

**PLANNING COMMITTEE MEETING HELD  
WEDNESDAY 26 OCTOBER 2022**

**Table of Key Adoptions**

<b>No.</b>	<b>Item</b>	<b>Summary of Decisions</b>
1.	Apologies	<b><i>Alderman S McKillop, Councillor Anderson</i></b>
2.	Declarations of Interest	<b><i>Alderman Duddy, Councillor Scott, Councillor Storey</i></b>
3.	Minutes of Planning Committee meeting held Wednesday 28 September 2022	<b><i>Confirmed as a correct record</i></b>
4.	Order of Items and Confirmation of Registered Speakers	
(i)	LA01/2020/0744/F (Referral) Lands between 24 & 26 Fivey Road, Armoyn Ballymoney	<b><i>Deferred and Site Visit held</i></b>
5.	Schedule of Applications:	
5.1	LA01/2019/1217/F (Major) Lands at & adjacent to No. 34 Agherton Road Portstewart	<b><i>Approve</i></b>
5.2	LA01/2020/0942/LBC (Council) 65 Main Street, Bushmills	<b><i>Grant</i></b>
5.3	LA01/2021/1503/F (Council) 65 Main Street, Bushmills	<b><i>Approve</i></b>
5.4	LA01/2020/0559//F (Council and Objection) 3 Berne Road, Portstewart	<b><i>Defer for one month for submission of the required reports</i></b>
5.5	LA01/2022/0735/F (Council) West Bay Car Park, Eglinton Street, Portrush	<b><i>Disagree and Approve Delegate Conditions and Informatives</i></b>
5.6	LA01/2020/0815/O (Referral) 124 Mullan Road & Lands immediately	<b><i>Disagree and Approve Delegate Conditions and Informatives</i></b>

	South East of 124 Mullan Road, Rasharkin	
<b>5.7</b>	LA01/2022/0061/O (Referral) Lands located immediately North of 41B Tirkeeran Road, Garvagh	<b><i>Disagree and Approve Delegate Conditions and Informatives</i></b>
<b>5.8</b>	LA01/2020/1135/F (Referral) Site at 80a Curragh Road, Dungiven	<b><i>Defer application to allow for the description to be amended to include CTY6</i></b>
<b>5.9</b>	LA01/2021/0756/F (Referral) Approximately 25m South of 23 Causeway Road Bushmills	<b><i>Deferred and hold a Site Visit</i></b>
<b>5.10</b>	LA01/2022/0130F (Referral) Lands to the rear of and adjacent to No. 45 Middlepark Road, Cushendall	<b><i>Defer application pending amendment to P1 description</i></b>
<b>6.</b>	Development Management and Enforcement	
<b>6.1</b>	Quarterly report on Planning Performance	<b><i>Information</i></b>
<b>7.</b>	Development Plan	
<b>7.1</b>	Quarterly Verbal Update	<b><i>Information</i></b>
<b>8.</b>	Correspondence:	
<b>8.1</b>	Council's response – Advance Notice of Listing – War Memorial, Ballydevitt Road, Aghadowey	<b><i>Information</i></b>
<b>9.</b>	Reports	
<b>9.1</b>	Design Arbitrator	<b><i>That the Planning Committee note the above comparison of design reviews across the 4 jurisdictions, the breadth of expertise of the multi disciplinary panel members from across the built environment professions, the zero cost for the advisory service provided by the Ministerial Advisory Group (MAG) and agrees to engage with MAG on design reviews where the Head of Planning</i></b>

		<b><i>considers is beneficial to the Planning Process.</i></b>
<b>9.2</b>	Second Homes	<b><i>Note the above comparison of how the issue of second homes and short-term lets has resulted in legislative change in other jurisdictions and AGREES to the Head of Planning writing to Dfl Chief Planner requesting that:.....”</i></b>
<b>9.3</b>	Amended Retention and Disposal Schedule	<b><i>Agree to the amendments made to the Retention and Disposal Schedule</i></b>
<b>9.4</b>	Planning Publication Policy	<b><i>Information</i></b>
<b>10.</b>	Confidential Items:	
<b>10.1</b>	Update on Legal Issues	<b><i>Noted</i></b>
<b>10.2</b>	Finance Period 1 - 5 - Update 2022/23	<b><i>Noted</i></b>
<b>10.3</b>	New Planning Portal	<b><i>Noted</i></b>
<b>11.</b>	Any Other Relevant Business (in accordance with Standing Order 12 (o))	<b><i>None</i></b>

