

Title of Report:	Planning Committee Report - LA01/2025/0372/O
Committee Report Submitted To:	Planning Committee
Date of Meeting:	23rd September 2026
For Decision or For Information	For Decision – Referred by Ald Mark Fielding
To be discussed In Committee YES/NO	NO

Linkage to Council Strategy (2026-31)	
Strategic Theme	Governance, Quality & Continuous Improvement
Outcome	Governance arrangements that ensure compliance, transparency and effective decision-making
Lead Officer	Development Management 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

Legal Considerations	
Input of Legal Services Required	NO
Legal Opinion Obtained	NO

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>App No:</u>	LA01/2025/0372/O	<u>Ward:</u>	Ballykelly
<u>App Type:</u>	Outline		
<u>Address:</u>	Lands Approximately 400m South of No 13 New Line Road, Limavady		
<u>Proposal:</u>	Proposed Site For Dwelling On A Farm With Use Of Existing Access From New Line Road		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	18.04.2025
<u>Listed Building Grade:</u>	N/A		
Agent:	Donaldson Planning Ltd, 50A High Street Holywood BT18 9AE		
Applicant:	Sean Mullan, 26 New Line Road, Limavady, BT49 9NF		
Objections:	0	Petitions of Objection:	0
Support:	0	Petitions of Support:	0

EXECUTIVE SUMMARY

- Outline planning permission is sought for dwelling on a farm under Planning Policy Statement 21: Sustainable Development in the Countryside.
- The site is located outside of any settlement development limits as identified in the Northern Area Plan (NAP) 2016 and is not subject to any specific environmental designations.
- The proposal does not meet the principle policy requirements under CTY1 for development in the countryside with no overriding reasons why that development is essential and could not be located in a settlement.
- The proposal does not meet Policies CTY 10 and CTY 13 (g) in that it has not been demonstrated that the farm business has not been active for at least 6 years and the site would not visually link and cluster with an established group of buildings on the farm.
- DAERA, DFI Roads, Environmental Health, NIEA WMU were consulted in relation to the application and raised no concerns.
- There have no representations.
- The application is recommended for refusal.
- Reasons for Referral by elected member are attached as an annex to this report.

Drawings and additional information are available to view on the Planning Portal- <https://planningregister.planningssystemni.gov.uk>

1 RECOMMENDATION

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

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located on lands Approximately 400m South of No 13 New Line Road, Limavady. The site comprises a square shaped plot of a wider agricultural field.
- 2.2 The northern and eastern boundaries of the site are undefined and open to the remainder of the agricultural field. The southern boundary is also undefined but there are a number of mature trees to this southern boundary. The western boundary is defined by post and wire fencing and mature hedgerow. The site will be accessed via an existing laneway off the New line Road that currently serves 3 dwellings (no. 13, 15, 17) which are situated some 440m north-east of the site. This laneway runs past these dwellings and serves as an agricultural laneway to access the surrounding farmlands. The site is set back some 675m from the New Line Road.
- 2.3 The surrounding area is rural in nature, characterised by single rural dwellings, farm holdings and agricultural lands.
- 2.4 The application site is located outside of any settlement development limits as identified in The Northern Area Plan (NAP) 2016 and is not subject to any specific environmental designations

3 RELEVANT HISTORY

- 3.1 LA01/2022/0176/F and 2024/A0036 – Permission Refused and appeal dismissed for Demolition of existing cottage and replacement with 2 storey dwelling, double garage and

associated landscaping Approx 250m South-East of 24 Carten's Road Limavady.

4 THE APPLICATION

- 4.1 Proposed Site For Dwelling On A Farm With Use Of Existing Access From New Line Road.

5 PUBLICITY & CONSULTATIONS

5.1 External

Advertising: Advertised in the Coleraine Chronicle on the 30.04.25.

Neighbours: No Neighbours to notify.

No letters of support were received on this application.

No letters of objection were received on this application.

