

Title of Report:	Planning Committee Report – LA01/2024/0666/S54
Committee Report Submitted To:	Planning Committee
Date of Meeting:	28th May 2025
For Decision or For Information	For Decision – Referred Application by Alderman Fielding
To be discussed In Committee YES/NO	NO

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Senior Planning Officer

Estimated Timescale for Completion	
Date to be Completed	

Budgetary Considerations	
Cost of Proposal	Nil
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

Legal Considerations	
Input of Legal Services Required	NO

Legal Opinion Obtained	NO
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Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

<u>No:</u>	LA01/2024/0666/S54	<u>Ward:</u>	Aghadowey
<u>App Type:</u>	Section 54		
<u>Address:</u>	16 Moneybrannon Road and Land to the rear of 18 and 20 Moneybrannon Road, Aghadowey, Coleraine		
<u>Proposal:</u>	Removal of Condition 7 (Submission of Maintenance and Management of Open Space Communal Area) from C/2014/0306/F (Residential dwelling)		
<u>Con Area:</u>	n/a	<u>Valid Date:</u>	07.06.2024
<u>Listed Building Grade:</u>	n/a		
<u>Agent:</u>	Simpson Design NI Ltd, 42 Semicock Road, Ballymoney, BT53 6PY		
<u>Objections:</u>	6	<u>Petitions of Objection:</u>	0
<u>Support:</u>	0	<u>Petitions of Support:</u>	0

Executive Summary

- This is a Section 54 application seeking the removal of Condition No 7 of planning application C/2014/0306/F, this condition requires details of the maintenance and management of the open space (as indicated on drawing 3H) to be agreed with the Planning Authority before the approved dwelling is occupied.
- The site is located within the settlement limit of Clarehill as defined in the Northern Area Plan 2016 and is not subject to any specific designations.
- The principle of development is considered unacceptable having regard to Paragraph 6.200 and 6.205 of Strategic Planning Policy Statement for Northern Ireland and Policy OS 1 of PPS 8 in that the development would result in the loss of open space and is not considered an exception.
- It is also considered unacceptable having regard to paragraph 4.26 of the SPPS and criteria (a) and (c) of Policy QD 1 of PPS 7 as the development fails to take account of the local character, environmental quality and amenity and does not provide a quality residential environment.
- There are 6 objections to the proposal from 4 different addresses at Clarehill Court and Moneybrannon Rd.
- Planning application LA01/2020/0356/F for a dwelling on the application site was previously refused and dismissed by the Planning Appeals Commission.
- The application is recommended for Refusal.

Drawings and additional information are available to view on the Planning Portal-

<https://planningregister.planningsystemni.gov.uk/simple-search>

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 conditions set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is an irregular shaped plot measuring approximately 0.44ha. The site is flat but sits at a slightly higher level to the adjacent dwelling to the north-west. The site accesses directly onto Moneybrannon Rd.
- 2.2 The application site was previously occupied by a single dwelling, this dwelling has now been removed. A development of 6 detached dwellings has been constructed on the southern and western part of the site.
- 2.3 The northern part of the site, adjacent to the road is currently used to store some building products and machinery for the construction of the surrounding development. This area is partially surrounded by temporary style fencing approx. 1.8m in height.
- 2.4 The application site is located within the settlement limit of Clarehill as designated by the Northern Area Plan 2016. The surrounding area is defined by mostly residential development. Immediately to the north of the site is a pair of 1.5 storey semi-detached dwellings. Immediately to the south of the site is a new development of 6 no. detached 2-storey dwellings. There is a row of existing two-storey terraced dwellings on the opposite side of Moneybrannon Road.

3 RELEVANT HISTORY

C/2007/0616/F - 16 & 18 Moneybrannon Road Clarehill
Replacement of 1 no. Single Storey Detached (5 Bed) Dwelling
with 1 no. Detached (3 Bed) Two Storey Dwelling and 4 no.
New Detached (3 Bed) Two Storey Dwellings with Associated
Parking and Amenity Space= Total 5 no. Units.
Permission Granted – 12.06.2014

C/2014/0306/F - 16 Moneybrannon Road And Land To The
Rear Of 18 And 20 Moneybrannon Road, Clarehill
Erection of one detached two-storey dwelling, with single-storey
garage and associated siteworks. (Amended scheme) –
Permission Granted - 23.03.2018

LA01/2020/0356/F - 16m South East of 18 Moneybrannon
Road, Clarehill, Aghadowey, Coleraine - Infill dwelling and
garage -
Permission Refused: 07.09.22
Planning Appeal Dismissed – 21.02.24

4 THE APPLICATION

- 4.1 The application proposes 'Removal of Condition 7 (Submission
of Maintenance and Management of Open Space Communal
Area) from C/2014/0306/F (Residential dwelling)'.

5 PUBLICITY & CONSULTATIONS

5.1 External

Advertising: Coleraine Chronicle 19.06.24

Neighbours: Notification in accordance with legislation.

5.2 6 letters of objection have been received in relation to the proposal. These objections are from 4 properties in Clarehill Court and 1 at No. 14 Moneybrannon Rd to the south of the application site. The issues raised include the following:

- Open space should be implemented as approved
- Impact on amenity and quality of life as not developed as approved
- Safety concerns of land in current state
- Land currently an eyesore

5.3 In response to these concerns Officials note the following;

- The visual impact of the proposal and impact on character of the area are addressed in paragraphs 8.6 – 8.22.
- Concerns regarding current site safety are a matter for the landowner.

5.4 No consultations were carried out in the processing of this application.

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

Regional Development Strategy (RDS) 2035

Northern Area Plan 2016

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 7 - Quality Residential Environments

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

Planning Policy Statement 8 – Open Space and Outdoor Recreation

Planning Policy Statement 12 - Housing in Settlements
Creating Places

DCAN 8 - Housing in existing Urban Areas

Causeway Coast and Glens Corporate Strategy

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of development, local character, residential amenity and loss of open space.

Planning Policy

- 8.2 The Northern Area Plan 2016 identifies the site as being located within the settlement limit of the hamlet of Clarehill.
- 8.3 There are no other specific zonings or designations relating to this land set out in the Northern Area Plan 2016.
- 8.4 The proposal must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above.

Principle of Development

- 8.5 Paragraph 3.8 of the SPPS asserts a presumption in favour of development which accords to an up-to-date development plan unless the development will propose demonstrable harm to interests of acknowledged importance.

Local Character and Residential Amenity

- 8.6 Whilst the application is for the removal of a condition and not for new residential development the impact on the surrounding residential development as a result of the removal of this condition should be assessed.
- 8.7 Both PPS 7 and Addendum to PPS 7 promote quality residential development in all types of settlements. DCAN 8 and Creating Places provide additional guidance intended to supplement this policy in terms of improving the quality of new residential development.

