by an existing garage associated with the dwelling at 18 Portbradden Road, the existing landform which encloses the site and existing landscaping. The design of the dwellings on the appeal site are of a more traditional form with pitched roof and render walls.

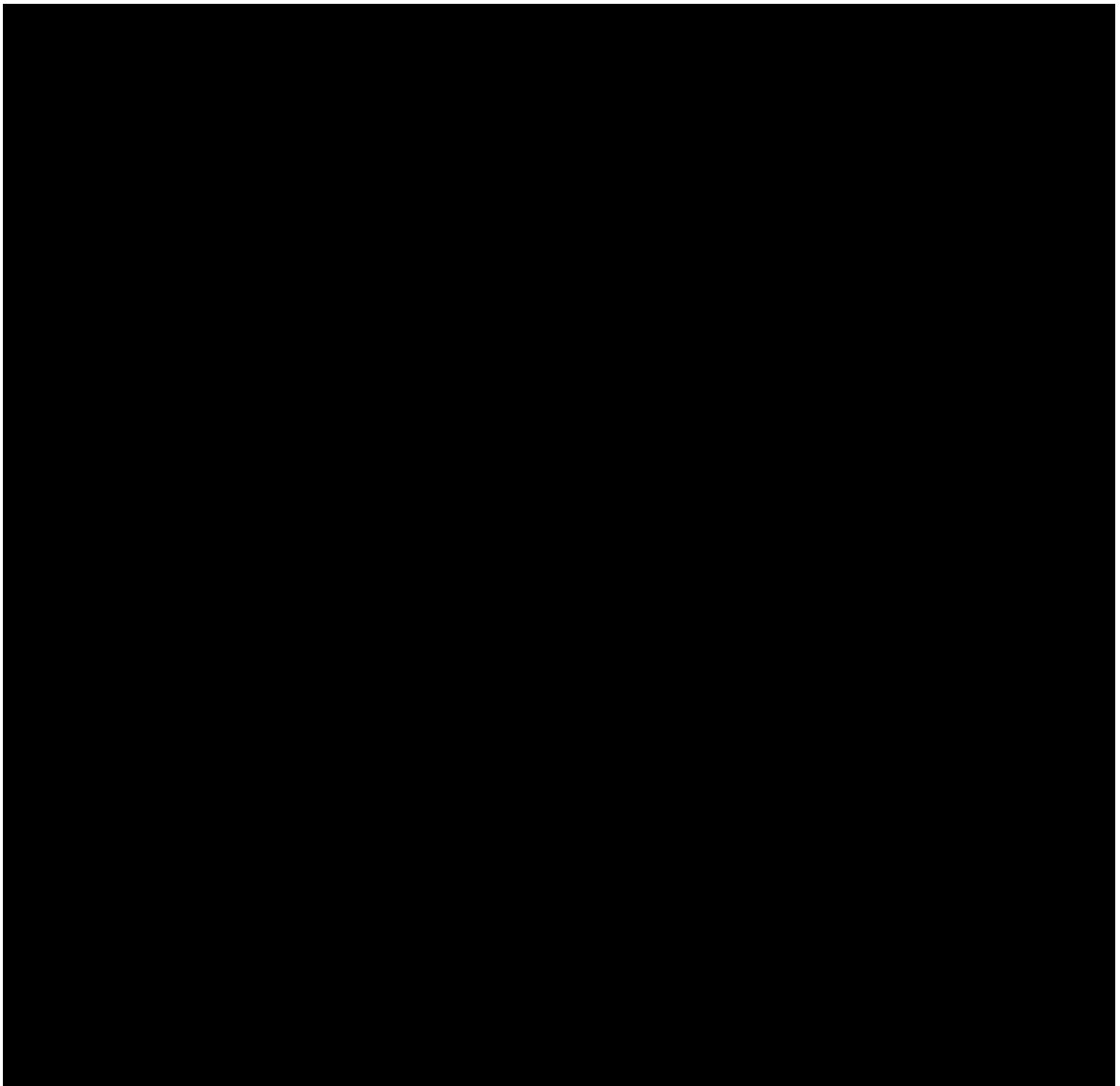
## **2.0 Recommendation**

- 2.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse the proposed development as it remains contrary to the SPPS, Policy CTY 3 of PPS 21, Policy NH 6 of PPS 2, in that the proposal will have a visual impact within the AONB significantly greater than the existing building due to its scale, massing and design. In addition the development would adversely affect 24 Portbradden Road by reason on dominance and overshadowing.

**SITE VISIT REPORT: THURSDAY 17 OCTOBER 2019**

*Committee Members: Alderman Boyle, Duddy, Finlay, S McKillop, McKeown; Councillors Anderson, Baird, Dallat O'Driscoll, Hunter (Chair), McGurk, P McShane, MA McKillop, McLaughlin (Vice Chair), McMullan, Nicholl, Scott*

**TIME: 10AM**





**LA01/2018/1085/F** 22 Portbradden Road, Bushmills BT57 8TA

**App Type: Full permission**

**Proposal: Proposed replacement dwelling**

**Present:** Alderman Boyle, Duddy, Councillors Anderson, Baird, Hunter (Chair), McGurk, Nicholl. Denise Dickson, Shane Mathers and Jennifer Lundy.