5.2 Internal

DFI Roads: No objection

Environmental Health: No objection

NIEA WMU: No objection

DAERA (DARD): No objection - confirmed details regarding the status of the farm business.

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 the 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

- 7.1 The application has been assessed against the following planning policy and guidance:
- Regional Development Strategy (RDS) 2035.
 - Northern Area Plan (NAP) 2016
 - Strategic Planning Policy Statement (SPPS) 2015
 - PPS 3: Access, Movement and Parking.
 - PPS 21: Sustainable Development in the Countryside.
- 7.2 Supplementary Planning Guidance
- Building on Tradition: A Sustainable Design guide for Northern Ireland.

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of development, integration/impact on rural character, access and Habitats Regulations Assessment.

Principle of Development

- 8.2 Taking into account the transitional arrangements of the SPPS, retained PPS 21 provides the relevant policy context for the proposal. Supplementary guidance on PPS 21 is contained in document 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside' which seeks to promote quality and sustainable building design in Northern Ireland's countryside.
- 8.3 Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.
- 8.4 Policy CTY 10 of PPS 21 notes planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:
- (a) the farm business is currently active and has been established for at least 6 years;
 - (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
 - (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
 - demonstrable health and safety reasons; or
 - verifiable plans to expand the farm business at the existing building group(s).

In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.

8.5 DAERA (DARD) were consulted on the application and in a consultation response dated 01.05.25 confirmed that; the farm business Id identified on the Form P1C has been in existence for more than 6 years, it was allocated on 30/04/2012, it's a Category 1 farm business Id, the farm business has not claimed payments through the Basic Payment Scheme or Agri Environment scheme in each of the last 6 years, claiming in 2025 only. The application site is on land for which payments are currently being claimed by the farm business.

8.6 A planning support statement was submitted with the application which noted;

“4.5...the core of the farming activity has been focused upon ensuring the land is in good environmental condition, rather than being intensively farmed. The definition of active farming in PPS21 includes ‘maintaining the land in good agricultural or environmental condition’.

*4.6 The evidence of activity in this case includes Flock Number ***** for sheep and woodland grants for restocking of the areas of woodland on the holding”.*

8.7 The following information was included in this planning statement;

- End of year inventory report (screenshot) dated 28.01.25, noting 15 ewes in the flock
- Letter from the Forest Service dated 07/04/2023 and addressed to the applicant regarding a conditional offer for a Woodland Investment Grant for restocking woodland for lands further north of the site.

8.8 Invoices/receipts were submitted to include;

- March 2018 – cement receipt
- April 2018 – concrete receipt
- April 2018 – Nursery/plants receipt
- July 2018 – Concrete and blocks receipt

- April 2019 – Solicitor letter advising of applicant's purchase of lands at Baranailt Road, Limavady
- Feb 2019 – Plant Hire invoice
- March 2019 - Nursery/plants receipt
- April 2019 - Nursery/plants receipt
- September 2019 – concrete receipt
- October 2019 – TW Pipe invoice
- October 2019 - concrete receipt
- Dec 2019 – Plant Hire receipt
- 28th Dec (no year visible) – Fane Valley stores receipt for Bull wire, expanding foam, googles, chisel, mask
- March 2019 – concrete blocks
- July 2020 - Nursery/plants receipt
- March 2020 – Jet spray/wildflowers receipt
- Nov 2020 – Paraffin, diesel, kerosine receipt
- April 2021 – sand gravel receipt
- June 2021- Gate receipt
- June 2021- Commercial invoice – content illegible
- March 2021 - Nursery/plants receipt
- August 2021 - Nursery/plants receipt
- 2 x Digger Hire receipts – dates ineligible
- Nov 2021 - Nursery/plants receipt
- April 2022 - Nursery/plants receipt
- Jan 2022 – Plant hire receipt
- July 2022 – Trailer receipt
- March 2022 – Precast Pipe receipt
- June 2023 – Fencing receipt
- October 2023 – Digger work for agroforestry prep
- March 2023 – post, gate, pipes receipt
- September 2023 – Land leveller receipt
- September 2023 – Plant hire and diesel receipt
- Sheep gates and posts - dates ineligible
- June 2023 – Concrete receipt
- Feb 2024 - Nursery/plants receipt
- Dec 2024 - Nursery/plants receipt
- Oct 2024 - Concrete receipt
- Sep 2024 – Grounds work receipt
- March 2024 – Stones receipt
- April 2024 - Concrete receipt
- April 2024 – Grease gun receipt