Policy QD1 PPS 7 – Quality Residential Environments

This policy sets out a presumption against housing development in residential areas where it would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas, Proposals for new residential development should comply with certain specified criteria.

Criteria (a) states:

(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;

- 8.8 The application site was previously approved as an area of open space associated with the dwellings at Clarehill Court.
- 8.9 The removal of Condition 7 would likely result in the removal of the area of open space approved under C/2007/0616/F and C/2014/0306/F. The loss of this open space will have an impact on the outlook of the existing dwellings. PPS 7 encourages an attractive outlook and no details of what will take its place have been included within this submission.
- 8.10 The open space contributes to the character of the settlement of Clarehill. The dwellings on the opposite side of the Moneybrannon Road also have an area of open space between the dwellings and the road. The location of the appeal site, with the dwellings of Clarehill Court facing towards it, makes it an appropriate area of public open space in line with PPS 7 'Quality Residential Environments' (PPS 7) and 'Creating Places'. The loss of the area of open space here would therefore have an impact on the character of the area.
- 8.11 The development as approved with the area of open space to the front of No 1 – 6 Clarehill Court is in keeping with the character of the surrounding area and the removal of this condition is contrary to criteria (a) of Policy QD 1.

Criteria (c) states:

(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;

- 8.12 The dwellings at No 1 – 6 Clarehill Court have relatively small areas of private amenity space with No 3 having approx. 62 square metres and no 2 approx. 80 square metres. The public open space will complement the provision of open space to these residents and its loss will therefore have an impact on the amenity and available open space of the dwellings at Clarehill Court. This point was upheld by the PAC in their decision on application C/2014/0356/F. The proposal is contrary to Part (C).

Policy LC1 addendum to PPS 7 – Safeguarding the Character of Established Residential Areas.

- 8.13 Planning Permission will only be granted for redevelopment in established residential areas where all the criteria set out in Policy QD1 of PPS 7 is met together with the additional criteria set out in LC1.
- 8.14 Policy LC 1 of Addendum to PPS 7 requires the pattern of development is in keeping with the overall character and environmental quality of the established residential area. The loss of open space will have an adverse impact on the character of the area and possibly resulting in built development on an area of open space. As such the proposal conflicts with part (b) of Policy LC 1.

Loss of Open Space

- 8.15 Policy OS 1 of PPS 8 states that The Department will not permit development that would result in the loss of existing open space or land zoned for open space and the presumption against the loss of existing open space will apply irrespective of its physical condition or appearance. Annex A paragraph A1 states that open space is taken to mean all open space of public value.

This includes amenity green space (most commonly, but not exclusively in housing areas) – including informal recreation spaces, communal green spaces in and around housing, and village greens.

- 8.16 Planning application C/ 2007/0616/F granted permission for 5 No. dwellings at this location. This permission (C/ 2007/0616/F) previously sought permission for 9 no. dwellings however this was not considered acceptable due to inappropriate scale, density and massing. The scheme was reduced to 5 no. dwellings and permission was granted on 9th June 2014. The approved plans show the area subject to this application is identified on drawing No. 04 A as Public Amenity Space with additional planting also proposed. Policy OS 2 (Public Open Space in New Residential Development) of PPS 8 advises that in smaller residential schemes the need to provide public open space will be considered on its individual merits. While there are no conditions attached to the previous approval, the plans form part of the permission and the intention of this area to be retained as public amenity space is evident.
- 8.17 Application C/2014/0306/F originally sought permission for 5no. dwellings. This proposal was considered unacceptable as it was considered over-development and the loss of open space for a further dwelling was not acceptable. The original area of open space provided amenity and an attractive outlook for the proposed dwellings. Due to the orientation of the 5no. dwellings (approved under C/2007/0616/F) all facing towards this area it was additionally considered unacceptable for a dwelling. When landscaped, as required by these previous planning permissions, it would help to soften the visual appearance of this small development and be in keeping with the character of this small rural settlement. The application (C/2014/0306/F) was amended and planning permission was granted for 1no. dwelling and a condition was attached (Condition 7) requiring details of the maintenance and management of the open space (as indicated on drawing 3H) to be agreed with the Planning Authority before the approved dwelling is occupied. This dwelling is now constructed and occupied and as such this permission is

in breach of condition 7. The Planning Department have not to date received details for the management and maintenance of the open space and are investigating this matter.

- 8.18 The current application is a Section 54 application which seeks to remove Condition No 7 of C/2014/0306/F, Condition No 7 states:

Details of the maintenance and management of the open space communal area and landscaped areas, as indicated by the green hatched area on drawing No. 3H, dated stamped 20/11/17, by a Management Company supported by a charitable trust or properly constituted residents association with associated management arrangements, or other such arrangements agreeable to the Planning Authority, including a signed copy of the Memorandum and Articles of Association in accordance with the Management Plan, shall be submitted to and agreed with the Planning Authority before the residential unit is occupied.

Reason: To ensure the establishment and continuity of the approved open space, communal areas, and amenity areas through the long-term maintenance to achieve a quality residential development.

- 8.19 Creating Places advises that open space is an integral part of design in order to provide residents amenity, enhance visual attractiveness, enhance safety and biodiversity. The provision of open space in this area under the previous application was considered necessary and appropriate in this setting. The area of open space approved was overlooked and accessible by the approved dwellings, in accordance with Creating Places.

- 8.20 Planning application LA01/2020/0356/F sought permission for 1 dwelling on the land previously allocated as open space in applications C/2014/0306/F and C/2007/0616/F. Therefore, the consideration of the loss of the area of open space was previously considered by both the Council and the Planning

Appeals Commission (PAC). There has been no change in circumstances, policy or to the application site since this permission was refused.