**MINUTES OF THE PROCEEDINGS OF THE MEETING OF THE PLANNING COMMITTEE HELD  
IN THE COUNCIL CHAMBER, CIVIC HEADQUARTERS AND VIA VIDEO CONFERENCE  
ON WEDNESDAY 26 OCTOBER 2022 AT 10.30am**

- Chair:** Councillor McMullan (C)
- Committee Members Present:** Alderman Baird (C), Boyle (C), Duddy (C), McKeown (R)  
Councillors Dallat O’Driscoll (R), Hunter (R), McGurk (R),  
MA McKillop (C), Nicholl (R), Peacock (R), Scott (C), Storey (R)
- Non-Committee Members Present:** Councillors Callan (R), McAuley (R)
- Officers Present:** D Dickson, Head of Planning (C)  
S Mulhern, Development Plan Manager (R)  
S Mathers, Development Management and Enforcement  
Manager (R)  
E Hudson, Senior Planning Officer (R)  
J McMath, Senior Planning Officer (R)  
J Lundy, Senior Planning Officer (R)  
S O’Neill, Senior Planning Officer (R)  
A Millar, Planning Officer (R)  
D J Hunter, Council Solicitor (R)  
I Owens, Committee & Member Services Officer (C)  
S Duggan, Civic Support & Committee & Member Services Officer (C)
- In Attendance:** J Richardson, Head of Capital Works, Energy and Infrastructure (R)  
J Winfield, ICT Manager (C)  
A Lennox, ICT Officer (C)  
C Ballentine, ICT Officer (C)
- Public 2no. (R)

**Key** R = Remote                      C = Chamber

**Registered Speakers:**

<b>Application No</b>	<b>Name</b>
LA01/2019/1217/F	G McGill
LA01/2022/0735/F	D Shirley, J Allister MLA
LA01/2020/0815/O	T Cassidy
LA01/2022/0061/0	A Roarty
LA01/2021/0756/F	J Martin

The Head of Planning undertook a roll call of Committee Members in attendance.

The Chair read extracts in relation to the Remote Meetings Protocol and reminded the Planning Committee of their obligations under the Local Government Code of Conduct.

## 1. APOLOGIES

Apologies were recorded for Alderman McKillop and Councillor Anderson.

Councillor Storey declared he would have to leave part of the meeting to attend a funeral.

## 2. DECLARATIONS OF INTEREST

Declarations of Interest were recorded for:

Alderman Duddy in LA01/2020/0942/LBC (Council) 65 Main Street, Bushmills and LA01/2021/1503/F (Council) 65 Main Street, Bushmills, as the Application was from a Party colleague. Alderman Duddy left The Chamber during the Applications and did not participate nor vote.

Councillor Scott in LA01/2020/0942/LBC (Council) 65 Main Street, Bushmills and LA01/2021/1503/F (Council) 65 Main Street, Bushmills, as the Application was from a Party colleague. Councillor Scott left The Chamber during the Applications and did not participate nor vote.

Councillor Storey in LA01/2020/0942/LBC (Council) 65 Main Street, Bushmills and LA01/2021/1503/F (Council) 65 Main Street, Bushmills, as the Application was from a Party colleague. Councillor Storey left the meeting during the Applications and did not participate nor vote.

## 3. MINUTES OF PLANNING COMMITTEE MEETING HELD WEDNESDAY 28 SEPTEMBER 2022

Copy, previously circulated.

Proposed by Alderman Baird

Seconded by Councillor Scott

- that the Minutes of the Planning Committee meeting held Wednesday 28 September 2022 are signed as a correct record.

The Chair put the motion to the Committee to vote.

Members voted For, Members voted Against, Members Abstained.

The Chair declared the motion carried.

**RESOLVED** - that the Minutes of the Planning Committee meeting held Wednesday 28 September 2022 are signed as a correct record.

#### 4. ORDER OF ITEMS AND CONFIRMATION OF REGISTERED SPEAKERS

##### (i) LA01/2020/0744/F (Referral) Lands between 24 & 26 Fivey Road, Armoy Ballymoney

Proposed by Councillor Nicholl

Seconded by Councillor MA McKillop

- That application LA01/2020/0744/F (Referral) Lands between 24 & 26 Fivey Road, Armoy Ballymoney is deferred and site visit held, due to the refusal reasons and would like to look at the site to inform decision making.

The Chair put the motion to the Committee to vote.

12 Members voted For, 0 Members voted Against, 0 Members Abstained.

The Chair declared the motion carried.

**RESOLVED** - That application LA01/2020/0744/F (Referral) Lands between 24 & 26 Fivey Road, Armoy Ballymoney is deferred and site visit held, due to the refusal reasons and would like to look at the site to inform decision making.