- July 2024 - Grounds work receipt
- March 2025 – Ineligible
- March 2025 – Concrete receipt

8.9 Further information was then submitted on the 03.06.25 and 18.06.25 to include;

- A planning support statement
- July 2023 – Receipt for sheep wire/fence posts/battery etc
- Feb 2025 – Receipt for silo cover
- Jan 2019 - Receipt for Kerb Granules
- Bank statement to show payments to Fane Valley stores
- July 2022 – Receipt for tipping trailer
- May 2020 – Receipt for pipe drinker etc
- Feb 2020 – Receipt for water tap/Hose etc
- May 2020 – Receipt for Lawnweedkiller, paint brush, locking pin, spray
- April 2020 – Receipt for grass seed
- November 2023 – Receipt for sprayer services
- November 2023 – Receipt for tractor crane attachment
- December 2023 – Receipt for topper
- May 2024 – Receipt for tractor doors
- January 2025 flock record for 15 sheep.
- 2025 record of farm payment claim submitted
- Lang Registry Maps on purchase of lands in 2019
- Maps showing land purchased in 2019 in red and land owned already in yellow

8.10 The agent confirmed in the additional information submitted that the applicant purchased the plot of lands subject to this application in 2019. In an email dated 18.06.25 the agent noted the maps submitted show in red the area of land purchased in 2019 and it is the area in red which Mr Mullan farms under his business number. The area of yellow lands in and around no. 26 new line road are owned by his mother. As the land was only purchased in 2019, any invoices/receipts prior to 2019 are discounted.

8.11 A large amount of the invoices and information submitted from 2019 onwards relate to large amounts of construction materials, receipts from nurseries/plant centres and other miscellaneous

items. A review of the farm lands has not identified any levels of construction over the relevant period and the nature of the trees/hedgerow purchased would not be regarded as being of a commercial/forestry type. The vast majority of the invoices cannot be tied to this specific farm holding and are not in themselves suitable evidence of agricultural activity by the applicant over the required six year period. DAERA have advised via email that there has been no confirmation that any of the forestry scheme having been accepted by the applicant, works having been carried out, or payments made in respect of any grant scheme. It is also noted that the lands subject to the forestry grant offer is on lands which do not form part of the applicant's farm holding.

- 8.12 On the basis of information submitted it has not been demonstrated that the applicant's farm business has been actively farming over the required six year period. The application fails criteria (a).
- 8.13 A planning history search was carried out of the farm lands. There have been no recent approvals on the lands and there is no evidence to suggest that any development opportunities have been sold off from the farm holding within 10 years. The application meets criteria (b).
- 8.14 Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
- demonstrable health and safety reasons; or
 - verifiable plans to expand the farm business at the existing building group(s).
- 8.15 The applicant's address is noted as 26 New Line Road Limavady which is approximately 980m north-east of the site. After query on the status of no. 26 the agent in the submitted planning support statement noted, "The Applicant lives at No 26 New Line. This is his family home – it is owned by this Mother.