- 8.21 LA01/2020/0356/F was presented to the Council Planning Committee on 22nd June 2022, the recommendation to refuse was accepted by members. The refusal was subsequently appealed to the PAC. The PAC dismissed the appeal on 7th February 2024. Within their report (Appendix 1) the PAC acknowledge the land covered by Condition No 7 as open space given the planning permissions, as implemented and associated with the appeal site, and the typology within PPS 8 Annex A which demonstrate that the approved land use is public open space. The PAC go on to state that even without the benefit of the planning history, the appeal site, which is an area of semi natural urban green space and acts as a visual amenity, would still represent existing open space of obvious public value pursuant to PPS 8. There has been no change to the circumstance or the site from the previous application.
- 8.22 The removal of Condition No 7 would result in the loss of open space associated with existing residential development. Policy OS 1 of PPS 8 is clear that it will not permit development that would result in the loss of existing open space unless certain exceptions are met. Exceptions include where redevelopment will bring substantial community benefits or where alternative provision is made which is at least accessible to current users in terms of size, usefulness, attractiveness, safety and quality. No supporting information has been provided to prove that the removal of this condition would meet any exceptions.
- 8.23 The loss of the open space would have an impact on the amenity of the existing residents due to the limited private amenity space that currently surrounds these properties. Objections have been received from neighbouring residents objecting to removal of the condition. The surrounding residents of Clarehill Court that have objected (4 No properties) have requested that the land is developed as open space as

approved, this indicates the value they consider this area of open space will have in terms of both amenity and outlook from their dwellings. The area also provides a visual amenity and the loss of the area would have an impact on amenity and the character of the area. The removal of condition No 7 of C/2014/0306/F is therefore contrary to Policy OS 1 of PPS 8.

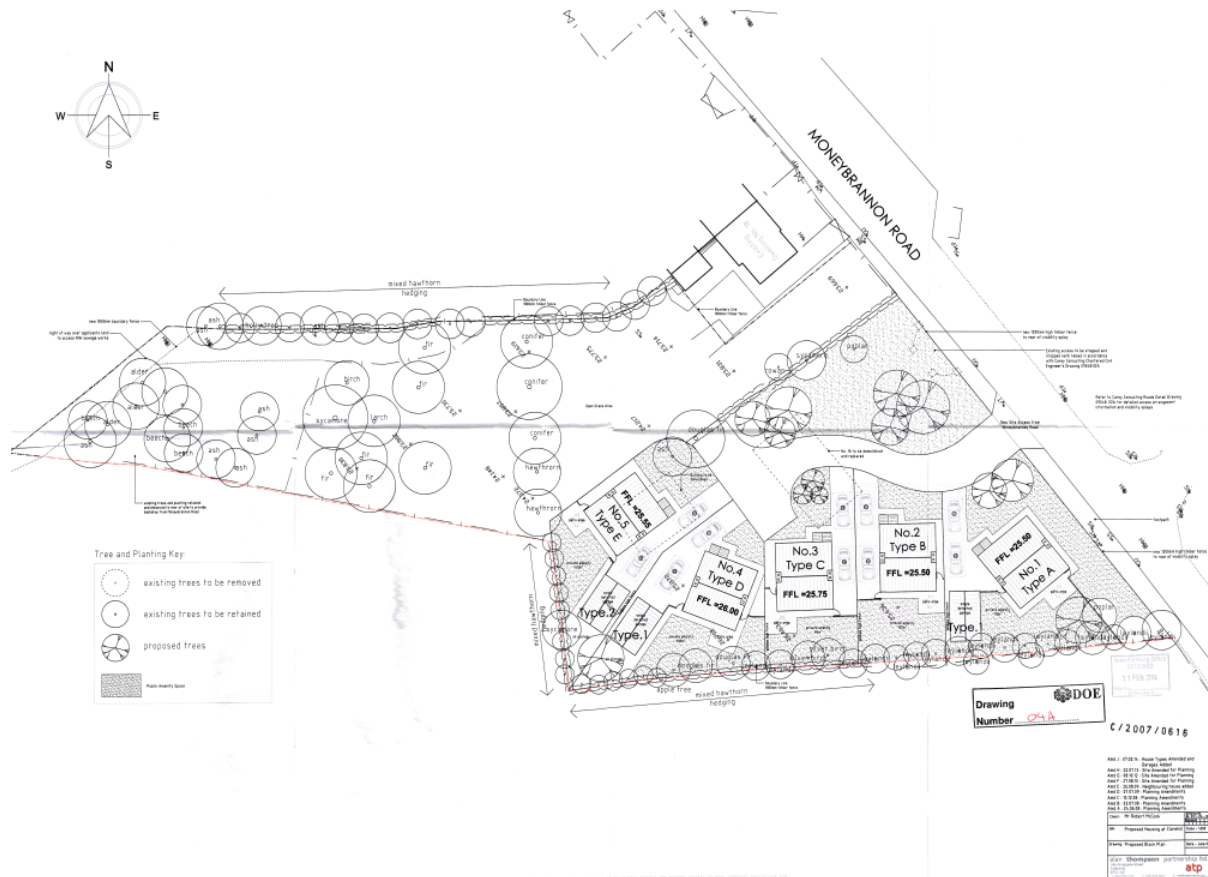
9 CONCLUSION

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations including the SPPS. The proposal fails to meet the requirements of PPS 7 and PPS 8 and is considered to have an unacceptable impact on local character and private amenity and will result in the loss of open space. Refusal is therefore recommended.

10 Refusal Reasons

1. The proposal is contrary to Paragraph 6.200 and 6.205 of Strategic Planning Policy Statement for Northern Ireland and Policy OS 1 Planning Policy Statement 8 – Open Space and Outdoor Recreation in that the development would, if permitted, have an adverse effect on the environmental quality of the area by reason of the loss of open space and the proposal is not considered an exception to this policy.
2. The proposal is contrary to paragraph 4.26 of the SPPS and criteria (a) and (c) of Policy QD1 of Planning Policy Statement 7, Quality Residential Environments, Part (b) of Policy LC1 of Addendum to Planning Policy Statement 7, the Design Guide Creating Places and Development Control Advice Note 8, Housing in Existing Urban Areas in that the development as proposed fails to take account of the local character, environmental quality and amenity and does not provide a quality residential environment.

Approved Site Plan C/2007/0616/F



Laura Crawford

From: Mark Fielding
Sent: 14 April 2025 09:33
To: Planning; Denise Dickson; Sandra Hunter
Subject: LA01/2024/0666/S54
Attachments: Moneybrannon Road.odt

I wish to refer Planning Application LA01/2024/0666/S54 to the Planning Committee.

- Removal of Condition 7 (Submission of Maintenance and Management of Open Space Communal Area) from C/2014/0306/F at 16 Moneybrannon Road and Land to the rear of 18 and 20 Moneybrannon Road.

Please see attached document.

Yours,

Mark
Ald. M Fielding

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Planning Reference LA01/2024/0666/S54

Elected Member Name Mark Fielding

Contact Details Tel : [REDACTED]

E-mail [REDACTED]

Reasons below, to refer application to Planning Committee – Removal of Condition 7 (Submission of Maintenance and Management of Open Space Communal Area) from C/2014/0306/F at 16 Moneybrannon Road and Land to the rear of 18 and 20 Moneybrannon Road Aghadowey

Refusal Reason 1

The proposal is contrary to Paragraph 6.200 and 6.205 of Strategic Planning Policy Statement for Northern Ireland and Policy OS 1 Planning Policy Statement 8 – Open Space and Outdoor Recreation in that the development would, if permitted, have an adverse effect the environmental quality of the area by reason of the loss of open space and the proposal is not considered an exception to this policy.