#### 5. SCHEDULE OF APPLICATIONS:

##### 5.1 LA01/2019/1217/F (Major) Lands at & adjacent to No 34 Agherton Road, Portstewart

Report and addendum previously circulated was presented by the Development Management and Enforcement Manager.

**Reason for presenting to Planning Committee:** Major application

**App Type:** Full

**Proposal:** Full planning application submission for a proposed extension to existing holiday park comprising 74 static sites, 13 touring pitches, open space, 2no. children's play areas (1 no. upgraded), site office/site managers accommodation, laundrette/welfare buildings, garage, motorhome maintenance area, landscaping, pond feature, retention of existing tourer/motorhome area, 2 no. gated access points, access control parking & extension to existing pedestrian footpath.

##### **Recommendation**

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 **APPROVE** planning permission subject to the conditions set out in section 10.

##### **Addendum Recommendation**

That the Committee note the contents of this Addendum and agree with the recommendation to approve the proposed development in accordance with paragraph 1.1 of the Planning Committee report.

The Development Manager and Enforcement Manager presented via powerpoint presentation:

- Proposal comprises the main elements: 3 clusters of static caravans, 1 new cluster of touring pitches, retention of existing tourer and motorhome pitches

and ancillary buildings comprising a site office, welfare building, laundrette and garage. This is to extend an existing holiday park of modest scale, approved in 1992.

- In terms of the Northern Area Plan 2016, the site is located in the open countryside beyond the settlement development limit of Portstewart. The Northern Area Plan 2016 does not contain specific policies on tourism development, rather directing that regional policies apply.
- This is a major planning application so it was preceded by a PAN accompanied by a community consultation report. In addition, as a major application, it was accompanied by a Design and Access Statement.
- Principle of development- Policies TSM 6 New and Extended Holiday Parks in the Countryside and TSM 7 Criteria for Tourism Development make provision for this development proposal. Over the course of processing the application, the scheme was substantially reduced. The area has the capacity to absorb the development, as amended, without adverse impact on visual amenity and rural character by reason of its integration characteristics. Specifically, the site by reason of its low topography and intervening vegetation enables the area to absorb the development from the critical views along either direction of travel along Agherton Road. A comprehensive landscaping scheme comprising native species woodland planting and hedges has been provided to assist with integration.
- LLPA- The northern portion of the site is located within the Cromore LLPA. The proposal complies with the policy here which allows for the extension of existing tourism facilities.
- Layout & open space- The overall layout complies with policy as the development takes the form of discrete groupings or clusters of units. The overall provision of open space exceeds the 15% site area requirement specified by policy.
- Amenity- There are dwellings in proximity to the application site at Agherton Road and Kiltinny Road. The relationship of the proposal with these is considered acceptable having regard to the separation distances and proposed intervening landscaping.
- Access- Two access points are proposed to the site, one on either side of Agherton Road. The proposal includes new sections of footpaths on either side of Agherton Road to connect to the existing footpath to Portstewart.
- Sewerage- Given network capacity issues in the wider area, a wastewater network engineering solution is required. A condition limits occupation of any of the units until such time as the engineering solution is delivered.
- Representations- Detail of these are considered in the report.
- Conclusion- The proposal meets with the policy requirements for a new caravan site/ holiday park in the countryside. Approval is recommended.

The Chair invited G McGill to speak in support of the application. G McGill stated he fully concurred with the recommendation to approve a much needed high quality sustainable development. G McGill invited questions from Elected Members.

Proposed by Councillor Storey  
Seconded by Councillor MA McKillop

- 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 **APPROVE** planning permission subject to the conditions set out in section 10.

The Chair put the motion to the Committee to vote.

12 Members voted For, 0 Members voted Against, 0 Members Abstained.

The Chair declared the motion carried and application approved.

**RESOLVED** - 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 **APPROVE** planning permission subject to the conditions set out in section 10.

\* **Having declared an interest, Alderman Duddy left The Chamber.**

\* **Having declared an interest, Councillor Scott left The Chamber.**

## **5.2 LA01/2020/0942/LBC (Council) 65 Main Street, Bushmills**

Report previously circulated was presented by Senior Planning Officer, J Lundy.

**Reason for presenting to Planning Committee:** Elected Member application

**App Type:** Listed Building Consent

**Proposal:** Partial retention and redevelopment of listed building at 65 Main Street Bushmills comprising of ground floor shop and flat at first and second floor.

### **Recommendation**

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 **Grant** Listed Building Consent subject to the conditions set out in section 10.

Senior Planning Officer presented via powerpoint presentation.