- 8.16 The site location map points to two buildings on the farm which include a farm shed and the ruins of an old dwelling.
- 8.17 The walls of the ruinous dwelling are not fully intact and the roof is missing. A review of aerial imagery of the site outlines that this building was subject to significant reconstruction works in 2019. This building was subject to a planning application for a replacement dwelling (LA01/2022/0176/F). Planning permission was refused with the subsequent appeal (2024/A0036 – Appendix 1) dismissed due to the building not being substantially intact.
- 8.18 Appeal ref 2024/L0007 sought a Certificate of Lawfulness for the Construction of a farm shed. Within this appeal the appellant relied upon a ruinous structure on the site in order to establish the basis for a new shed under permitted development. However, the commissioner did not accept the structure as an agricultural building noting, “18. *The Oxford English Dictionary (OED) defines buildings as “a thing which is built or constructed; esp. a large, permanently standing structure with a roof and walls which will enclose an interior space that may be entered and used for a particular purpose, for example as a dwelling, a workplace, a school etc.* 19. *I am not persuaded that what is on the ground accurately reflects what an ordinary person’s understanding of an agricultural building is. Whilst the remains may provide some degree of wind break, it has no roof and is incapable of providing shelter to animals or for secure, dry storage. Nor would the submission from the UFU representative persuade me that the existing remains constitute an agricultural building which provides shelter for livestock. Even taking into account the size, permanence and attachment to the ground, the remains do not, in my opinion, constitute an agricultural building.*”
- 8.19 In adopting a similar approach to the aforementioned appeal and for the purpose of assessing the proposal against the policy, when considered against the everyday definition of a building the ruins are not considered to represent a building. Consequently, there is only one farm building at this location.

As there is no group of buildings on the farm at this location the site would not visually link and cluster with an established group of buildings on the farm. The application fails to meet criteria (c).

- 8.20 As it has not been satisfactorily demonstrated that the farm business has been active over the required 6 year period and that the application site is not sited to visually link or cluster with an established group of building on the farm the proposal fails Policy CTY 10.
- 8.21 As no further overriding reasons have been presented as to why the proposal is necessary at this particular site, and therefore the proposal fails to comply with Paragraph 6.73 of the SPPS and Policy CTY1 of PPS21.

Integration/Impact on Rural character

- 8.22 Policy CTY13 of PPS21 states planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. A new building will be unacceptable where:
- (a) it is a prominent feature in the landscape; or
 - (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
 - (c) it relies primarily on the use of new landscaping for integration; or
 - (d) ancillary works do not integrate with their surroundings; or
 - (e) the design of the building is inappropriate for the site and its locality; or
 - (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
 - (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.
- 8.23 Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a

detrimental change to or further erode the rural character of an area.

A new building will be unacceptable where:

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

8.24 The current application seeks Outline Planning Approval and therefore the design of the dwelling is unknown at this point. However, a dwelling of an appropriate size and scale would not be considered to be a prominent feature in the landscape at this location given the sites set back distance from the road, at some 675m from the New Line Road. There are also areas of dense mature trees to the north of the site which will screen views of the development. The site benefits from some mature trees to the southern boundary which should be retained as part of the development. Additional planting would be required to the northern and eastern site boundaries. The proposed access/laneway is already in situ and there will be no detrimental impacts from ancillary works from this development. Considering the nature of the site there are no concerns with landscaping or integration. However, as outlined above at paragraph 8.18 the proposal is not considered to cluster and visually link with an established group of buildings on the farm and therefore fails policy CTY 13 criteria (g).

8.25 The proposal would not result in a suburban style build-up of development, will not lead to the creation of ribbon development and would be in keeping with the traditional pattern of settlement found in the area. It is considered that the proposal satisfies the requirements of Policy CTY14.

Access

- 8.26 Planning Policy Statement 3 relates to vehicular and pedestrian access, transport assessment, and the protection of transport routes, and parking. Policy AMP2 notes Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:
- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
 - b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.
- 8.27 The application proposes the use of an existing access and laneway off the New Line Road. DFI Roads have been consulted on the application and raised no objections. The application is unlikely to prejudice road safety or significantly inconvenience the flow of traffic at this location and meets policy AMP 2.

Habitats Regulation Assessment

- 8.28 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 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. It has not been demonstrated that the farm business has been active for the preceding six years and the proposed site would result in a dwelling which is not visually linked or sited to cluster with an established group of buildings on the farm. The proposal does not fall within any of the permissible forms of development in

the countryside, and the reasons raised by the agent do not justify a dwelling at this location. The application is contrary to Paragraphs 6.70 and 6.73 of the SPPS 2nd edition and Policies CTY 1, CTY 10 and CTY 13 of PPS 21. Refusal is recommended.