The proposal complies with PPS 8, the provision of open space for developments of 25 or more units or on a site of 1 hectare or more in size. This site is less than 1ha and has less than 25 dwellings. A similar development has been approved LA01/2016/1152/F which is the same as this development. It has 6 dwellings on the site and has less open space approved than is proposed here. There is a large area of existing open space opposite this development.

Refusal Reason 2

The proposal is contrary to paragraph 4.26 of the SPPS and criteria (a) and(c) of Policy QD1 of Planning Policy Statement 7, Quality Residential Environments, Part (b) of Policy LC1 of Addendum to Planning Policy Statement 7, the Design Guide Creating Places and Development Control Advice Note 8, Housing in Existing Urban Areas in that the development as proposed fails to take account of the local character, environmental quality and amenity and does not provide a quality residential environment.

The proposed application seeks approval for a single dwelling within this plot located to cluster this residential area along the Moneybrannon Road. There is approx. 0.58ha of open space in close proximity to this site and within the hamlet.

The plot size is adequate to accommodate a two storey dwelling orientated in an easterly direction with a detached single storey garage in keeping with the design style of neighbouring properties on the Moneybrannon Road.

The proposed dwelling is more than 20 metres away from the surrounding neighbouring dwellings in respect of separation distance.

The scale and massing of the proposed application has no greater bearing than the recently approved dwellings. The plot size is similar to the new dwellings built to the south of the site which enables the site to integrate successfully at this location.

Appendix 1

PAC Report 2022/A0177 - Appeal by Mr C. Lewis against the refusal of full planning permission for an infill dwelling and garage 16m Southeast of No. 18 Moneybrannon Road, Clarehill, Aghadowey, Coleraine.

Appeal Reference:	2022/A0177
Appeal by:	Mr C Lewis
Appeal against:	The refusal of full planning permission
Proposed Development:	Infill dwelling and garage
Location:	16m Southeast of No. 18 Moneybrannon Road, Clarehill, Aghadowey, Coleraine
Planning Authority:	Causeway Coast and Glens Borough Council
Application Reference:	LA01/2020/0356/F
Procedure:	Written representations and Commissioner's site visit on 26 th January 2024
Decision by:	The Commission, dated 21 st February 2024

The Commission has considered the report by Commissioner Gareth McCallion and accepts his analysis of the issues and recommendation that the appeal should fail. The Commission agrees that the Council's first and third reasons for refusal are sustained insofar as stated and are determining in the appeal.

Decision – the appeal is dismissed.

This decision is based on the following drawings:

- Council reference Drawing No. 01;
- Council reference Drawing No. 02 (Rev 3);
- Council reference Drawing No. 03 (Rev 01); and
- Council reference Drawing No. 4.

ANDREA KELLS
Chief Commissioner

PLANNING APPEALS COMMISSION

**THE PLANNING ACT (NORTHERN IRELAND) 2011
SECTION 58**

**Appeal by Mr C. Lewis
against the refusal of full planning permission for an infill dwelling and garage
16m Southeast of No. 18 Moneybrannon Road, Clarehill, Aghadowey, Coleraine.**

**Report
by
Commissioner Gareth McCallion**

**Planning Authority Reference: LA01/2020/0356/F
Procedure: Written Representations
Commissioner's Site Visit: 26th January 2024
Report Date: 7th February 2024**



1.0 BACKGROUND

1.1 Causeway Coast and Glens Borough Council (the Council) received the application on 19th March 2020. By notice dated 7th September 2022 the Council refused permission giving the following reasons: -

1. The proposal is contrary to paragraphs 6.200 and 6.205 of Strategic Planning Policy Statement for Northern Ireland and Policy OS 1 Planning Policy Statement 8 – Open Space, and Outdoor Recreation in that the development would, if permitted, have an adverse effect on the environmental quality of the area by reason of the loss of open space, will bring substantial community benefits that decisively outweigh the loss of open space [sic], alternative provision has not been made for the loss of this open space, which is at least accessible to the current users and at least equivalent in terms of size, usefulness, attractiveness, safety and quality.
2. The proposal is contrary to paragraphs 4.12 and 6.201 of Strategic Planning Policy Statement for Northern Ireland and Policy OS 2 Planning Policy Statement 8 – Open Space, and Outdoor Recreation in that it has not been demonstrated that the public open space has been designed in a comprehensive and linked way as an integral part of the development; it is of demonstrable recreation or amenity value; it provides easy and safe access for the residents of the dwellings it serves; and its design, location and appearance takes into account the amenity or nearby residents and the needs of people with disabilities.
3. The proposal is contrary to paragraph 4.26 of the SPPS and criteria (a), (c) and (g) of Policy QD1 of Planning Policy Statement 7 - Quality Residential Environments, Part (b) of Policy LC1 of Addendum to Planning Policy Statement 7 the Design Guide Creating Places and Development Control Advice Note 8, Housing in Existing Urban Areas, in that the development as proposed fails to take account of the local character, environmental quality and amenity and does not provide a quality residential environment.

1.2 The Commission received the appeal on 4th January 2023 and advertised it in the local press on 16th February 2023. The Commission received a representation at appeal stage. A representation received during the processing of the planning application was provided to the Commission.

2.0 SITE AND SURROUNDINGS

2.1 The appeal site is located west of the Moneybrannon Road, within the settlement of Clarehill, northeast of the village of Aghadowey. It is irregularly shaped and measures approximately 0.11 hectares. It is located to the north of a newly created access road, referred to as Clarehill Court. This access road serves six newly constructed detached dwellings, which are numbered 1 – 6 consecutively upon entering the development.

- 2.2 The eastern boundary of the appeal site is defined by a close boarded fence and a temporary security fence, both measuring approximately 1.8 metres in height. The northern boundary is defined by a wall and close boarded fence. The remaining boundaries of the appeal site are defined by several temporary security fencing panels, measuring approximately 1.8 metres in height.
- 2.3 At the time of the site visit there were several pallets of building materials located in the southeastern corner of the appeal site, which is mainly comprised of scrub and grass. Two small storage containers were located near to the centre of the site, adjacent to a medium sized tree.
- 2.4 In addition to the surrounding dwellings in Clarehill Court, there are two semi-detached dwellings at Nos. 18 and 20 Moneybrannon Road located directly north of the appeal site. Terrace housing is located east of the appeal site on the opposite side of the Moneybrannon Road. A wastewater treatment works is located west of the appeal site, due west of the private amenity space of No. 6 Clarehill Court, and south of the Aghadowey River.

