

Title of Report:	Planning Committee Report – LA01/2023/0482/F
Committee Report Submitted To:	Planning Committee
Date of Meeting:	27th August 2025
For Decision or For Information	For Decision – Referred Application by Alderman Mark Fielding

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	Development Management and Enforcement Manager

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

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
	Screening Completed:	N/A	Date:

Section 75 Screening			
	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:

No: LA01/2023/0482/F **Ward:** Greysteel

App Type: Full

Address: Lands approximately 146m SW of no. 132 Clooney Road, Eglinton, BT47 3DX

Proposal: Retention of existing mobile coffee kiosk, ancillary portaloo and storage container

Con Area: N/A **Valid Date:** 11.05.2023

Listed Building Grade: N/A

Agent: MKA Planning Ltd, 32 Clooney Terrace, Derry

Applicant: Mr Alan Hunter. 132 Clooney Road, Eglinton, Derry. BT47 3DX

Objections: 0 **Petitions of Objection:** 0

Support: 0 **Petitions of Support:** 0

EXECUTIVE SUMMARY

- Full planning permission is sought for the retention of an existing mobile coffee kiosk, ancillary portaloo and storage container at lands 146m SW of 132 Clooney Road, Eglinton.
- The proposal is contrary to SPPS Para 6.73 and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.
- The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement and Policy CTY 11 of Planning Policy Statement 21, in that it; has not been demonstrated that the coffee kiosk is being run in conjunction with the agricultural operations on the farm, is not of an appropriate design, fails to integrate and will have a negative impact on the character of the countryside.
- A different farm business is operating the coffee kiosk at present, and the leasing of farm land to another farm business is not sufficient in meeting the requirements of a farm diversification scheme.
- Refusal is recommended.

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 the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **REFUSE** full planning permission subject to the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located within the rural area as identified within the Northern Area Plan (NAP) 2016. The site is approx. 1 mile NW of the settlement limits of Greysteel, and is adjacent to the A2 Protected Route, and is not subject to any further specific zonings or designations.
- 2.2 The site incorporates an existing access off Clooney Road, a gravel yard containing an approved self-serve farm shop, an EV charge point, Bow-topped coffee kiosk, storage shipping container, portaloo and moveable picnic tables and parasols. The development is arranged around the edges of the site, leaving parking space in the middle. The area has been defined by post and wire fencing and hedgerow on the southern boundary, ranch fencing on the western and northern boundary, and the eastern boundary has not been defined other than the distinction between the hardstanding and field grass.
- 2.3 The site plan shows a different arrangement than what is currently on site however given the mobile nature of the proposals this is not sufficient to warrant making the application invalid. It is noted, however, that the storage container currently at the site is larger than what is shown in submitted drawings, and updated plans have not to date been received.

3 RELEVANT HISTORY

3.1 Application Number: LA01/2018/1303/LDE

Decision: Appeal Dismissed

Decision Date: 28 January 2019

Proposal: Material change of use from agricultural land to use of land as a farm shop for Longfield Farm, ancillary storage of farm produce and car parking.

3.2 Application Number: LA01/2019/0849/F

Decision: Permission Granted

Decision Date: 16 November 2021

Proposal: Retention of existing farm shop for Longland Farm, ancillary storage of farm produce and car parking.

4 THE APPLICATION

4.1 This is a full application for the retention of an existing mobile coffee kiosk, ancillary portaloo and storage container.

5 PUBLICITY & CONSULTATIONS

5.1 External

No neighbours and no representations.

5.2 Internal

Department for Infrastructure (Roads) – No objection

DAERA – No objection

Environmental Health – No objection, provision of conditions

6 MATERIAL CONSIDERATIONS

- 6.1 Section 45(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.

7.0 RELEVANT POLICIES & GUIDANCE

- 7.1 The application has been assessed against the following planning policy and guidance:

[Regional Development Strategy 2035.](#)
[Northern Area Plan 2016.](#)
[Strategic Planning Policy Statement.](#)
[PPS 3: Access, Movement and Parking.](#)

8.0 CONSIDERATIONS & ASSESSMENT

PPS 21: Sustainable Development in the Countryside

- 8.1 Taking into account the transitional arrangements of the SPPS, the retained PPS 21 provides the relevant policy context for the proposal. The main considerations in the determining of this proposal are; the principle of development and visual impact on the rural area.

Principle of development

- 8.2 Policy CTY11 states that planning permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. The following criteria will apply:
- a) the farm or forestry business is currently active and established;
 - b) in terms of character and scale it is appropriate to its location;
 - c) it will not have an adverse impact on the natural or built heritage;
 - and
 - d) it will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.
- 8.3 It has not been demonstrated that the coffee kiosk, portaloo and storage container are to be run in conjunction with the agricultural operations on the farm. A letter was submitted on 26th March 2025 by the agent on behalf of one Wilton Goligher, a neighbouring farm owner, who states that he noticed an opportunity to diversify his farm business when the applicant offered the site for rental. Mr. Goligher has been operating the site for two years, and states that the coffee hut provides coffee and wraps to passing trade and local business.
- 8.4 Mr. Goligher's letter goes on to state that the coffee kiosk uses produce from the applicant's farm (Mr. Hunter), as well as sourcing

produce from other local providers. He has listed 'free range eggs, potatoes for baked potatoes, carrots, cauliflower and broccoli when in season'. It is unclear if these are sourced from the applicant's farm or other local providers as mentioned.