10 Refusal Reasons

1. The proposal is contrary to Paragraph 6.73 of the SPPS and PPS 21: Sustainable Development in the Countryside, Policy CTY 1 in that there are no overriding reasons why the development is essential and could not be located within a settlement.
2. The proposal is contrary to Paragraph 6.73 of the SPPS and PPS 21 Sustainable Development in the Countryside, Policy CTY 10 criteria (a) and (c) in that it has not been demonstrated that the farm business has been active and for at least 6 years and the proposed development would not visually link or cluster with an established group of buildings on the farm
3. The proposal is contrary to Paragraph 6.73 of the SPPS and PPS 21 Sustainable Development in the Countryside, Policy CTY 13 criteria (g) in that the site would not visually link and cluster with an established group of buildings on the farm.

Site Location



Referral Request

Planning reference LA01/2025/0372/O

Elected Member Mark Fielding

Contact Details Tel :

Email

Refusal Reasons

1. Not been demonstrated that farm business is currently active and has been established for at least 6 years.

-PPS21 seeks to support rural communities and meet a need for dwellings to accommodate those engaged in farm business This is just such a case.

The applicant has a Category 1 farm business, registered by DAERA. His current holding at New Line Road comprises approximately 18 hectares, and this was purchased in April 2019. He also has a flock number and grazes sheep on the land.

Substantial evidence of expenditure and investment in the farm business has been submitted for the period 2019 to date. This includes receipts for plant hire, concrete, fencing, trees and nursery plants, items of machinery, grass seed etc.

The farm is managed in an environmentally friendly manner. It includes not just grazing lands, but wildflower meadows and areas of woodland. Evidence has been submitted of a woodland grant for restocking of woodlands.

The definition of activity includes 'maintaining the land in good agricultural and environmental condition'. There is more than ample evidence (both documentary and on site) that the applicant has been meeting this requirement.

*2. The site would not visually link and cluster with an established group of buildings
Clustering with Buildings on the Farm*

-The application site is located between a large farm shed and a former dwelling which is devoid of a roof.

The policy requires development to be clustered with 'buildings on the farm'. The policy does not require the buildings to be agricultural buildings, or indeed to be suitable for farming purposes. Dwellings (and indeed former dwellings) are sufficient to allow criteria (c) of CTY10 to be complied with. And whilst the former dwelling in this case has no roof, it nevertheless constitutes a building as defined by Section 250 of the Planning NI Act 2011 which includes 'any structure or erection, and any part of a building as so defined'.

It is noted that there are no issues with integration, rural character or access. I believe this is clearly a case where a young farmer meets the requirements for a dwelling, and which merits further consideration by the Planning Committee.

Appendix 1 – Appeal 2024/A0036



Appeal Decision

4th Floor
92 Ann Street
BELFAST
BT1 3HH
T: 028 9024 4710
E: info@pacni.gov.uk

Appeal Reference:	2024/A0036
Appeal by:	Mr Sean Mullan
Appeal against:	The refusal of full planning permission
Proposal:	Demolition of existing cottage and replacement with two-storey dwelling, double garage and associated landscaping
Location:	Approx. 250 metres south-east of 24 Carten's Road, Limavady
Planning Authority:	Causeway Coast & Glens Borough Council
Application Reference:	LA08/2022/0176/F
Procedure:	Written Representations with Accompanied Site Visit on 16 October 2024
Decision by:	Commissioner B Stevenson, dated 4 February 2025