**Comments:** Officials pointed out the site and the current dwelling. Officials advised of the location within the AONB. The proposed block plan was shown and the relationship to the existing dwellings pointed out. The elevations were discussed and the following elements were pointed out: gable fronted design, set back of the garage, 1<sup>st</sup> floor terrace and screen wall boundary to the front. The massing of the proposed dwelling was also discussed in relationship to the existing buildings. The site was also viewed from the rear garden. The existing and proposed levels were discussed along with the proposed development and the position to the rear. The windows to the adjoining property and the rear terrace were pointed out. Concerns in relation to the proximity of the proposed development and loss of light were highlighted. The site visit then continued into the objector's house. The members viewed the proposal from the existing kitchen and the concern on the loss of light to the only window source was highlighted. Members also visited the terrace where officials advised of the location and proposed height of the proposed building. Concerns in relation to the loss of light to the terrace were also discussed. A further site visit was also carried out from the viewing point on the Whitepark Road. Though the views were long range, the vernacular design, scale and massing were still apparent.

### **Previous site visits**

**Site Visit Report – Wednesday 25<sup>th</sup> September 2019**

**PLANNING APPEALS COMMISSION**

**THE PLANNING (NORTHERN IRELAND) ORDER 1991**

**ARTICLE 33**

**Appeal by N & M Developments Ltd. against a non-determination of a planning application  
for the erection of 2 No. semi-detached dwellings on land adjacent to  
18 Portbradden Road, Ballycastle.**

**Report**

**by**

**Commissioner J. B. Martin**

**Grid Reference: 1246 3451**

**Procedure: Informal Hearing on  
7<sup>th</sup> December 2004**

**Planning Service Ref: E/2001/454/F**

**Date of Report: 25 February 2005**

***pac***  
*Planning Appeals  
Commission*

## 1.0 BACKGROUND

1.1 The application for full permission was received on 29<sup>th</sup> November 2001. The Department expressed its opinion to approve the application to Moyle District Council on 2 occasions. The Council disagreed with that opinion and referred the application to the Planning Service Management Board, with a request for it to consider the sensitive AONB location of the site and for any new development in the area to be strictly controlled. Following its consideration the Management Board issued a letter to the Divisional Planning Office and Moyle District Council stating that permission should not be granted. The non-determination appeal was lodged before a decision notice to that effect could be issued.

1.2 In the Department's view permission should be refused for the following reasons:

- 1 **The proposal is contrary to Policies SP12 / GB/CPA1 and GB/CPA3 of the Department's Planning Strategy for Rural Northern Ireland in that the site is located within a Countryside Policy Area as designated in the North-East Area Plan and an area of high scenic value and no overriding reasons have been demonstrated to justify a relaxation of the strict planning controls exercised in this area.**
- 2 **The proposal is contrary to Policies SP6 / DES7 of the Department's Planning Strategy for Rural Northern Ireland in that the development would, if permitted, adversely affect the visual amenity and character of the countryside by the extension of ribbon development along Portbradden Road.**
- 3 **The proposal is contrary to Policies SP19 / DES4 and DES5 of the Department's Planning Strategy for Rural Northern Ireland in that the design of the proposed dwellings is unacceptable in this sensitive location by reason of its scale and design and would, if permitted, be incongruous in the local landscape and out of keeping with existing development.**
- 4 **The proposal is contrary to Policies SP6 / SP19 / DES4 of the Department's Planning Strategy for Rural Northern Ireland in that the site lies in a designated area of Outstanding Natural Beauty and the development would, if permitted, be detrimental to the environmental quality of the area by reason of detrimental impact on character and visual amenity of the Causeway Coast Area of Outstanding Natural Beauty Countryside Policy Area.**

1.3 The appeal, received by the Commission on 8<sup>th</sup> August 2004, was advertised on 22<sup>nd</sup> August 2004. Two letters of objection were received and the Department copied to the Commission 6 letters of objection received during its period of processing the application.

## 2.0 SITE AND SURROUNDINGS

2.1 Most of the site is in grass, sitting at the base of a 'vegetation covered' cliff face on its western side - the boundary with which is defined by a post and wire fence and several trees. A narrow stream runs through the site from west to east close to the southern boundary which is defined by a grassed bank to the road topped with mature hedging of approximately 2 - 2.5m in height. Immediately inside those features is another bank down to the site topped with a line of 6 semi mature trees. An existing gated access is also located at the eastern end of this roadside boundary. A 'grass covered' rock outcrop, approximately 2 to 3m wide and

several metres above the rest of the site, extends alongside most of the northern boundary with No.18, which is defined variously by a post and wire fence / low stone walls / evergreen hedging and a retaining wall. The final eastern boundary is defined mainly by a wall and planting.

- 2.2 The narrow Portbradden Road falls steeply around several hairpin bends to the site which adjoins a group of dwellings set in a small 'bay shaped' area - below, and enclosed by higher ground on all but its eastern seaward side. Existing development is shown on the appellant's 'Visual Analysis' photographs attached to this report. No.18 and its adjacent outbuilding sit several metres below the appeal site.

### **3.0 THE DEPARTMENT'S CASE**

#### ***Refusal Reason No. 1***

- 3.1 Paragraph 21.4 of the North-East Area Plan (NEAP) 2002 stated permission might be given for a dwelling on a suitable infill site in the Green Belt or the AONB, without a case of need. Paragraph 21.6 allowed for 'rounding off' of clusters of houses where the development of those breaks did not radically alter the overall appearance or materially increase the general visual impact on the countryside.
- 3.2 On that basis outline permission was properly granted on the appeal site for a holiday/retirement home on 2<sup>nd</sup> November 1993, as the opinion to approve it had been conveyed to the Council before the introduction of the PSRNI. However that approval may have been a generous interpretation of the policy given the sensitive location of the site and the visual impact of the proposal on Portbradden. A repeat proposal was again granted outline permission on 25<sup>th</sup> February 1999. In so doing the Department would have placed emphasis on the planning history of the site as a material consideration, however that decision had been a mistake.
- 3.3 The Implementation Section of the PSRNI referred to giving its development control policies immediate effect. While there had been inconsistencies in the interpretation of paragraph 21.6 of the NEAP - in its letter of 6 December 2004 the Department had now clarified the position over ambiguity between the NEAP and the PSRNI, although it could comment if it was appropriate for that letter to override the statutory NEAP.
- 3.4 Within the Countryside Policy Area (CPA) there was a presumption against any new building and GB/CPA1 and 3 required justification for new development, which the appeal proposal had not demonstrated. Policy GB/CPA3 allowed permission to be granted for a dwelling to infill in a small gap in an otherwise substantially and closely built up frontage - a provision repeated in paragraph 21.4 of the NEAP. However the appeal site, viewed from the shoreline and Portbradden Road to the west, was not a small gap in an otherwise substantially or closely built-up frontage.