- 8.5 A menu posted to social media from the coffee kiosk operators on 27th March 2025 listed a number of items on offer, including toasties, wraps, paninis, salads, sausage rolls, scones, and a variety of hot and cold drinks. Such items are not produced or made from produce sourced on the applicant's farm and therefore are not associated with the farm operations.
- 8.6 This is contrary to the opening section of Policy CTY11, as the operations on the site are associated with another farm business, not that of the applicant, and no additional details in relation to Mr. Goligher's farm have been provided.
- 8.7 The leasing of farmland to another farm business is not sufficient to justify a farm diversification project in this instance.
- 8.8 The agent submitted a planning statement with the application which outlined that the (applicant's) farm business is active and established, that the kiosk will be run in conjunction with the existing farm business and is proportionate to the existing farm business. The letter from Mr Goligher conflicts with this as it is claimed that another farm business is responsible for the development.
- 8.9 Notwithstanding Mr Goligher's submission, the proposal has been described by the agent to complement the existing farm shop offering. Condition 2 of approval LA01/2019/0849/F restricted the sale of goods within the farm shop solely to Longland Farm produce. A coffee kiosk is not an acceptable extension to the approved offering as the farm shop was restricted to the sale of the farm produce only. The overall nature of the proposal remains contrary to the opening guidance outlined in CTY 11. Similarly, the coffee kiosk and ancillary structures

are not considered to be any of the exceptions outlined in Paragraph 6.279 of the SPPS. The coffee kiosk should be directed to a more appropriate location and is an inappropriate facility in the countryside, and must be resisted.

- 8.10 The proposed roadside development is unacceptable in its location given the high levels of visibility and rural nature of the site. While the farm shop has been approved and established, it sits some 40m from the public road, is screened by the backdrop of mature trees to the north, and its design ensures minimal visual impact when viewed from the public road. In contrast, the works under consideration are less than 15m from the public road, and while there is some degree of screening provided by the hedge along the southern boundary, the site attracts midrange views when travelling from both directions, and the works do not appear to cluster with the existing facilities on account of the spacing arrangement within the site.
- 8.11 The agent presented that the coffee kiosk is reminiscent of a traditional caravan which is characteristic in the rural area. While this may traditionally have been the case, it is not a common feature in the nearby surrounding area and there are no examples of such development evident or raised as precedent. The cumulation of structures of varying forms and design on the site do not result in a cohesive group of rural buildings, and are therefore out of character in the rural and roadside location. It is not accepted that the large storage container or portaloo on the site at present are reminiscent of traditional rural development.
- 8.12 There is no concern in relation to impacts on natural or built heritage.
- 8.13 Environmental Health sought clarification on opening hours and what equipment was involved in the functioning of the kiosk. Following additional correspondence with the agent, Environmental Health offer no objection to the proposal subject to suggested conditions. The works are approx. 145m from 132 Clooney Road and 100m from 16

Brisland Road, both of which are considered to be a sufficient distance to mitigate any detrimental amenity impacts, including potential problems arising from noise, smell and pollution.

- 8.14 The proposal does not involve the re-use or adaptation of existing farm buildings, however consideration is given to the history on the site, where the principle of development outside of the existing farmyard was found to be acceptable. Notwithstanding, the assessment above remains in that it has not been demonstrated that the development will be run in conjunction with the farm business, it is not of an appropriate design, it fails to integrate and it will have a negative impact on the character of the countryside. The proposal is contrary to Policy CTY11.
- 8.15 The SPPS also requires the proposal to be run in conjunction with the agricultural operations of the farm in order to be an acceptable form of farm diversification. For this reason the proposal fails Paragraph 6.73 as it has not been demonstrated that the proposal is being run in conjunction with the agricultural operations of the farm. As there is no policy basis for the works at this location, the proposal also fails Policy CTY1, in that there are no demonstrated overriding reasons why the proposal could not be located within a settlement.

Access

- 8.16 DfI Roads offer no objection to the proposal, citing the location and ongoing established business. Further clarification was sought by email for comment in relation to access onto the lane which extends from the protected route. The Roads case officer confirmed that they offer no objection to the proposal. Clooney Road is a protected route however the site accesses onto a lane rather than directly onto Clooney Road.

Habitat Regulations Assessment

- 8.17 The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas 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, conservation objectives or status of any of these sites.

9.0 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 and Planning Policy Statement 21 – Sustainable development in the Countryside, CTY 1 and CTY11, in that it has not been demonstrated that the development will be run in conjunction with the farm business, it is not of an appropriate design, it fails to integrate and it will have a negative impact on the character of the countryside.

10.0 Reasons for Refusal

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential and could not be located within a settlement.
2. The proposal is contrary to Paragraph 6.70 and 6.73 of the Strategic Planning Policy Statement for Northern Ireland and CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, it has not been demonstrated that the development will be run in conjunction with the farm business, it is not of an appropriate design, it fails to integrate and it will have a negative impact on the character of the countryside.

