
Appeal Reference:	2023/A0076
Appeal by:	Mrs. Deborah Lynch.
Appeal against:	The non-determination of an application for full planning permission.
Proposed Development:	Demolition of existing shed. Construction of 1 and a half storey rear/side extension.
Location:	84 Greencastle Road, Kilkeel, Co Down.
Planning Authority:	Comhairle Ceantair an Iúir, Mhúrn agus an Dúin. Newry, Mourne and Down District Council.
Application Reference:	LA07/2023/2944/F
Procedure:	Written representations and Accompanied Site Visit
Finding by:	Commissioner Damien Hannon, dated 18 th April 2024

Finding

1. There is no valid appeal.

Reasons

2. The authority of the Commission to determine an appeal against the failure to take a planning decision under Section 60 of the Planning Act (Northern Ireland) 2011 (the Act), is dependent on a valid planning application having been received. Otherwise, the Commission has no jurisdiction under Section 60 of the Act to consider the appeal against the non-determination.
3. Section 40 of the Act addresses the form and content of planning applications. It states that any application for planning permission must be made in such form and in such manner as may be specified by a development order. Article 3(3) (i) of the Planning (General Development Procedure) Order (Northern Ireland) 2015 (GDPO) specifies that an application for planning permission must be accompanied by any fee payable under the Fees Regulations.
4. There was no dispute that the proposed development incorporated land outside the curtilage of 84 Greencastle Road, Kilkeel. Consequently, I conclude that the proposal constitutes category 13 development, as specified in The Planning (Fees) Regulations (Northern Ireland) 2015. The application was not accompanied by this fee but a lesser amount appropriate to that payable in respect of category 4 development.
5. The Fees Regulations are definitive in this matter and arguments regarding whether the wording in the Council's Planning Application forms or related guidance can be interpreted as misleading or conflicting are of little relevance. Furthermore, the issue

of whether either party should, at an earlier stage, have been alert to what the appropriate fee was, is an issue for those parties and does not inform my consideration of this matter. The application was not accompanied by the fee payable as required under Article 3(3) (i) of the GDPO and is not therefore valid. In the absence of a valid application there can be no valid appeal.

COMMISSIONER DAMIEN HANNON

List of Documents

Appellant:- Statement of Case of Emma Speers Architects
Rebuttal

Planning Authority:- Statement of Case
Rebuttal