3.0 PLANNING AUTHORITY'S CASE

- 3.1 The appeal site is located within the settlement limit of Clarehill, as designated by the Northern Area Plan 2016 (NAP). The surrounding area is defined by residential development. The planning history of the site is relevant.
- 3.2 Full planning permission (C/2007/0616/F) for five dwellings was granted on 9th June 2014. The approved drawing indicates that the appeal site was to be kept as public amenity space. There were no conditions attached to the grant of this permission in relation to the maintenance and management of the amenity space. However, the approved plan forms part of the planning permission and indicates that additional planting was proposed for this area.
- 3.3 Subsequently, full planning permission (C/2014/0306/F) was granted for one dwelling and garage on 16th March 2018. The approved drawings included the appeal site which was shown hatched green on drawing 3H. Condition 7 required details of the maintenance and management of the hatched green area to be submitted and agreed with the planning authority. No details were received. The condition does not limit the responsibility of the management of the open space to a specific dwelling or property or person. It was the responsibility of the developer to provide appropriate arrangements for the maintenance and management of the area prior to the occupation of the approved dwelling.
- 3.4 The above permission (C/2014/0306/F) for the single dwelling is an extension to the five dwellings approved under C/2007/0616/F. The development is considered to be a single group. All six dwellings are now occupied. The intention of condition 7 was to provide open space for all the dwellings within the development, not just the dwelling approved under C/2014/0306/F. The Appellant has not demonstrated that the condition is unlawful, nor has it been removed or varied.
- 3.5 'Creating Places' informs us that open space is an integral part of the design of housing developments to provide residential amenity, enhance visual attractiveness and safety. The approved plans for C/2007/0616/F and C/2014/0306/F indicate the

intended function of the appeal site as open space. This area of open space provides amenity and an attractive outlook for the residents of the approved dwellings. The orientation of the six dwellings means they all face towards the open space.

- 3.6 Once landscaped, in accordance with the planning permissions as granted, the open space will help soften the visual appearance of the development and will be in keeping with the character of this small rural settlement. There is a presumption against the loss of open space irrespective of its physical condition or appearance. Deterioration in the appearance or condition of open space due to inadequate management or maintenance is not sufficient justification for its loss to proposed development.
- 3.7 The open space contributes to the character of the settlement of Clarehill. The dwellings on the opposite side of the Moneybrannon Road also have an area of open space between the dwellings and the road. The location of the appeal site, with the dwellings of Clarehill Court facing towards it, makes it an appropriate area of public open space in line with PPS 7 'Quality Residential Environments' (PPS 7) and 'Creating Places'.
- 3.8 An amended site plan was received by the Council on 24th June 2022. It illustrates that the private amenity space to the rear of the proposed dwelling has been reduced to allow for the provision of an area of open space. The proposed area of open space (c.69 sqm) would be significantly smaller than that approved (c.620 sqm).
- 3.9 PPS 8 'Open Space, Sport and Outdoor Recreation' (PPS 8), Policy OS 1 has a presumption against the loss of public open space. This position has been supported by appeal decisions 2022/A0012 and 2021/A0233. The proposal does not meet any of the exceptions to this policy as the provision of open space would not be as accessible to current users and would not be equivalent in terms of size, usefulness, attractiveness, safety and quality. It is clear from the planning history that the provision of open space was necessary for amenity purposes, the character of the area and the layout of the site. The loss of this open space will have a detrimental impact on the amenity of surrounding residents.
- 3.10 Policy OS 2 of PPS 8 states that in smaller residential schemes the need to provide public open space will be considered on its individual merits. The approved open space area would soften the visual appearance of the small development when viewed in the context of this small rural hamlet. The proposed area of open space does not meet the criteria in this policy. Due to its narrow frontage and enclosed nature, the proposed open space has not been designed as an integral part of the development nor does it have recreational or amenity value. Due to its remote location from several of the surrounding properties, the proposed open space would not be easily accessible and it would also have an adverse impact on the privacy and amenity of the proposed dwelling given its proximity and lack of boundaries.
- 3.11 'Creating Places' advises that public open spaces should not be located out of sight at the end of rear gardens. Public open space should be linked together and designed as an integral part of the overall layout. 'Creating Places' proposes that areas of open space should be directly overlooked by the frontage of dwellings. The proposed open space fails to enhance urban quality due to its location, size and shape. It fails to provide a visually attractive green space and outlook. Unlike the

approved area of open space, the proposed open space fails to perform the functions as required for such an area as defined by PPS 8.

- 3.12 Policy QD1 of PPS 7 has a presumption against housing development in residential areas where it would result in the unacceptable damage to the local character, environmental quality or residential amenity of those areas. Criterion (a) of Policy QD1 requires that the proposed 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, landscaped and hard surfaced areas"*. The proposed dwelling would be similar in size, massing and appearance to the surrounding existing and approved dwellings.
- 3.13 PPS 7 encourages an attractive outlook. The loss of this open space will have an unacceptable impact on the outlook of the existing residents as they will face the back and side of the proposed dwelling rather than the approved green landscaped area.
- 3.14 PPS 7 advises that boundary treatments can significantly affect the overall quality of residential development. Details of boundary treatments have been provided for a section of the northern boundary which includes a close boarded fence. There are no boundary treatments shown for the western and southern boundaries of the appeal site. No additional planting, within or along boundaries, have been proposed to soften the visual impact and protect the private amenity of the proposed residents. The proposed boundary treatment would have an unacceptable impact on the outlook of existing residents to the south and east of the proposed dwelling.
- 3.15 Policy QD 1 states that public open space should be suitably located, proportioned, and planted and that narrow or peripheral tracts which are difficult to manage will not be acceptable. The proposed open space represents a small, irregular shaped area between private gardens which would be difficult to manage.
- 3.16 The appeal site has frontages onto both Moneybrannon Road and Clarehill Court. PPS 7 and Development Control Advice Note 8 'Housing in Existing Urban Areas' (DCAN 8) advise that special attention needs to be given to corner sites and standard layouts should be avoided. The appeal site is surrounded by existing residential development. The front of the existing properties on Clarehill Court are oriented towards it. 'Creating Places' puts emphasis on well designed layouts which should seek to minimise overlooking.
- 3.17 Policy QD 1, criterion (c), requires that adequate provision is made for public and private open space and landscaped areas are to be an integral part of the development. The private amenity space associated with the proposed dwelling exceeds the minimum standards as set out in 'Creating Places'. However, the private amenity space to the rear of the proposed dwelling would be overlooked by the existing dwellings to the south and west. The appeal site is also surrounded on three sides by roads and two storey residential properties which will have an unacceptable impact on the private amenity of the prospective residents. 'Creating Places' advises that dwellings facing into the rear of gardens of other dwellings should be avoided.