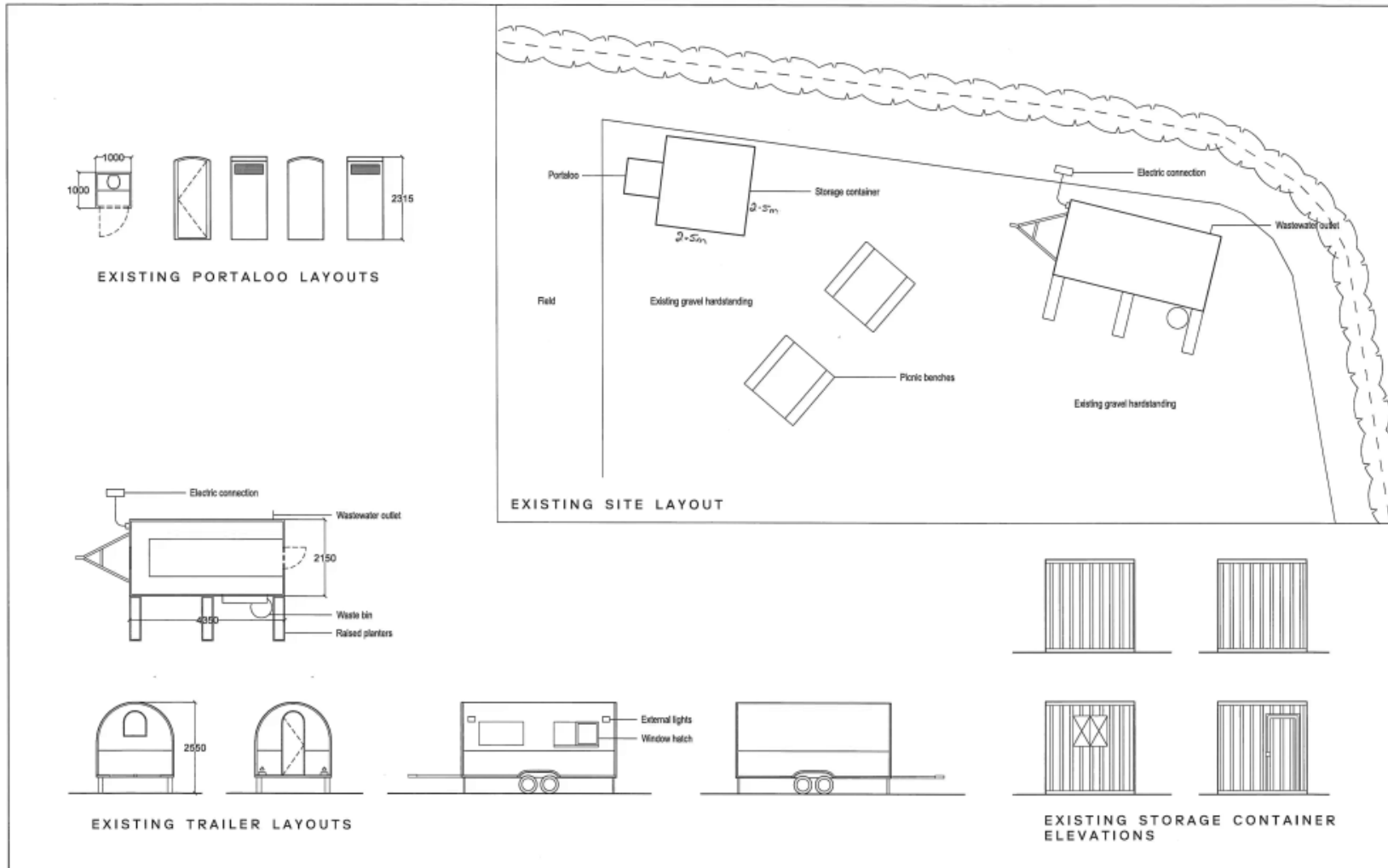
Site location Map



250827

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Proposed Site Plan and Elevations



250827

Referral Request

Planning Reference LA01/2023/0482/F

Elected Member Name Mark Fielding

Contact Details Tel :

E-mail

Reasons below, to refer application to Planning Committee - Retention of existing mobile coffee kiosk, ancillary portaloo and storage container at Lands approximately 146m SW of no.132 Clooney Road Eglinton.

Refusal 1: The proposal is contrary to Policy CTY1 of PPS 21, Sustainable Development in the Country side in that there are no overriding reasons why this development is essential and could not be located within the settlement.

Reason to refer - This is a general reason for refusal. If the other reason falls, then this reason cannot be sustained.

Refusal 2: The proposal is contrary to Paragraph 6.70 and 6.73 of the Strategic Planning Policy Statement for Northern Ireland and CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, it has not been demonstrated that the development will be run in conjunction with the farm business, it is not of an appropriate design, it fails to integrate and it will have a negative impact on the character of the countryside.