#### ***Refusal Reason No. 2***

- 3.5 Critical views were from the SE and the descent down to the coast where the road twisted around 2 hairpin bends. From there the site was clearly visible and read with No. 18 and its converted garage. Viewed from the shoreline the appeal site provided a visual break between No.18 and its converted garage, and development thereon would read in conjunction with those buildings and extend ribbon development along Portbradden Road. It would also create other development opportunities, given the existing gap between No. 18 and the terrace comprising Nos. 22 to 28, which would further erode the character of the area. From longer

views across Whitepark Bay to the south the existing development did not comprise a substantial and continuously built-up frontage.

- 3.6 DES7 also referred to design which should be appropriate in size and form to neighbouring buildings and the proposal for 2 semi-detached dwellings was urban in nature and of a type and scale not in keeping with existing development in Portbradden.

***Refusal Reason No. 3***

- 3.7 While not in the reasons for refusal, PPS 7 was a material consideration although DES 5 was the more appropriate context. DES5 referred to the form and proportions of a new building as key design elements which determined the visual impact of a building. The majority of existing development in Portbradden was small in scale and traditional. In contrast the dwellings proposed were of a larger scale and massing with a ridge height of 9.5m at the highest point on the gable front, and 8.4m along the main body of the building.
- 3.8 While the materials and the dormer windows were satisfactory, the gable front elevation to the harbour was unacceptable and provided a mix of pitches and the side projection to Portbradden was unacceptable in this sensitive area. Additionally proposed parking to the front for 4 cars was urban in form and would further contribute to the erosion of rural character. The internal layout of the 2 dwellings demonstrated that amenities expected of dwellings in the open countryside had been compromised and that the site was unable to accommodate the type of development proposed to a satisfactory standard.
- 3.9 Critical views were localised and over a long distance, including clear views along a distance of 70m from the 1<sup>st</sup>.to the 2<sup>nd</sup>. bend in the road approaching the site. The appeal site and No. 18 formed the initial impression of the character of Portbradden, which was of small-scale rural form enclosed by cliffs at a small harbour, and the view of the appeal site with No. 18 and its converted garage, provided a suitable example of that small-scale rural design. There were no other semi-detached dwellings in Portbradden.
- 3.10 From a further critical view from Portbradden Road to the east along the seafront, the appeal site read in conjunction with No. 18 and its converted garage, the latter sitting at a lower level to the appeal site with 6m to its ridge. The appeal proposal, at 9m to its ridge, would project almost 5m above that existing building. From Whitepark Bay to the south, the dwellings proposed were at a scale not in keeping with existing development in Portbradden and its massing adjacent to adjoining small-scale development would be incongruous in the locality. From Whitepark Bay the appeal proposal would detract from the character and scenic aspect of Portbradden, characterised by the small terrace of development along the seafront and the buildings at No.18, and would therefore also do likewise to the Causeway Coast AONB.

***Refusal Reason No. 4***

- 3.11 Paragraph 21.3 of the NEAP required ‘need’ to be demonstrated for a dwelling within the Causeway Coast AONB. The Regional Development Strategy (RDS) also referred to the AONB and acknowledged the importance of managing development in that sensitive area. While Policy DES4 did not preclude certain forms of development within an AONB the Department would not permit schemes detrimental to the environmental quality of the area. The Department had no design guide for the Causeway Coast AONB.

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**4.0 THE OBJECTOR'S CASE**

- 4.1 The original 1993 permission had been granted 2 month's after publication in September 1993 of the PSRNI. In a written reply to a local resident following that decision the Department had confirmed Portbradden housing cluster was considered to be well-defined and physically contained between the sea / high cliffs and the approach road to the south - given which the Department considered the site related satisfactorily to the existing group of dwellings nearby.
- 4.2 From that reply it was obvious the Department had ignored the fact that it's NEAP policy had been changed by the PSRNI, which stated on page 148 that its development control policies came into effect immediately and superseded previous expressions of policy in existing plans. Under the PSRNI a test of need should properly have been applied to the 2 previous applications, in which case permission would not have been granted on the basis of the superseded NEAP policy. Planning permission therefore should not have been granted in the first instance. Therefore a current policy presumption against development on the appeal site existed and little weight should be attached to former permissions granted without a proper assessment of policy.
- 4.3 The Commission's attention was drawn to appeals 2000/A063 and 2003/A353, were it noted that a decision maker had to be satisfied there was an intention to proceed with the 'fall back' development as an alternative.
- 4.4 The Commission might also wish to consider the relevance of appeal 2003/A290, enclosed in full, where the Commission noted the subject proposal would not comply with Green Belt policy but had also referred to paragraph 21.6 in the NEAP which permitted development within existing clusters. It had also noted that despite the PSRNI the Department had continued to apply that paragraph within the Green Belt. In allowing the appeal the Commission had accorded weight to evidence presented by the Department that it had continued to apply the provisions of paragraph 21.6 within the NEAP area.
- 4.5 However it was evident from the Management Board's letter of 8 March 2004 to Moyle District Council - now confirmed in its latter of 6 December 2004 - that previous interpretation of paragraph 21.6 of the NEAP had been incorrect, and it could have been challenged in the courts. The ambiguity in policy had now been clarified in that the PSRNI took preference over that contained in the NEAP. The Commission was also requested to draw a clear distinction between 2003/A290 and the appeal proposal which lay within an area of international importance and which had to be the subject of maximum protection from development.
- 4.6 The 2<sup>nd</sup> outline permission was for a dwelling of 1 or 1½ storey height, of simple rural form with a maximum roof span of 7 m and a roof pitch between 35 and 40°. Underbuilding was also restricted to 0.45 m. Reserved matters applications had never been submitted and there was no extant permission on the site. The appeal proposal breached all of the conditions attached to the outline approvals on the site.
- 4.7 An enquiry had been made to the Department for 3 dwellings on the site, and was indicative of an intention to cram as much development onto the site as possible. A subsequent application for 2 semi-detached dwellings with an integral boathouse was withdrawn and likewise was an attempt to get as many square metres on the site as possible and elevate the southern section of the building to achieve a sea view. The equity issue raised by the