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the appeal proposal would be acceptable in principle and if it would prejudice road safety.
3. Section 45(1) of the Planning Act (Northern Ireland) 2011 ("the Act") requires the Commission when 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) requires 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. The Northern Area Plan 2016 (NAP) operates as the LDP for the area wherein the appeal site is located. In the NAP, the appeal site is within the countryside and outside any settlement designated in the plan. There are no material policies in the plan that relate to dwellings in the countryside.
4. Other planning policy is laid out in the Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS). The SPPS also sets out the transitional arrangements that are in operation until a Plan Strategy (PS) is adopted for the area. As there is no adopted PS for this Council area, the SPPS retains certain Planning Policy Statements (PPSs) including Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS21) and Planning Policy Statement 3 'Access, Movement and Parking' (PPS3). No conflict arises between the provisions of the SPPS, the retained PPS21 and PPS3 insofar as they relate to the issues that arise in this appeal. In accordance with the transitional

2024/A0036

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arrangements, PPS21 and PPS3 provide the policy context for assessing the appeal proposal. In addition, Building on Tradition – A Sustainable Design Guide for Development in the Northern Ireland (NI) Countryside (BoT) and the Development Control Advice Note 15 'Vehicular Access Standards' (DCAN15) are a material consideration.

5. Policy CTY1 of PPS21 'Development in the Countryside' sets out a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of them is for a replacement dwelling in accordance with Policy CTY3. Policy CTY3 of PPS21 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. The policy expands to say that for the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings. The Council considers that both elements of this policy are not met.
6. The appeal site is cut out of a large agricultural field and is located in the corner approximately 300 metres east of Carten's Road. The host field is accessed by a tarmac laneway that provides access to a couple of dwellings before reaching a farm building in a concreted yard area. From the yard area, an informal grassed laneway runs parallel to the host field's western boundary and leads up to the appeal site. Within the appeal site is a stone structure. Some trees surround the stone structure. It is this structure that the appellant is seeking permission to replace with a two storey dwelling and double garage.
7. The Council contends that this structure does not exhibit the essential characteristics of a dwelling but does not dispute that the appeal site once contained a dwelling. The appellant presented evidence comprising historical maps and a 1911 census. The historical maps indicate that the appeal site had evidence of a defined curtilage and contained two linear groups of buildings in 1905. A map from 1923-1924 indicates that a small extension appeared to the rear of the subject building footprint. That map also refers to a well. A later map from 1968 indicates just a single linear footprint. The rear extension is no longer shown on this footprint. The census confirms that a family resided in the property in 1911. The appeal structure is sited within what appears to be an established plot with trees dotted around it.
8. The Council is of the view that the current stone structure is significantly smaller in footprint size to that which was originally on the site and is doubtful over whether the existing structure represents the entirety of the original dwelling. The appellant accepts that the structure is now smaller in length than that shown on the historical maps. He also accepts that only part of the former building group now remains but is of the view that the core residential element remains in existence. He states that the dwelling was most likely only one or two rooms, with a possible loft space.
9. The stone structure forms a single space which creates a modest sized area. While there is no internal division within that small confined space, there is neither insulation nor a floor with the interior ground being densely overgrown. There is a chimney breast and a fireplace opening on the south-eastern gable. The north-eastern elevation appears to have a pedestrian door opening and two small partial window openings with window sills and red brick surround. A further partial window

opening is on the south-western elevation. Both of those walls terminate just above the sills.