- 3.18 Policy QD 1, criterion (g), requires that the design of the development draws upon the best local traditions of form, materials and detailing. Soft boundary treatments are considered more appropriate to this site. No additional planting, either on site or along the boundaries, has been proposed to soften the visual impact and protect private amenity. The proposed boundary treatment is contrary to paragraph 4.21 of PPS 7 and the guidance contained within both 'Creating Places' and DCAN 8.
- 3.19 The proposal conflicts with part (b) of Policy LC 1 of the addendum to PPS 7 'Safeguarding the Character of Established Rural Areas' (addendum to PPS 7). The loss of open space will have an unacceptable impact on the character of the area. The result will be built development on an area of open space which was previously considered necessary to serve the dwellings to the south and west.
- 3.20 The evidence provided by a third party, including photography, suggests that the developer was aware of the requirement to provide open space at the appeal site. This photographic evidence conflicts with the Appellant's position that residents were advised from the outset that the appeal site was to be developed for a dwelling. The third-party submission supports the use of the site for open space.
- 3.21 An additional 3rd party concern, relating to the sightlines, was considered during the processing of the planning application. This objection refers to the sightlines associated with a previous grant of planning permission. The Department for Infrastructure (Roads) were consulted and raised no objections to the current proposal.

4.0 3rd PARTIES CASE

- 4.1 A representation was submitted to the appeal, the stated final position is that the appeal site represents an eyesore and would be best resolved via approval of the proposed dwelling.
- 4.2 An additional representation was made during the processing of the planning application. This representation referred to the approved sight visibility splays associated with the original grant of planning permission and concerned the relocation of a boundary fence to allow for the provision of the same. An agreement was verbally undertaken with the developer, but the offer was never legally signed off. The representation states that the sight lines associated with the original planning permission are not legal.

5.0 APPELLANT'S CASE

- 5.1 A development management officer report, (DMOR) dated 15th January 2021, recommended that the proposal should be approved subject to planning conditions. On 17th May 2022, the proposal was recommended by the Council's Planning Authority for refusal. Clarification is sought on why the recommendation was changed and what influenced this change in the decision-making process. In the original DMOR, the case officer did not refer to PPS 8 and no issues were raised regarding open space. The policy context of PPS 8 cannot be applied where the provision of open space does not exist, or the provision is not zoned in a development plan.

- 5.2 Planning permission C/2007/0616/F for five dwellings failed to include any planning conditions for the provision of the communal open space. Planning permission C/2014/0306/F, for a single dwelling, included a planning condition for the provision of communal open space.
- 5.3 The lawfulness and/or effectiveness of the condition is contested. The condition was attached to the grant of planning permission for a single dwelling to retrospectively provide communal open space. The site location plan, approved under C/2014/0306/F, demonstrates that the red line of this permission includes the single dwelling only and excludes the other five approved dwellings. The occupants of the five dwellings have no lawful entitlement to use this land as open space. They cannot form part of a management company for the future management of any formal open space granted under C/2014/0306/F.
- 5.4 From the outset, the proposed residents were advised that the appeal site was to be developed for an additional dwelling. None of the existing residents have any objection to this appeal development. They have stated that they wish to see a dwelling on the site to complete the entire development.
- 5.5 The appeal site has never been utilised nor has it functioned as public open space or amenity space. The appeal site was previously occupied by a single dwelling. It is currently used to store building products and equipment associated with the construction of the surrounding development. The appeal site is, due to boundary treatments including fencing and existing walls, not publicly accessible. Annex A of PPS 8 explains that open space is to be "*taken to mean all open space of public value*". The appeal site is not an amenity open green space of public value. It is not an informal recreation space or communal green space nor is it a village green. The approved open space, as detailed within C/2007/0616/F and C/2014/0306/F, has not been implemented. The appeal site remains in use for the storage of building materials. As such, the provisions of PPS 8 and paragraphs 6.200 and 6.205 of the SPPS are not applicable.
- 5.6 The appeal site is not subject to any designations or zonings that specify it must be developed as open space. The appeal site is fenced off and undeveloped. The appeal site has always been deemed a development site and does not present as open space nor does it adhere to open space principles as defined by PPS 8. It has always been the intention of the Appellant to construct a dwelling on the appeal site.
- 5.7 Policy OS 2 cannot be applied to C/2014/0306/F as it refers to a single dwelling. Condition 7 was attached to provide for the maintenance and management of communal open space for a single dwelling. The open space cannot be lawfully used or endorsed by any other property in the estate. It is unreasonable to expect the existing five properties to accept the burden, costs, and liability of maintaining and managing an element of open space not conditioned under their approval or explained to them when purchasing their homes.
- 5.8 Condition 7, attached to planning permission C/2014/0306/F, cannot be enforced in a lawful manner. The Council have failed to confer the objectives of PPS 8 and the SPPS, under planning reference C/2014/0306/F, to "*ensure that areas of open space are provided as an integral part of new residential development and that appropriate arrangements are made for their management and maintenance in perpetuity*".

- 5.9 The developer had purchased additional land from No. 18 Moneybrannon Road to increase the overall site area to incorporate the appeal site in good faith. If this appeal is unsuccessful and if the planning condition is deemed unlawful and cannot be enforced, then it is likely the appeal site will remain in its current state, as a visual eyesore. The development of the appeal site will provide planning gain for all interested parties in this estate.
- 5.10 The two appeal cases cited by the Council are not on par with the appeal site. Policy OS 2 of PPS 8 states that the need for public open space will be considered on its merits.
- 5.11 The appeal site is situated within a newly established residential development of six detached two storey dwellings. These dwellings all have ample front and rear private amenity space. There is no merit in providing public open space at this location. Each individual plot has an open frontage of green space extending onto the service road. The appeal site is one of the larger sites within the area, measuring 607 square metres. The massing and scale of the proposed dwelling would be similar in terms of design, scale and finishes to the existing dwellings in the area. In keeping with the character of the area, the open nature of the estate will be retained through the design of the appeal site including the proposed open frontage. The boundary of the appeal site closest to the access road will be open and kept free from any structure, like the existing properties. The site of the single dwelling, approved under C/2014/0306/F, is set back from the service road and its frontage is comprised of a large area of grass. The proposed plans indicate a small landscaped/planted area to the rear of the site, enclosed with a 1.8m high fence to safeguard private amenity for existing and proposed residents.
- 5.12 The existing development represents a low-density scheme of 14.5 units per hectare which is appropriate to this rural area. The proposed development will increase the density to 17 units per hectare. This is a comparably low-density scheme appropriate to this rural area.
- 5.13 This development is located within a small rural settlement. The design, form, material, and detailing have already been pre-selected for this dwelling by the construction of the existing housing in the estate. The overall scale and density of the proposed development respects the overall form and character of the entire settlement without any detrimental impact on its character. The appeal site is situated at the heart of this settlement and represents a disused builder's compound for the storage of building materials. The construction of a dwelling on this site will consolidate the existing development by removing this inappropriate use, thereby enhancing the overall character of the area.
- 5.14 The appeal site has never been developed as open space. In its current capacity, the site offers no amenity value, nor can it be viewed as providing an attractive outlook. Each existing dwelling has an adequate separation distance from the appeal site which offers no value to neighbouring residents. It is not accessible. It is not visually attractive. It does not enhance safety, especially for young children. The issues regarding the proposed boundary treatments are not considered to be contentious. Suitable boundary treatments can be provided by way of a planning condition. However, given the open nature of the entire site and the proposed location of the fencing and its length, a condition would be unnecessary.