appellant had to be tempered with the fact that the site had been bought by him with permission for a holiday home and reserved matters had never been submitted.

- 4.8 The Department's original opinion to approve the appeal proposal was fundamentally flawed and based on the view that it was more in keeping with the scale and character of the various designs of existing buildings at Portbradden. However the appeal proposal amounted to a monster house of 4000sq.ft. Existing dwellings in close proximity were all either single storey or 1½ storey and in relation to No.24 the appeal proposal was almost 2½ times larger. The 4 even numbered houses between 18 and 26 all had low ceilings in the tradition of older rural dwellings and it was assumed the appeal proposal had standard height ceilings. The appeal proposal would clearly be in violation of SP19 which related to inappropriate design and visually prominent locations. It was also contrary to DES5 in that it did not respect the traditional pattern of settlement at this position and the visual appearance of land and buildings in the general locality. The scale of the proposal was of prime importance, which was contrary to DES6 in that these aspects would be unsympathetic and appear incongruous with its surroundings. Within the existing terrace of dwellings nearby each dwelling was a distinctive element. In particular the east facing façade of the proposal would be a particularly dominant element with a high ridgeline.
- 4.9 One objector understood that existing property owners in the vicinity had no objections to an appropriately designed 1 or 1½ storey dwelling of simple form. The Northern Ireland Landscape Character Assessment referred to the unique setting of Portbradden and placed it at the very top of the scale for protection under Policies SP19, and DES 5 and 6.
- 4.10 Portbradden, a tiny coastal settlement at the foot of a cliff, represented the western extremity of Whitepark Bay and was recognised as having a significant tourist potential. It lay within the Causeway Coast AONB, clearly an interest of acknowledged importance, and Paragraph 3 of PPS1 referred to proposed development and demonstrable harm to such interests. The AONB was of international importance and the presumption against development within that CPA was contained in the Planning Strategy for Rural Northern Ireland (PSRNI) and was of particular significance. The appeal proposal was not infill development as defined in DES7 as it was in a backland location to the rear of what was a well defined ribbon of 5 houses comprising the settlement of Portbradden, and by adding to that existing ribbon and was therefore contrary to DES7. Paragraph 21.5 of the NEAP also referred to avoidance of ribbon development.
- 4.11 The appeal proposal was insensitive to the distinctive character of the area and to the DES4 requirement for development to reflect a traditional architectural style and settlement pattern in the locality. The glass wall of the dining room in particular was out-of-character and overall the design was contrary to DES5.
- 4.12 The proposal was also contrary to PPS7 in that the proposal for 2 large houses comprising 6 bedrooms overlooked neighbouring property from 1<sup>st</sup>. floor lounge windows, and wall to wall distance was just 16m between it and living accommodation of No 18. That distance fell far short of the 20m guideline referred to in Creating Places. Being located on higher ground, the height of the gable-fronted building would be significantly out of scale with the 1.5 storey and converted garage adjacent - the latter included 2 upstairs bedrooms and was intermittently occupied. No.18 would be overlooked from the proposed dining room, a bedroom and bathroom above. There was no concern with overlooking of the gardens of No.18.

- 4.13 The access would create problems onto a single-lane road (the other lane being taken up by parked cars of visitors to Portbradden and Whitepark Bay, especially in the summer time) and it would remove much of the earth bank and hawthorn hedge which presently screened the site. It would also require removal of an entire major rock outcrop near to No.18, and it was unclear if those works would also need slope stabilization measures. The onus was on the appellant to demonstrate that those were not needed, and in any case the outcrop formed part of the AONB and should be retained.
- 4.14 The setting was of supreme visual importance and it was surprising to note the comment of 'no objection' from the Department's Environment and Heritage Service to the impact of the proposal on the AONB.
- 4.15 It should also be noted that in allowing appeal 2003/A290 the Commissioner's report noted that the concept design was acceptable and the form of development would not be inconsistent with that in the immediate vicinity. However in the context of the Causeway Coast AONB it was more important to ensure that design detail was sensitive to its location. In addressing the principle of development the Commission should also accord determining weight to the uniqueness of the Causeway Coast AONB. Nowhere was it more important for need to be established.