Reason to refer -The kiosk is run by another local farmer, who is well known to the Applicant. He uses the produce from the Applicant's farm within the kiosk. In terms of character, it is a mobile coffee kiosk which is of a quirky design, not unlike a traditional caravan which is a characteristic in the rural area and particularly on farms where they provided seasonal accommodation for seasonal workers. The proposal has a backdrop of mature vegetation which assists in the visual integration. The kiosk is visually more attractive than the already approved shipping container adjacent. There is no negative impact on the character of the area from this kiosk. With regard to scale, the kiosk is relatively small and only slightly higher than the roadside hedge. It is also smaller than the existing shipping container shop that has been approved.

The facility requires a roadside location to be successful, and meets an existing rural need. This wider area has an airport and an industrial estate, and provides beverages and snacks to passing commuters and visitors to the area. The kiosk is open from 7:30am to 3:00pm and employs 2 local people as well.

There has been no objections from members of the public or statutory consultees.

CTY 11 is a permissive policy, and this is not a large-scale proposal or existing urban based enterprise relocating from an urban area. A kiosk of this size and scale is entirely appropriate for this location and is seen at other similar roadside locations throughout the countryside.

Addendum

LA01/2023/0482/F

1.0 Update

- 1.1 The Planning Department refers to PAC decision Reference 2012/A0073 Flo Road, Kildress. In this appeal the PAC discuss the requirement “to be run in conjunction with the agricultural operations of the farm” as required in Policy CTY11 of PPS21. The PAC concluded that the term suggests that there should be some sort of joint management of the business or some form of business connection. The PAC concluded that in that case it had not been demonstrated that the appeal proposal is to be run in conjunction with the agricultural operations on the farm and was therefore not a valid farm diversification proposal.

2.0 Recommendation

- 2.1 That the Committee note the contents of this Addendum and agree with the recommendation to Refuse the application in accordance with Sections 1 and 9 of the Planning Committee Report.

Addendum 2

LA01/2023/0482/F

1.0 Update

- 1.1 The Planning Department refers to PAC decision 2024/E0021 Kircrubbin Road, Ballywalter. This is an enforcement appeal for the alleged unauthorised material change of use of land for use as a coffee shop and associated external seating area; extension of hardstanding and siting of two wooden buildings used in association with the coffee shop. In the ground (a) and the deemed planning application section of the enforcement appeal, the PAC discussed the main issues namely, the principle of development, integration, design and rural character, residential amenity, road safety and risk to flooding and concluded that the reasons for refusal were sustained and that the ground (a) appeal should fail.

2.0 Consideration

- 2.1 In appeal PAC 2024/E0021 the Commissioner discusses the promotion within the SPPS for 'a town centre first location of retailing and other main town centre uses' in relation to a coffee shop and associated external seating area in the countryside. Of relevance to LA01/2023/0482/F, the PAC notes that no evidence of a sequential test was provided, the proposal is not supported by TSM2 or TSM7 of PPS15, the development does not present as a high quality form of development, appearing as incongruous in the landscape and there are no overriding reasons why the development is essential and could not be located within a settlement. The Commissioner concludes that they are not persuaded that the business requires a rural location.

3.0 Recommendation

- 3.1 That the Committee note the contents of this Addendum and agree with the recommendation to Refuse the application in accordance with Sections 1 and 9 of the Planning Committee Report.

Enforcement Appeal Decision

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Appeal Reference:	2024/E0021
Appeal by:	Mr. Marcus Green
Appeal against:	An Enforcement Notice dated 13th June 2024
Alleged breach:	Alleged unauthorised: material change of use of land for use as a coffee shop and associated external seating area; extension of an area of hardstanding, beyond the area shown hatched in yellow on the attached map; siting of two no. wooden buildings used in association with the coffee shop; intensification of domestic access approved under X/2005/0292/RM, being used in association with the unauthorised coffee shop use.
Location:	Land adjacent to 18 Kircubbin Road, Ballywalter
Planning Authority:	Ards and North Down Borough Council
Authority's Reference:	LA06/2022/0092/CA
Procedure:	Informal Hearing on 13th May 2025
Decision by:	Commissioner Diane O'Neill, dated 20th August 2025

Grounds of Appeal

1. The appeal was brought under Grounds (a), (b), (d), (f) and (g) as set out in Section 143(3) of the Planning Act (NI) 2011 (the Act). There is a deemed planning application by virtue of Section 145(5) of the Act which relates to the appeal development on the site. Ground (d) was withdrawn in the appellant's statement of case.

The Notice

2. Section 140(1)(a) of the Planning Act (Northern Ireland) 2011 (the Act) states that an enforcement notice must state the matters which appear to the council to constitute the breach of planning control. Section 140(2) of the Act states that a notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are. Section 140(3) of the Act also states that the enforcement notice must specify the steps which the council requires to be taken, or the activities which the council requires to cease.
3. Under Section 144(2) of the Act the Commission may correct any misdescription, defect or error in the enforcement notice, or vary its terms if it is satisfied that the correction or variation can be made without injustice to the appellant or to the council.
4. Part 3(2) of the Enforcement Notice (EN) states that one of the alleged breaches was the unauthorised extension of an area of hardstanding, beyond the area

shown hatched in yellow on the attached map. As a consequence, Part 4(2) requires the removal of the authorised extension of hardstanding not including the area shown hatched in yellow on the attached map.