6.0 CONSIDERATION

- 6.1 The main issues in this appeal are whether the appeal site constitutes an area of open space and whether the proposal would create a quality residential environment.
- 6.2 Section 45(1) of the Planning Act (NI) 2011 (the Act) requires the Commission, in dealing with an appeal, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act states that where regard is to be had to the LDP, the determination must be made in accordance with the Plan, unless material considerations indicate otherwise.
- 6.3 The Northern Area Plan 2016 (NAP) operates as the LDP for the area within which the appeal site lies. Within it, the appeal site is located within the settlement limit of Clarehill. The LDP directs that regional policy for housing development is currently contained within several Planning Policy Statements including PPS 8, PPS 7 and the Addendum to PPS 7. These are considered below.
- 6.4 The SPPS sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy (PS) for their council area. No PS has been adopted for this Council area. During the transitional period, the SPPS retains certain existing Planning Policy Statements including PPS 7, the addendum to PPS 7 and PPS 8. There is no conflict between the provisions of the SPPS and those of the retained Planning Policy Statements regarding issues relevant to this appeal. In line with the transitional arrangements, as set out in the SPPS, retained policy PPS 7, its amendment and PPS 8 provide the relevant policy context for determining this appeal. Guidance contained within 'Creating Places' and DCAN 8 are also material considerations.
- 6.5 The Council's corporate and final position was to refuse the proposal, now subject to appeal. The concerns raised around the processing of the planning application are matters for the Council and the Appellant. The provisions of PPS 8, if they apply to the appeal proposal, cannot be set aside and their applicability will be considered below. Appeals 2022/A0012 and 2021/A0233, which were referred to in the evidence, have not been appended so I cannot compare them to the appeal proposal. The stated final position of the 3rd party, that planning permission should be granted, is noted. The visibility specification relates to the grant and implementation of a previous planning permission, cited by the 3rd party as the original grant of planning permission at this site. This issue relates to a separate access to that of the appeal proposal. Therefore, it is not a matter for this appeal.
- 6.6 Policy OS 2 of PPS 8 relates to "*proposals for new residential development of 25 or more units, or on sites of one hectare or more, where public open space is provided as an integral part of the development. In smaller residential schemes the need to provide public open space will be considered on its individual merits*". The proposed development for one dwelling on a site less than one hectare falls under these stated thresholds in the policy. It is evident from the wording of the policy, together with justification and amplification, that reference to smaller residential schemes means a scheme of more than one dwelling and will be considered on its individual merits. As such, the Council's reliance on Policy OS 2 is misplaced and the second reason for refusal is not, therefore, sustained.

- 6.7 Policy OS 1 of PPS 8 'Protection of Open Space' indicates that development that would result in the loss of an existing open space will not be permitted. The policy states that the presumption against the loss of existing open space will apply irrespective of its physical condition and appearance.
- 6.8 Open space is defined in Annex A of PPS 8. This states that "*open space is taken to mean all open space of public value, including not just land, but also inland bodies of water such as rivers, canals lakes and reservoirs which offer important opportunities for sport and outdoor recreation and can also act as visual amenity*". Annex A lists a typology illustrating the broad range of open spaces that are of public value. This includes amenity green space (most commonly, but not exclusively in housing areas) including informal recreation areas, communal green spaces in and around housing, and village greens. Annex A also notes that most areas of open space can perform multiple functions which include providing landscape buffers within the urban area and improving the quality of life for communities by providing attractive green spaces close to where people live. Corresponding to the typology at Annex A, it seems that the appeal site could constitute an amenity green space in association with the recently constructed housing development. It could also act as a visual amenity for the surrounding housing development. In relation to this last point, A3 criterion (vi) of Annex A indicates that, even without public access, people enjoy having open space near to them to provide an outlook, variety in the urban scene, or as a positive element in the landscape.
- 6.9 The implementation of planning permission C/2007/0616/F saw the demolition of a dwelling and the construction of five dwellings on lands south of the appeal site. In accordance with the stamped approved plans associated with it, in particular approved plan 04A, the appeal site is shown as a landscaped area of open space. The absence of a condition relating to the maintenance and management of this open space does not preclude the future use of the land as open space in accordance with the planning permission. Plainly, permission C/2007/0616/F demonstrates that the appeal site was to be utilised as an area of open space.
- 6.10 Planning permission C/2014/0306/F approved the appeal site as an area of open space. It was shown hatched green on approved drawing 3H. Condition 7 thereof states that "*details of the maintenance and management of the open space communal area and landscaped areas, as indicated by the green hatched area on drawing No. 3H, date stamped 20/11/2017, by a Management Company supported by a charitable trust or properly constituted residents association with associated management arrangements or other such arrangements agreeable to the planning authority, including a signed copy of the Memorandum and Articles of Association in accordance with the Management Plan, shall be submitted to and agreed with the Planning Authority before the residential unit is occupied*". The reason cited for the condition was "*to ensure the establishment and continuity of the approved open space, communal areas, and amenity areas through the long-term maintenance to achieve a quality residential development*". Whilst the condition has not been discharged, the planning history, including condition 7, demonstrates the planning objective was to keep the area free from development as an area of open space.
- 6.11 The area of open space defined on the approved plans was included within the red line boundary of both planning permissions. At the time of the grant of planning permission for C/2014/0306/F, the applicant accepted the conditional approval and

the requirement to provide details for the maintenance and management of the approved open space. Conditions associated with the grant of planning permission will bind the owners of that land (and successors) in title. The provision of the open space and the associated planning condition was considered necessary by the Planning Authority for the residential development at this location. There are procedural options available to developers to contest the lawfulness, reasonableness and enforceability of a planning condition. In the context of this appeal, the condition remains in place.