## **5.0 THE APPELLANT'S CASE**

- 5.1 There were 4 key issues in the appeal.
1. The principle of development on the site.
  2. Visual amenity.
  3. Design and scale and

### ***Principle of Development***

- 5.2 While the PSRNI may have superseded previous expressions of policy in area plans, the NEAP was unusual in that paragraph 21.6 specifically referred to development potential within rural clusters, and this might explain why relatively few hamlets had been identified. The appeal proposal was consistent with the statutory NEAP which had been tailored specifically for the needs of its area. The 2 earlier approvals were within the terms of paragraph 21.6 of the NEAP which allowed for 'rounding off' of development, and as the adopted plan for the area the NEAP provided the most relevant policy context. In accordance with paragraph 49 of PPS 1 - they remained a material consideration in the determination of the appeal, in that having been granted in the same policy context as at present, (the PSRNI also having been in force before the original approval) and considered to represent 'rounding off' of the settlement - they established the principle of development on the site. Residents were clearly aware the site was likely to be developed since 1993, and their objections appeared to be with the design of the scheme rather than with the principle of development. The appellant had also purchased the site in 2000 at a time when it had an extant approval and the issues of fairness and equity in application of the Department's policy were relevant.
- 5.3 In appeal 1998/A415 the Commission had referred to the Department's approach to the application of rural policy since the publication of the PSRNI and to some confusion over whether or not the PSRNI superseded the NEAP policy relating to house clusters. The Commission's decision letter referred to a need for the Department to publicly clarify that matter as soon as possible. This policy confusion had also been raised in appeal 1998/A415, since when the present appellant was unaware of any public clarification on that matter by the

Department, as had been requested by the PAC. A ministerial statement clarifying or amending the policy had not been made and the Department was now seeking to amend policy outside the legislative process. In any case the latest departmental letter of 6 December 2004 did not say that paragraph 21.6 was wrong. The letter was woolly on this issue and did not say that it superseded paragraph 21.6, which had been applied by the Department on a widespread basis over a considerable time. Paragraph 21.6 was not inconsistent with the PSRNI in that it overlaid the PSRNI.

- 5.4 No case of 'need' was being advanced, and if GB/CPA 3 was relevant it still had to be balanced against other material considerations. It also allowed for infill development and the proposal also complied with GB/CPA3 insofar as it could not be regarded as an isolated new building and, because of its high degree of containment it would have no adverse impact upon the open character or visual amenity of the surrounding area. It was unlikely that such a degree of visual containment could be repeated elsewhere. The Department had considered the appellant's proposal for approximately 1½ years before the non-determination appeal had been made. The matters raised by the objectors essentially related to the previous approvals and the appropriateness of the proposal on the site. Matters relating to the siting and design of the new development not creating a visual impact significantly greater than existing buildings so as to achieve satisfactory integration, had been an informative incorrectly attached to the original approval on the site, and not being a planning condition, it carried no enforceable weight. It should also be noticed that while the 2 original approvals refer to a holiday/retirement dwelling, no conditions were imposed to restrict occupancy to tourist or retirement use. The letters of objection among other things, appeared to focus on this inaccurate informative and objectors appeared to be under the impression that it was a planning condition.

***Visual Amenity / Design and Scale***

- 5.5 The appeal proposal represented a sustainable form of development within an existing small rural settlement, consistent with general objectives on sustainable development contained in the RDS. It was located to the rear of a 1½ storey garage and set within a small cluster of dwellings in the small community of Portbradden. Existing dwellings within that community were not small in scale. Some were substantial dwellings, and included single storey, 1½ storey and a 2 storey dwelling at No. 28 which was of modern design - including a flat roof on the front elevation. The floor area of each dwelling, which together was 3028 sq. ft, was comparable with No.24 and the previous approvals on the site had not been subject to restrictive floor areas or ridge height conditions. The nature of the angle from the proposal's windows to No.18 would avoid direct overlooking and the converted garage had a blank wall to the site and its roof windows would not be overlooked.
- 5.6 The site was at a lower level than the road, with the proposal within it on average approximately 2.5m below road level, enabling it to nestle discreetly into the surrounding landscape. The site sloped from east to west away from the sea and cliffs along the west provided a strong physical background for the development. Within the NEAP Portbradden was not specifically identified as a settlement and it therefore did not have a defined development limit.
- 5.7 The appeal site had been carefully selected to reflect the existing pattern of development in the locality and was well integrated in the landscape, offering only limited public views. Detailed drawings submitted to the Department clearly indicated a sympathetic design scheme which would integrate into the local landscape and as such accorded with paragraphs 15-22 of PPS1. This scheme resembled a single house, and was broken up by variations in

ridge height, which varied generally from 5.6m (adjacent to No.18) to 7.5m with a maximum of 9m. External finishes accorded with the Department's Design Guide for Rural Northern Ireland and doors and windows would be of painted wood.