5. The appellant stated that the area identified was not accurate and that 'the whole area of hardstanding is new'. He also stated that he is content to revert the land back to what it was beforehand, otherwise he added that it would be an eyesore. The appellant did not present an argument that the area of hardstanding was immune from enforcement action and accepted that there would be no prejudice by amending the EN to refer to the whole of the area. The Council accepted the appellant's position. There would therefore be no injustice to the appellant or to the Council by amending the EN. Part 3(2) and Part 4(2) of the EN should therefore be amended by removing the reference to the area shown hatched in yellow on the attached map and state that the land should be restored to its original condition.

Ground (b)-that those matters have not occurred

6. The appellant appealed the alleged breach within Part 3(4) of the EN which stated that it appeared that there had been the unauthorised intensification of the domestic access approved under planning application X/2005/0292/RM with it being used in association with the unauthorised coffee shop use. The appellant stated that the new access arrangements, including the visibility splays, were formed less than 5 years ago when the site was redeveloped for the appellant's business, The Lane Coffee Hut, that the domestic access was abandoned for more than 10 years and therefore that the intensification of a domestic access has not occurred.
7. Following consultation with DfI Roads, the Council accepted that the domestic access approved under planning application X/2005/0292/RM was never implemented. As a result, the Council and appellant were content that the EN should be amended.
8. The ground (b) appeal therefore succeeds to the extent that Part 3(4) of the EN is amended by removing the reference to the unauthorised intensification of domestic access approved under X/2005/0292/RM.

Ground (a) and the Deemed Planning Application

9. The main issues are whether the development would be:
 - acceptable in principle
 - detrimental to rural character
 - detrimental to residential amenity
 - prejudicial to road safety, and
 - at risk of flooding
10. Section 45 (1) of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan, so far as material to the application, and to any other material considerations. The Ards and Down Area Plan (ADAP) operates as the local development plan for the area where the appeal site is located. The site is outside any settlement development limit within

ADAP and is in the countryside. The ADAP has no material policies for dealing with the development.

11. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. The SPPS retains certain existing planning policy statements and amongst these are PPS 3 Access, Movement and Parking, PPS 4 Planning and Economic Development, PPS 15 (Revised) Planning and Flood Risk, PPS 16 Tourism and PPS 21 Sustainable Development in the Countryside which provide the relevant policy context for the appeal development. PPS 1 General Principles, referred to by the appellant, was cancelled by the introduction of SPPS.
12. The Council provided five reasons for refusal for the appeal development. The first reason was that the unauthorised change of use is contrary to SPPS Paragraphs 6.73 and 6.271 and that the lack of information fails to meet Paragraph 6.280. Paragraph 6.73 of the SPPS identifies the strategic policies to be taken into account when considering residential and non-residential developments. In terms of non-residential development, no argument was presented that the appeal development is for farm diversification, agricultural or forestry development or is for the conversion and re-use of existing buildings for non-residential use. Paragraph 6.74 of the SPPS states that other types of development in the countryside should be considered as part of the development plan process in line with the other policies set out within the SPPS.
13. Paragraph 6.271 of the SPPS promotes a town centre first approach for the location of retailing and other main town centre uses. Paragraph 6.280 of the SPPS goes on to state that a sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date LDP. The development of inappropriate retail facilities in the countryside is to be resisted. There is however a general exception to the overall policy approach for some retail facilities which may be considered appropriate outside of settlement limits including farm shops, craft shops and shops serving tourist or recreational facilities. It is added that such retail facilities should be required to be located within existing buildings. All policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment and meet the requirements of policy elsewhere in the SPPS (Paragraph 6.279, SPPS).
14. The appellant did not provide evidence of a sequential test being applied to the coffee shop development. The Council and objectors provided evidence that there are a number of vacant retail units within the various settlement limits within the Borough.
15. The appellant argued that the development is an appropriate economic development in the countryside meeting Policies TSM 2 and TSM 7 of PPS 16. PPS 16 aims to manage the provision of sustainable and high-quality tourism developments in appropriate locations within the built and natural environment. Policy TSM 2 Tourist Amenities in the Countryside states that planning permission will be granted for a tourist amenity in the countryside where it is demonstrated that it is in association with and requires a site at or close to a particular tourism attraction in the countryside or the type of tourist activity in itself requires a

countryside location. All proposals that include buildings must make provision in existing or replacement buildings, where possible. Paragraph 7.5 of the justification and amplification text states that a tourist amenity is defined by the Tourism (NI) Order 1992 as an amenity, facility or service provided primarily for tourists but does not include tourist accommodation. Paragraph 7.7 goes on to state that the impact of proposals on rural character, landscape and natural/built heritage is an important consideration.