- 6.12 Part of the appeal site is currently used to store building materials and equipment. It is not used as public open space and it is not publicly accessible, however this is not fatal given the wording within PPS 8. Whilst current access is physically curtailed, both the present use of the land and the security fencing are temporary. It is considered that the builder's compound can be dismantled, with materials and other temporary items readily removed. It has not been demonstrated that the temporary use as a builder's compound lawfully changes the use of the site. The planning permissions, as implemented and associated with the appeal site, and the typology, as earlier identified within PPS 8 Annex A, demonstrate that the approved land use is public open space. Even without the benefit of the planning history, the appeal site, which is an area of semi natural urban green space and acts as a visual amenity, would still represent existing open space of obvious public value pursuant to PPS 8. For the reasons given above, I am satisfied that the appeal site is open space.
- 6.13 Policy OS 1 has a presumption against the loss of open space regardless of its physical condition or appearance unless exceptions are met. The current physical condition and appearance of the site does not therefore assist the Appellant's case. As an alternative, a small triangular area of open space was proposed, within the appeal site, on lands to the rear of the proposed dwelling and garage. The proposed area of open space would be significantly smaller than that provided for under the two planning permissions. When compared to the approved open space, which would be accessed along the full length of Clarehill Court, access to the proposed open space would be restricted to a small section of the road. Given its reduced size, irregular shape and limited accessibility the proposed open space would not, therefore, be equivalent in terms of size, usefulness, or quality.
- 6.14 Policy OS 1 is clear that it will not permit development that would result in the loss of existing open space unless certain exceptions are met. However, no appropriate exceptions to the policy have been presented for consideration. Even if I were to take into account the Appellant's planning gain argument, there is no substantial community benefits which distinctly outweigh the loss of the open space. The appeal site lies at the core of the Clarehill Court development. Given the limited amount of private amenity space surrounding the six dwellings, and my observations, it is understandable why the Planning Authority required the provision of public open space as it helps to compensate for the limited private space of the existing residents. As an area of approved open space, it should act as an important communal space, and it currently provides a visual amenity and should be retained in accordance with the provisions of Policy OS1 of PPS 8. The Council's first reason for refusal is sustained.
- 6.15 Policy QD 1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a

quality and sustainable residential environment. All proposals for residential development will be expected to conform to all of the criteria listed in Policy QD1 (a) through to (i) (emphasis added). Criterion (a) requires that the development respects the surrounding context and is *"appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures, landscape and hard surfaced areas"*. Policy LC 1 of the addendum to PPS 7 reinforces this policy requirement with criterion (b) relating to the pattern of development. I note that the Council had no objections in terms of density.

- 6.16 Notwithstanding dwelling No. 06, the footprint of the appeal dwelling, and its plot, would be larger than the existing footprints of those dwellings at Nos. 1 – 5 Clarehill Court. Whereas, all the existing dwellings have a direct relationship and frontage to Clarehill Court, the proposed development would be accessed from the Moneybrannon Road. Therefore, it would read as set apart from the surrounding layout and pattern of development of Clarehill Court. Nos. 1 – 5 Clarehill Court would look out on to the side elevation of the proposal and No. 6 Clarehill Court would look out onto the proposed area of open space and the rear elevation of the proposed development. In addition, there would be adequate private amenity space surrounding the proposed dwelling. By comparison, Nos. 1 – 5 Clarehill Court have relatively small private amenity space provision. Therefore, the proposed development would not respect its surrounding context, nor would it present as an attractive outlook for the existing residents. 'Creating Places' points to well-designed layouts which should seek to minimise overlooking. Given the overall layout of the housing development, the limited distance and the orientation of the existing dwellings relative to the appeal proposal, there would only be unacceptable overlooking from No. 03 Clarehill Court into the proposed dwelling and its private rear amenity area. For the above reasons, the Council's objections under criterion (a) of Policy QD1 of PPS 7 and Policy LC 1 of the amendment to PPS 7 are sustained.
- 6.17 Policy QD1 criterion (c) requires that adequate provision is made for public and private open space and landscape areas as an integral part of the development. The Council accept that the quantum of open space provision exceeds the minimum standards, therefore, this objection is not sustained. The Council's argument in respect of criterion (c) is better captured under criterion (h). Nevertheless, for the reasons given, the objections pertaining to overlooking are sustained.
- 6.18 Policy QD 1, criterion (g), requires that the design of the proposed development draws upon the best local traditions of form, materials and detailing. Paragraph 4.21 of PPS 7 states that developers will be required to provide details of boundary treatment of buildings as this can significantly affect the overall quality and character of new housing. The Council's issue lies with the lack of treatment shown for the southern and western boundaries of the appeal site. The permanent boundary treatments in the vicinity of the appeal site consist of a mixture of open private amenity space, close boarded fencing, walls and hedgerows. The developer is not proposing the wholesale use of close boarded fencing to enclose the entire appeal site. The boundary treatments to the south of the proposed dwelling are to remain open and free from structures. There is a proposed 1.2 metre high fence proposed along the eastern boundary. The proposed open nature of the southern boundary would reflect the open character of the existing private amenity space at the front of the existing six dwellings at Clarehill Court. The remaining boundary treatment

associated with the appeal site, and particularly those treatments required for the private amenity space to the rear, could be dealt with by the provision of planning conditions. Therefore, this objection is not sustained.

- 6.19 The appeal site constitutes an area of open space and the planning gain arguments presented do not outweigh the presumption to retain it. Notwithstanding the withdrawal of some of the residents' objections, the proposal is contrary to Policy OS 1 of PPS 8, Policy QD 1 of PPS 7, Policy LC 1 of the amendment to PPS 7 and the related provisions of the SPPS. The Council's first and third reasons for refusal are sustained insofar as stated and are determining in the appeal.

7.0 RECOMMENDATION

- 7.1 I recommend to the Commission that the appeal be dismissed.

- 7.2 This recommendation relates to the following drawings: -

- Council reference Drawing No. 01;
- Council reference Drawing No. 02 (Rev 3);
- Council reference Drawing No. 03 (Rev 01); and
- Council reference Drawing No. 4.

List of Documents

Planning Authority: -	"Cou 1" Statement of Case "Cou 2" Rebuttal Statement
Appellant: -	"App 1" Statement of Case "App 2" Rebuttal Statement
Third Party: -	"TP1" Statement of Case "TP 2" Rebuttal Statement