- 5.8 The ridge height of the converted garage to the east was 14.18m above sea level compared with a maximum ridge height of 19m for the appeal proposal. That difference of 4.82m was hardly significant considering the ground behind the site rose to at least 27m.
- 5.9 The eastern elevation had 4 ground floor windows with a door in the centre, 3 first floor windows and 2 dormers - the latter designed to rise from the wall plate and a traditional feature of rural housing especially in Portbradden, as evidenced by Nos. 22 and 24. The glass window to the dining room was not inappropriate and that feature was also shown on a dwelling as an acceptable feature in AONBs on page 125 of the PSRNI. The southern elevation had a frontage of only 10m, and due to rising levels of the road the dwelling would appear single storey as only the first floor windows and roof would be seen. The western elevation was adjacent to the cliffs. The appeal proposal fulfilled all DES5 criteria, and from the longer distant views along Whitepark Bay, a rocky promontory obscured most of the site.
- 5.10 Paragraph 59 referred to refusing permission only where the development proposed would cause demonstrable harm to interests of acknowledged importance. The appeal proposal was consistent with all of the criteria listed under Policy SP6, and with SP19 in terms of siting, orientation, design, materials and landscaping, and the onus was on the Department to demonstrate how the appeal proposal would harm the visual amenity of the countryside.
- 5.11 The Case Officer's report on the appeal proposal acknowledged it would integrate well into this infill site. The local Planning Office was most familiar with the area and had deemed the scale and design of the appeal proposal to be acceptable, having recommended it as an approval to Moyle District Council. All of the rock outcrop in the site would be removed and stabilisation measures would not be required.
- 5.12 In terms of DES7 while the appeal site would be the last in a row, it was essentially an infill site and would consolidate settlement form rather than leading to the extension of ribbon development. It would not materially increase the appearance of ribboning due to (1) the adjacent large converted garage and (2) its enclosure by the road which rose steeply along its southern front, and (3) it would nestle comfortably into the existing cluster of development. No objection was raised by the Department under DES6, which also referred to buildings being sympathetic and not incongruous with their surroundings. As that reason had not figured in the Department's reasons for refusal, clearly the appeal proposal would not conflict with that policy.
- 5.13 Document 4 was a computer-generated image showing the appeal proposal in its context. Concerns regarding loss of light at No. 18 were misplaced as sections through the site illustrated the acceptable low elevation of the gable nearest that property and distance between it and No. 18. The proposed access was positioned in the lowest part of the causing least visual impact, and would not appear in a row with the other dwellings along Portbradden Road. All but one of the trees along the road frontage could be retained, as could all of the roadside hedge unaffected by the actual access. The
- 5.14 In terms of DES7 the appeal proposal would not constitute ribbon development as it nestled to the rear of an existing building and would not sterilise backlands due to the nature of topography. Significantly ribbon development had not been raised as an issue in the 2

previous applications on the site and the appeal proposal should not be treated any differently. As such it would not involve development of an isolated dwelling but would provide a conclusion to an existing cluster of houses, a situation which was comparable with the 'hamlets' policy in the North Down and Ards Area.

### ***Effect on the AONB***

- 5.15 In terms of the AONB, Policy DES4 did not seek to prevent development but to ensure that it reflected an appreciation of and sympathy for the special character of each AONB. The proposed design had paid careful regard to DES4, and the position of the dwelling at the roadside was very much in keeping with the existing settlement pattern. Rising land to its rear provided an excellent backdrop when viewed from any angle and it was difficult to comprehend what detrimental impact the appeal proposal would have on the area.
- 5.16 In terms of DES 4 the principle of a dwelling on the site had already been established; the design of the proposal would reflect and respect its surroundings and integrate into the existing cluster - and finally Environment and Heritage Service had no objections to the appeal proposal. The 1989 designation document for the AONB had referred to proposed guidance and in its continuing absence, DES 4 and 5 were the only relevant considerations, and Portbradden had not been accorded a higher status within the AONB.

## **6.0 PLANNING CONDITIONS**

6.1 The Department suggested the following conditions: -

1. Retention of existing natural screenings of the site along the southern boundary.
2. Trees of indigenous species to be planted along the southern and eastern boundaries.
3. Visibility splays of 2m by 33m to Portbradden Road.

6.2 The objectors considered No.2 to be vague and meaningless, and suggested removal of Permitted Development Rights in respect of extensions. The appellant saw no need for the planting suggested in No.2.

## **7.0 CONSIDERATION**

### ***Refusal Reason No.1***

7.1 The objectors and appellant have correctly referred to ambiguity between the PSRNI and paragraph 21.6 of the NEAP - an issue previously raised in a number of appeals. In appeal 2004/A130 the Department had stated it was its settled view that paragraph 21.6 represented current policy which took precedence over the PSRNI policies. Likewise in appeal 2001/A225 the Department, in referring to this same ambiguity, stated that it had and would, continue to apply paragraph 21.6 in the interests of administrative fairness, and that the situation would be reviewed as part of the forthcoming Northern Area Plan. The latter comments accord with that part of the Implementation Section of the PSRNI which recognises that the proposals and policies of the PSRNI would be tailored to the specific circumstances and particular needs of each area. Likewise the Implementation Section also refers to Area Plans as the principle vehicle for applying the PSRNI to local areas.

7.2 I agree with the appellant insofar as the Department's letter of 6 December 2004 does not specifically say that the PSRNI supersedes paragraph 21.6. The Department's letter does not address its 'settled view' on this issue as expressed in its evidence in appeal 2004/A130 which was heard on 26<sup>th</sup> October 2004 and rather than clarifying policy it is simply saying how it

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considers the policy should be applied in the case of this appeal. However that position sits very uncomfortably with its statements I have referred to in the preceding paragraph.