16. The appellant stated that the aim of the SPPS is to help manage the provision of sustainable and high-quality tourism development in appropriate locations and that the appeal development acts as a tourist amenity within the centre of the Ards Peninsula. The appellant highlighted that the Council's Integrated Strategy for Tourism, Regeneration and Economic Development acknowledges the many significant assets within the Ards and North Down area, skills and education of its people and its geographic proximities to market opportunities. The Strategy also recognises the challenges faced in the Borough including its levels of economic productivity and that commuters travel elsewhere for employment.
17. The appellant argued that the appeal site is located in close proximity to several tourism attractions including the Ards Peninsula Way, Strangford Lough Cycle Trail, Mourne Coastal Route, Burr Point, Ballywalter Beach, the Great Wars Trail, Glastray Nature Reserve, Ballywalter and Ballyhalbert Airports, and Strangford Lough. The surrounding landscapes, loughs and beaches are regarded by the appellant to be significant visitor attractions in their own right. The Lane Coffee Hut is seen to provide a valuable amenity service for the tourists and locals, catering for walkers, sightseers, cyclists, those visiting the Ards Peninsula and surrounding areas while providing and supporting locally sourced produce. As tourists would be enjoying the Northern Ireland countryside, the appellant argued that the coffee shop requires the countryside location. The development is regarded as according with the aims and objectives of the RDS and the SPPS including by supporting the local tourism economy, providing employment opportunities and infrastructure for local people and tourists which support and sustain local communities. The appellant stated that the majority of the residents along the Kircubbin Road and neighbouring roads are customers of the coffee shop. The appellant highlighted that the policy only requires the tourist amenity to be within buildings where possible and as there were no existing buildings on site the appeal development consists of small temporary buildings.
18. It is acknowledged that there is general support in policy and by the Council for appropriate economic tourism development. Despite the appellant's business said to be shortlisted for an award and employing one full-time and three part-time members of staff, I do not consider that the appellant's coffee shop is an amenity, facility or service provided primarily for tourists. It is not associated with any particular tourism attraction in the countryside and the places of interest identified by the appellant cover a large geographical area. It was argued that the development allows cyclists travelling along the Strangford Lough Cycle Route an opportunity to rest and recover. However, the route is approximately 300m away and, as presented by the Council, this is an approximately 100-mile route which passes through numerous towns where such opportunities already exist. As stated by the appellant, the Lane Coffee Hut is only approximately 1.7 mile from Ballywalter, 1.5 miles from Ballyhalbert and 2.5 miles from Kircubbin. The beaches are not in close proximity given that the appellant stated that they are located $\frac{1}{2}$ - $\frac{3}{4}$

mile away. I am not persuaded that the appellant's business requires this rural location in terms of its functional or site/area specific requirements. The appeal site is not a unique location to allow tranquillity for people to relax and unwind as claimed by the appellant.

19. The appellant stated that a similar development has been assessed by other councils under Policy TSM 2. The example cited of a coffee bar and covered seating areas (planning permission LA01/2002/0853/F) was however located on lands at the car park used by visitors to Downhill Demesne and Mussenden Temple which is an existing tourist amenity owned by the National Trust. I therefore do not accept that it is comparable to the appeal development.
20. The appellant considers that the appeal development complies with Policy TSM 7 Criteria for Tourist Development which sets out the additional criteria for a tourism use, in addition to the other policy provisions of Policy TSM 2. The Council however considered that the development fails to meet criteria (b), (c), (g), (h), (j), (k), (l) and (m) of Policy TSM 7. Paragraph 6.91 of the SPPS also states that economic development must be assessed in accordance with normal planning criteria relating to such considerations as access arrangements, design, environmental and amenity impacts.
21. The appeal development consists of two wooden temporary buildings and hardstanding located directly adjacent to a public road. When viewed along the substantial road frontage, it has no natural screening along the critical north-western roadside or rear south-eastern boundaries which respectively are defined by wooden fencing and a post and wire fence. The development does not present as a high-quality form of development in this rural location, appearing incongruous in the landscape.
22. Despite the normal opening hours of the coffee shop stated to be 10am-3pm from Wednesday-Saturday and the claimed 65m separation distance, numerous noise and waste complaints have been received by the Council in relation to the adverse impact that the appeal development has on the amenity of the residents of the adjacent detached residential property at No.18 Kircubbin Road. The objectors presented evidence that vehicles are being parked in the vicinity of the residential property, with customers passing in close proximity to the dwelling unacceptably affecting their privacy. The Council and objectors presented evidence from social media demonstrating that activities associated with the coffee shop had extended into the adjacent agricultural field located to the east of the coffee shop and No.18 Kircubbin Road. The activities were associated with events such as to celebrate summer, Christmas and Halloween. The appellant claimed that such events have not occurred recently, that the agricultural field is no longer available for usage and that additional screening could be introduced. However, evidence was presented by the objectors that family fun days, with a bouncy castle, face painting and craft activities, were also held on 30th March, 6th July, 24th August and 26th October 2024 within the appeal site area. The coffee shop was also open on Friday 23rd August 2024 for a road run which commenced at 6.30pm as well as on Friday 27th September 2024 for a craft event. A Christmas market was also held on 7th December 2024.
23. Given the close proximity and elongated site of the dwelling at No.18 Kircubbin Road, with the majority of its amenity space located to the south-west of the

dwelling adjacent to the appeal site, I am not persuaded that the appeal development, and the activities, customers and vehicles it attracts, does not give rise to unacceptable noise and nuisance for the residents of No.18 Kircubbin Road. This adverse impact is not acceptable within this otherwise quiet rural location and would not be satisfactorily overcome with the introduction of screening.