10. The ground around the outside of the structure has been cleared and the footings appear to now be exposed. The stonework has also in recent times been re-pointed with mortar. Unlike the walls that are built in stone, the chimney breast and its fireplace are built in red brick and appear as a later addition. Nevertheless, given that it is not in dispute that there was once a dwelling on the site, and more importantly, factoring in the features that I observed on site, when considered in its totality, I accept that the existing structure exhibits the essential characteristics of a dwelling.
11. The policy requires that the building to be replaced must have as a minimum **all** external structural walls substantially intact (*my emphasis*). It is undisputed that the south-eastern gable wall is 100% intact. However, both the Council and the appellant dispute over how much of the other three walls remain intact. The appellant contends that 81% of the structure remains intact and that the north-western gable is 61% intact. He alleges that the front façade is approximately 81% intact and that the rear elevation is about 85% intact.
12. It is difficult to work out the exact height of those three walls, but from my on-site observations, the appellant's survey appears to over-estimate the percentage of those walls that remains. I saw plaster on the north-western side wall only, which the historic maps indicate is on the side where the building footprint was more extensive. Despite the existing structure having four walls, the historic maps and my visual inspection indicate that the original structure to be replaced was a more substantial building.
13. Factoring in that the internal space is extraordinarily small, and bearing in mind the building footprints shown on the historic maps, and notwithstanding that there could have been outbuildings adjoining the original dwelling, I am not persuaded that all external structural walls are substantially intact given that the north-eastern and south-western elevations terminate just above the ground floor window sills and the north-western gable wall is of a similar height to those two elevations. I am also not persuaded that the north-western gable wall is an original external structural wall bearing in mind the historical maps and the plaster on that gable. Even if it is an external structural wall, from my visual inspection, all external structural walls are not substantially intact. Accordingly, despite still exhibiting essential characteristics of a dwelling, the appeal proposal nevertheless fails to comply with Policy CTY3 of PPS21 insofar as stated and the related provisions of the SPPS.
14. The appellant cites appeal decision 2014/A0254 and includes an extract of that decision. That extract indicates that the structure in that appeal comprised two intact gables and a substantially intact front elevation. It is therefore not directly comparable to the appeal proposal. He also refers to a decision (LA06/2021/1214/O) made by another Council. Again, it is not directly comparable given that its site-specific circumstances differ to the appeal proposal, and that it covers another Council area. In any event, full details of those two cases were not provided.
15. Policy AMP2 of PPS3 'Access to Public Roads' states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where (a) such

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access will not prejudice road safety or significantly inconvenience the flow of traffic; and (b) the proposal does not conflict with Policy AMP3 Access to Protected Routes. The latter criterion is not in dispute. The Council argues that the proposal would prejudice the safety and convenience of road users in that the proposed dwelling and double garage would intensify the use of an existing access at which visibility splays of 2.4 metres by 60 metres cannot be provided in accordance with DCAN15.

16. While the Council has no concerns with the visibility splay on the right-hand side (RHS), the Council contends that a splay 2.4 metres by 60 metres to the left-hand side (LHS) is not possible due to the existing high leylandii hedgerow along the neighbour's garden, which is outside the appeal site boundary. The Department for Infrastructure (DfI) Roads objects to the proposal on road safety grounds in that the access is considered to be sub-standard. To the LHS, Carten's Road terminates approximately 300 metres beyond the access point to the south and continues as a forest road through Loughermore East Forest. Minimal vehicles use this part of the road.
17. Paragraph 5.19 of the amplification text of Policy AMP2 states that "in relation to development proposals for a replacement dwelling in the countryside, where an existing access is available but this does not meet the current standards, the decision-maker would encourage applicants to consider the potential for incorporating improvements to the access in the interests of road safety." At the accompanied site visit, the appellant offered up the imposition of a negative condition if the proposed dwelling and double garage were to be permitted. I am satisfied that if planning permission were granted, a suitably worded negative condition could be imposed to ensure that a safe access is provided prior to the commencement of the proposed dwelling and its double garage. Accordingly, the proposal would not offend Policy AMP2 of PPS3. The Council's third reason for refusal is therefore not sustained.
18. As the proposal fails Policy CTY3 of PPS21 and no overriding reasons were presented that demonstrate that the development is essential and could not be located in a settlement, the proposal offends Policy CTY1 of PPS21 and the related provisions of the SPPS. The Council's first and second reasons for refusal are therefore sustained. The appeal must fail.

This decision relates to the following drawings that the Council received on 9 February 2022:

Drawing No.	Title	Scale
01	Site Location Plan	1:2500
02	Existing Site Plan	1:1250
03	Proposed Site Plan	1:500
04	Proposed Floor Plans	1:100
05	Proposed Elevations	1:100
06	Proposed Double Garage	1:100
07	Site Analysis	-

COMMISSIONER B STEVENSON