- 7.3 Clearly the inclusion of paragraph 21.6 in the NEAP followed completion of the various stages of public participation and preparation of that Plan. On that basis, within the Plan area the Department has by its own admissions in the aforementioned appeals been applying paragraph 21.6 in preference to the policies in the PSRNI, since at least the adoption of the NEAP in August 1990. It is therefore reasonable to assume that an appreciable number of development proposals over the years have been approved on that basis, and it is even possible that some may have been approved since the appeal proposal was submitted to the Department in November 2001. While the Department had sought to apply the PSRNI over paragraph 21.6 in the appeal cited by the objectors - the Commission in allowing that appeal had referred to a persistent policy ambiguity arising from a lack of further clarification on the issue by the Department, and to the particular circumstances of that case, including planning history – namely approval for a dwelling on the site having been granted on 2 separate occasions.
- 7.4 The proposed increase to 2 dwellings represented in this appeal is not material in terms of paragraph 21.6, which does not restricted development to single dwellings. On the evidence presented, the appellant had purchased the site with an extant approval for 1 dwelling which had followed an earlier outline approval for the same development - both having been approved on the basis of paragraph 21.6. It also seems that over the 2 years and 4 months or so between the submission of the application and the Management Board's letter of 8 March 2004 - the local planning office had been unaware of any policy objection in principle to the appeal proposal.
- 7.5 The appellant has cited the Commission's view, expressed in its decision letter on appeal 1998/A415, of the obvious need for the Department to publicly clarify the policy ambiguity as soon as possible. However the 'about turn' on this issue by the Department has not followed any public announcement or consultation about such a change in policy; no reasons have been given to explain the change, and in my view the representations made by the Council to the Management Board cannot be read as clear opposition on its part to the principle of development on the appeal site.
- 7.6 Overall I consider the Department's vacillation on this issue unacceptable and its purported changed position with regard to paragraph 21.6 in the context of this appeal seems to me both arbitrary and unfair. On this basis, and in the interests of administrative fairness, I conclude the appeal proposal must be considered under paragraph 21.6 of the NEAP - and I do not consider the character of the Causeway Coast AONB, as argued by the objectors, should outweigh this conclusion.
- 7.7 On the basis of paragraph 21.6 the Department had previously granted approval on the appeal site, setting out its reasoning in replies to a local resident, (included in the objector's case as Annex 4 and 5 and attached to this report). The objectors did not specifically argue that the appeal site would not fulfil the terms of paragraph 21.6, and I agree with the Department's overall assessment of the site as set out in those replies - considering it to represent the sort of small break in an existing housing cluster contained in a visual entity, as described in paragraph 21.6.
- 7.8 I therefore conclude the 1<sup>st</sup> reason for refusal not to have been sustained.

- 7.9 In my view the allowance in paragraph 21.6 for development in small breaks in existing development must inevitably bring with it an acceptance of a form of development which might be unacceptable in other locations in the countryside – for example the development of a small break might add to ribbon development. The overriding objective set by paragraph 21.6 is its requirement for small breaks in existing clusters to be *'developed for residential purposes without radically altering their overall appearance or materially increasing the general visual impact on the countryside'*. In terms of the 2<sup>nd</sup> reason for refusal while I consider the appeal proposal would, from some limited and nearby views add to the existing linear form of development at Portbradden – in consideration of:-  
The disposition and orientation of existing development  
The differing form, scale, design and materials (including colours) of that development  
The siting, orientation and design of the appeal proposal –  
I do not consider that the appeal proposal would radically alter or materially increase the general visual impact of the cluster of development on the countryside. The Department raised the prospect of a precedent in respect of the area between Nos.18 and 22. However I do not consider that to be a realistic development opportunity, which in any case is not directly comparable with the appeal site. I also note from Annex 4 and 5 the Department's view that no precedent would be created. I therefore judge the 2<sup>nd</sup> reason for refusal not to have been sustained.
- 7.10 At this stage I proposed to deal with the DES 5 aspect of the 3<sup>rd</sup> reason for refusal, leaving the DES 4 issue to my consideration of the 4<sup>th</sup> reason for refusal where it appears as the exclusive issue.
- 7.11 Notwithstanding the overall floor area of the appeal proposal I consider the impact of its scale and relationship to adjoining development has been effectively addressed in terms of disaggregating the building into several distinctive elements, accompanied by variations in roof lines and ridge heights and the incorporation into the design of features sympathetic to the existing built form in the area, such as dormers rising from the walls, a vertical emphasis to windows and the use of limited traditional external materials and colours. From the views identified by the parties the main one I judge to be from a limited area close to the corner adjoining No 18, I consider the appeal proposal would not appear incongruous in the landscape or be so out of keeping with existing development as to be unacceptable. I therefore judge the 3<sup>rd</sup> reason for refusal not to have been sustained.
- 7.12 The objective of DES4 is to require development to be sensitive to the distinctive character of the AONB. Portbradden itself is a small highly contained area, close to sea level surrounded on all but its seaward side by steeply rising higher ground, and views from within this area are likewise confined. From outside the area views from Whitepark Bay and the coastal road are some appreciable distance away, and from where the appeal proposal would also be largely obscured by the converted garage and the projection of landform which encloses the Bay on its western side. I have already considered the impact of the proposal on existing development at Portbradden and in terms of the wider area of the AONB which can be appreciated from these longer viewpoints – I consider the appeal proposal would not have a detrimental impact on the environmental quality or visual amenity of the AONB. I therefore judge the 4<sup>th</sup> reason for refusal not to have been sustained.

#### **OTHER ISSUES**

- 7.13 No.18 sits well below the appeal site and its facing windows are small and do not serve rooms of primary occupation. The distance of the appeal proposal from No.18 and its siting, just behind the rear- most wall of No.18, would result in 'angled' rather than direct views

towards No.18. Together with the boundary treatment proposed and the likely usage of the rooms in the eastern elevation of the appeal proposal, and their window sizes – I do not consider the appeal proposal would unacceptably impact on the amenities enjoyed by No.18. While the form and scale of the appeal proposal is different to that of existing development in Portbradden, it would not in my view result in unacceptable damage to the local character, environmental quality or residential amenity of that area. In terms of all of the foregoing factors I therefore judge the proposal would fulfil the requirements of PPS 7.

7.14 Roads Service had no objections to an access onto Portbradden Road or to the proposed parking provision. The parking problems referred to by objectors seem to arise exclusively from tourist's cars, and I cannot see how the appeal proposal would significantly aggravate that primarily seasonal problem.