24. No information was presented in relation to how the development would deal with any effluent. In terms of its access arrangement, there are two accesses which serve the appeal development. The appellant accepted that visibility splays of 2.4m x 80m are required for the appeal development. Although the appellant made various suggestions as to how the access arrangement could be modified, such as that the access adjacent to No.22 Kircubbin Road could be closed, that hedgerow and a telegraph pole could be set back, these were not supported with substantive evidence to demonstrate that a safe form of access could be provided for the appeal development.
25. Policies TSM 2 and TSM 7 of PPS 16 therefore do not offer support for the appeal development. The Council's first reason for refusal is therefore sustained.
26. The second reason for refusal was in relation to Policies CTY 1 and CTY 8 of PPS 21 in that the development was not of a high level of design, would adversely impact on the amenities of neighbouring residents and would not meet other planning and environmental requirements.
27. The appellant argued that the appeal development satisfied the policy provisions contained within Policy CTY 8 of PPS 21 as it was regarded as the infilling of a small gap site with an appropriate economic proposal. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development, but in certain circumstances it may be acceptable to consider the infilling of a small gap site with an appropriate economic development proposal where this is of a scale in keeping with adjoining development, is of a high standard of design, would not impact adversely on the amenities of neighbouring residents and meets other planning and environmental requirements. The policy states that for its purposes, the definition of a substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
28. There is a line of 3 or more buildings along the frontage of Kircubbin Road comprising of the substantial dwellings and garages at Nos.18 and 22. The development at No. 20, located to the south-east of the appeal site, is still under construction. However, the access to No.20 does not read as a break in this frontage. The widths of the three roadside plots, including the appeal site, along the frontage of Kircubbin Road are not dissimilar. However, the appeal development involves modest buildings of a temporary construction which are not of a high standard of design and I have found that the development has an adverse impact on the amenity of neighbouring residents. As will be discussed later, due to the lack of long-established natural boundaries, the development does not meet Policy CTY 13 Integration and Design of Buildings in the Countryside of PPS 21. The temporary style, scale and size of the buildings are also poorly designed and sited on this prominent roadside plot causing a detrimental change to the rural character of the area which is also contrary to

Policy CTY 14 Rural Character of PPS 21. The appeal development therefore fails to meet the test for appropriate infill economic development. It does not meet Policy CTY 8 of PPS 21.

29. The appellant referred to planning appeal 2016/A0074 which related to the erection of a vehicle maintenance shed and yard for the storage of vehicles. The appeal decision stated that compliance with PPS 4 may not be the sole means of demonstrating the appropriateness of an economic development in a small gap site under Policy CTY 8. However, in the current appeal the appellant accepted that the development did not comply with PPS 4 Planning and Economic Development and I have not been persuaded that the appeal development is an appropriate economic development at this location. There are no overriding reasons why the development is essential and could not be located within a settlement.
30. As the development does not comply with the provisions of Policy CTY 8, it does not comply with Policy CTY 1 of PPS 21. The Council's second reason for refusal is sustained.
31. The third reason for refusal stated that the development is contrary to Policies CTY 13 and 14 of PPS 21 in that it does not integrate into the countryside and that it harms the rural character. The appeal development is located along the roadside of Kircubbin Road with post and wire fencing to the rear of the site and a timber fence along the road. Natural vegetated boundaries are therefore lacking along the critical roadside north-western and rear south-eastern boundaries to provide a visual backdrop or suitable sense of enclosure. The temporary wooden buildings and extensive hardstanding is inappropriate for this rural site and locality. Despite critical views only being available along the appeal site's frontage, from this view the development appears incongruous in the landscape, having an adverse impact on visual amenity and rural character. The third reason for refusal is therefore sustained.
32. The fourth reason for refusal was that the development was contrary to Policies PED 2, PED 6 and PED 9 of PPS 4 and that there are no exceptional circumstances which would justify its location outside a settlement. Policy PED 2 states that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of a number of policies including Policy PED 6 Small Rural Projects. Paragraph 5.10 of the justification and amplification text of Policy PED 2 highlights that there is a need, in the interests of rural amenity and wider sustainability objectives, to restrict the level of new building for economic development purposes outside settlements. In general, new buildings for such uses in the open countryside are to be strictly controlled. Policy PED 6 states that a small community enterprise park/centre or a small rural industrial enterprise on land outside a village or smaller settlement will be permitted where it is demonstrated that a number of criteria are met: there is no suitable site within the settlement; the proposal would benefit the local economy or contribute to community regeneration; and the development is clearly associated with the settlement, but will not dominate it, adversely affect landscape setting or otherwise contribute to urban sprawl. Policy PED 9 sets out the general criteria for economic development which has to be met in addition to the other policy provisions in PPS 4. The Council stated that the development did not meet criteria (b), (h), (j), (k) and (m) of Policy PED 9.