7.15 The Departments' suggested planting conditions had been made in the absence of a landscaping / boundary treatment plan which was later submitted after the Hearing and circulated to the parties. I consider the details shown thereon to be satisfactory, as are the minimum access visibility splays of 2m by 33m. The elevation of the appeal proposal over No.18 and its proximity to that property persuades me to conclude the removal of Permitted Development rights in respect of extensions to be necessary.

## **8.0 RECOMMENDATION**

8.1 I recommend to the Commission that the appeal be allowed and full planning granted subject to the following conditions: -

1. The scheme of planting and proposed boundary treatment as shown on Drawings No. LA02 and LA01 respectively shall be carried out during the first planting season after the commencement of occupation of the first dwelling. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Department gives written consent to any variation.
2. Notwithstanding the provisions of Article 3 and Schedule 1, Part 1 Class 'A' of the Planning (General Development) Order (Northern Ireland) 1993 (or any legislation revoking that Order and re-enacting those provisions) no extensions to the dwellings hereby approved shall be undertaken without the express consent in writing of the Department.
3. Visibility splays of 2m by 33m from the access to Portbradden Road shall be provided before the commencement of any other development work on the site and thereafter shall be permanently retained, along with the parking and turning provision shown on the approved Drawing No.LA02.
4. The development shall be begun before the expiration of 5 years from the date of this permission.



This recommendation relates to the following drawings:-

Drawings LA01 and 2 (Landscaped Proposals)

1:2500 scale site location map

Longitudinal Section – Drawing 151/100

Floor plans and elevations – Drawings 151/05 and 06A and 151/11 and 12

The submitted schedule of materials.

**Attendance at Hearing**

Department of the Environment

Ms.S.Daly

Appellant

Mr.W.Orbinson (LLB) Instructed by K.Cartin  
(Architect)

Mr.K.Cartin (Architect)

Mr.D.Donaldson (Farningham McCreadie Partnership)

3<sup>rd</sup> Party Objectors

Mr. S. Beattie (LLB) Instructed by Carson McDowell  
Solicitors

Mr.B.Morrison (Architect and Planner ) on behalf of  
Mr.and Mrs.D.Reid of 18 P'Bradden Road.

Mr.F.Boal of 24 P'Bradden Road.

**List of Documents**

Department of the Environment

'A' Written Statement

Appellant

'B' Written Statement and post hearing  
landscaping / boundary treatment drawings.

3<sup>rd</sup> Party Objectors 'C' Written Statements from Mr.  
B.Morrison and Mr.F.Boal

**on an appeal under Article 33 of the Planning (Northern Ireland) Order 1991 by N & M Developments Ltd against a non-determination of a Planning Application for full planning permission for the erection of two semi-detached dwellings on land adjacent to No 18 Portbradden Road, Ballycastle**

The Commission has considered the report by Commissioner Martin and accepts his analysis of the issues and recommendation that the appeal should succeed. The Commission therefore agrees that the Department's draft reasons for refusal and the objections raised by third parties have not been sustained. In so agreeing the Commission considers it necessary to comment on relationship of paragraph 21.6 of the North Eastern Area Plan 2001 (NEAP) and the Green Belt policies of "A Planning Strategy for Rural Northern Ireland" (PSRNI). The Management Board's view in the letter of 6<sup>th</sup> December 2004 does not address the ambiguity in policy between NEAP and PSRNI and, in any event, the Commission cannot reconcile its contents with the unequivocal evidence presented by a Departmental representative at an appeal hearing over 4 months ago (2004/A130 heard on 26<sup>th</sup> October 2004) that it was the settled view of the Department that paragraph 21.6 of the NEAP represented current policy and took precedence over the policy set out in PSRNI. That site lies within the Antrim Coast and Glens AONB and the evidence was entirely consistent with evidence given at an informal hearing on 14<sup>th</sup> March 2002 in another appeal (2001/A225) when the Departmental witness, commenting on confusion in the past regarding the relationship of paragraph 21.6 of the NEAP and the policies of PSRNI, stated that the Planning Service's position had been confirmed and that it was its view that it would continue to apply paragraph 21.6 of the NEAP in the interests of administrative fairness. The introduction yet again of confusion on this issue is unhelpful and in the context of evidence given at previous appeals and the length of time taken by the Department in processing this application prior to receipt of the non-determination appeal (a period of over 2 years and 8 months), rejection of the appeal on the basis of the Green Belt policy as set out in the PSRNI is unsustainable.

**Decision** – the appeal is allowed and full planning permission granted subject to the following conditions:-

1. The scheme of planting and proposed boundary treatment as shown on Drawings No. LA02 and LA01 respectively shall be carried out during the first planting season

after the commencement of occupation of the first dwelling. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Department gives written consent to any variation.

2. Notwithstanding the provisions of Article 3 and Schedule 1, Part 1 Class 'A' of the Planning (General Development) Order (Northern Ireland) 1993 (or any legislation revoking that Order and re-enacting those provisions) no extensions to the dwellings hereby approved shall be undertaken without the express consent in writing of the Department.
3. Visibility spays of 2m by 33m from the access to Portbradden Road shall be provided before the commencement of any other development work on the site and thereafter shall be permanently retained, along with the parking and turning provision shown on the approved Drawing No.LA02.
4. The development shall be begun before the expiration of 5 years from the date of this permission.

This decision relates to the following drawings:-

Drawings LA01 and 2 (Landscaped Proposals)

1:2500 scale site location map

Longitudinal Section – Drawing 151/100

Floor plans and elevations – Drawings 151/05 and 06A and 151/11 and 12

The submitted schedule of materials.

**JOHN WARKE**

Chief Commissioner

15<sup>th</sup> March 2004