33. The appellant accepted that the development does not meet PPS 4. It has not been demonstrated that the coffee shop could not be located within a settlement, is of a high-quality design, that it has an appropriate means of enclosure, that it satisfactorily integrates into the landscape or that that it does not harm the amenity of nearby residents. As will be discussed later, the access arrangements are also inadequate. The fourth reason for refusal is therefore sustained.
34. The fifth reason for refusal was that the development was contrary to Policy AMP 2 of PPS 3 in that it had not been demonstrated that the appeal development would not prejudice road safety or significantly inconvenience the flow of traffic. As previously stated, the appellant accepted that the required visibility splays of 2.4m x 80m are currently not provided. The various suggestions as to how the access arrangement could be modified were not supported with substantive evidence to demonstrate that a safe form of access can be provided for the appeal development. The fifth reason for refusal is therefore sustained.
35. Third parties raised concern that the development would be contrary to Policy FLD 3 of PPS 15 and that it could give rise to flooding. The main objectives of PPS 15 include to seek to prevent inappropriate new development in areas known to be at risk of flooding, or that may increase the flood risk elsewhere; adopting a precautionary approach to the determination development proposals in those areas susceptible to flooding. Policy FLD 3 states that a drainage assessment will be required for any development proposal where the proposed development is located in an area where there is evidence of a history of surface water flooding. The objectors presented undisputed evidence that the appeal site is located within such an area. Although the appellant is willing to provide a Drainage Assessment, in this instance it is appropriate to adopt the precautionary approach advocated within PPS 15 given the area's susceptibility to flood and the lack of precise information in relation to how it could be effectively controlled, mitigated or that it would not create a greater potential for surface water flooding elsewhere. The objectors' concern is therefore sustained.

Ground (f)-that the steps required by the notice exceed what is necessary to remedy any breach of planning control or remedy any injury to amenity

36. As discussed previously, Part 4(2) of the EN should be amended by removing the reference to the area shown hatched in yellow on the attached map and state that the land should be restored to its original condition.
37. Part 4 (4) of the EN requires that the intensification of the domestic access cease and that the access is used in accordance with planning permission X/2005/0292/CA within 60 days of the date in which the EN comes into effect. As previously stated, the Council accepted that the domestic access approved under planning application X/2005/0292/RM was never implemented. As a result, the Council and appellant were content that the EN should be amended to state that the use of the accesses should cease.
38. The ground (f) appeal therefore succeeds to the extent that Part 4(4) of the EN is amended to read that the use of the accesses should cease.

Ground (g) - that the period for compliance specified in the Notice falls short of what should reasonably be allowed

39. The Enforcement Notice requires that all the steps required to remedy the alleged breaches are carried out within 60 days of the Notice taking effect. The appellant argued that the period for compliance does not allow sufficient time to source another site, complete the legal formalities of renting/leasing, obtaining the required planning permission, moving the Lane Coffee Hut and associated amenity area, and finding new suppliers for produce local to the area. A timeframe of 6-12 months was suggested.
40. I am not persuaded that the business requires a rural location. The Council and objectors identified a number of vacant properties available within surrounding settlements thus preventing the need to find new suppliers or to try to obtain planning permission within the countryside. Substantive evidence was not presented to support the claim that 60 days was an inadequate time period to complete the legal formalities of renting/leasing such properties. The appeal development has had a detrimental impact on the residential amenity of the residents of No.18 Kircubbin Road for a considerable period of time and the extension of the time period would exacerbate this impact. The wooden appeal buildings and benches have no physical attachment to the ground thus easing their removal. The specified time scale allows adequate time to remove the hardstanding and topsoil and reseed the area. I therefore consider that the time period of 60 days to be reasonable.
41. As I consider the stipulated time periods to be reasonable, the appeal on Ground (g) therefore fails.

Decision

The decision is as follows:-

- The Notice is varied to read as follows:
 - Part 3(2) Unauthorised extension of an area of hardstanding
 - Part 4(2) Remove the unauthorised extension of hardstanding and restore the land to its original condition by topsoiling and reseeding within 60 days of the date in which this notice comes into effect
- The appeal on Ground (b) succeeds to the extent that Part 3(4) of the Notice is varied to read:
 - Part 3(4) Unauthorised creation of accesses in association with the unauthorised coffee shop use
- The appeal on Ground (a) fails.
- The appeal on Ground (f) succeeds to the extent that Part 4(4) of the Notice is varied to read:
 - Part 4(4) Cease the use of the accesses within 60 days of the date in which this notice comes into effect
- The appeal on Ground (g) fails.

The Notice, as amended, is upheld.

COMMISSIONER DIANE O'NEILL

List of Documents

Planning Authority (Ards and Down Borough Council):-	Statement of Case PA 1
Appellant (Planning Permission Experts-agent):-	Statement of Case A1
Third party objectors (Matrix Planning Consultancy):-	Statement of Case OB 1

List of appearances

Planning Authority (Ards and Down Borough Council):-	Ms Wendy Murray (remotely)
Appellant:-	Mr Declan Rooney (Planning Permission Experts-agent)
Third party objector:-	Mr Andy Stephens (Matrix Planning Consultancy) Mr Alan Robinson (No.18 Kircubbin Road)