- No 65 Main Street is within the Town Centre and Conservation Area of Bushmills. The works are to a Grade 2B listed building.
- 65 Main Street, Bushmills is a two-storey three-bay pebble dashed house built between 1834 and 1855.
- The HED second survey stated that the elevational treatment of no. 65 expresses strong unity and rhythm, typical of buildings along Bushmill's Main Street. Sturdy in character, it has a good setting, and strong group value. Front facade is of particular interest, with strong urban vernacular quality displayed in the informal disposition of openings.
- The rear of the building which is in a serious state of disrepair. Following consultation with HED and subject to the partial demolition and retention of 3 elements, HED have recommended that the proposal meets with the policies set out in PPS 6 and recommends the grant of Listed Building consent subject to conditions as set out in the committee report.



- The elements identified in the submitted Structural and Condition Inspection report and agreed with HED to be retained are the Front Façade with local repairs to door and window heads.
- Left Flank Wall viewed from front of property - Some local brick repairs and consolidation.
- Carriageway flank wall(s) and chimney above.
- The dense shading in this plan relates to the walls to be retained. In doing so preserving the historic fabric of the building.
- A full application was submitted for the works and change of use. To be discussed under item 5.3.
- Subject to the approval of the full application by committee it is recommended that consent is granted for the listed building consent.

Proposed by Councillor Hunter

Seconded by Alderman Baird

- 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 Grant Listed Building Consent subject to the conditions set out in section 10.

The Chair put the motion to the Committee to vote.

Members voted 9 For, 0 Members voted Against, 0 Members Abstained.

The Chair declared the motion carried and application approved.

**RESOLVED** - 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 Grant Listed Building Consent subject to the conditions set out in section 10.

- \* **Having declared an interest, Councillor Storey left the meeting during consideration of the item.**
- \* **Council Solicitor arrived at the meeting during consideration of the Item.**
- \* **Head of Capital Works, Energy and Infrastructure arrived at the meeting during consideration of the item.**

### **5.3 LA01/2021/1503/F (Council) 65 Main Street, Bushmills**

Report previously circulated was presented by Senior Planning Officer, J Lundy.

**Reason for presenting to Planning Committee:** Elected Member application

**App Type:** Full Planning

**Proposal:** Partial Retention and Redevelopment of listed building at 65 Main Street Bushmills comprising of Ground floor shop and flat at first and second floor

#### **Recommendation**

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 **Approve** planning permission subject to the conditions set out in section 10.

Senior Planning Officer presented via powerpoint presentation.

- The site is within the Bushmills Town Centre as designated in the Northern Area Plan 2016. The site is also within the Bushmills Conservation Area and area of archaeological potential and is a listed building.
- The site is also within the 1 in 100 year fluvial floodplain of the River Bush. DFI Rivers have been consulted and following consideration of the Flood Risk Assessment and that as it meets the exceptions test of Policy FLD 1 offer no objection.
- Full consultations have been carried out and all consultees are content to approve subject to Planning Conditions.
- Photo of the existing building in a state of disrepair.
- Close up photo of the rear and the partial collapse of the building.
- The elevations detailing the work also as set out in the previous Listed Building Consent application.
- The proposal also involves a ground floor retail use which is in accordance with the SPPS and town centre first approach. A duplex flat is proposed above the shop which is also an acceptable town centre use.
- Approval is recommended subject to the conditions set out in section 10 of the Planning Committee report.

Proposed by Councillor Hunter

Seconded by Alderman Boyle

- 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 **Approve** planning permission subject to the conditions set out in section 10.

The Chair put the motion to the Committee to vote.

9 Members voted For, 0 Members voted Against, 0 Members Abstained.

The Chair declared the motion carried and application approved.

**RESOLVED** - 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 **Approve** planning permission subject to the conditions set out in section 10.

\* **Alderman Duddy returned to The Chamber.**

\* **Councillor Scott returned to The Chamber.**

#### **5.4 LA01/2020/0559/F (Council) 3 Berne Road, Portstewart**

Report previously circulated was presented by Senior Planning Officer J Lundy.

**Reason for presenting to Planning Committee:** Council application and level of objection received

**App Type:** Full Planning

**Proposal:** External ground works to improve site access and levels, proposed canopy & extraction pipe for internal ventilation and external adjoining store.

## Recommendation

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** planning permission subject to the reasons set out in section 10.

Senior Planning Officer presented via powerpoint presentation.

- The application is within the Settlement Development Limit of Portstewart as designated in the Northern Area Plan 2016. The building was previously a toilet block and permission was granted for the change of use to a café.
- The premises is adjacent a car park and bound to the north east and south by residential properties.
- The works to the café are retrospective.
- There have been 2 letters of support for the proposal and 73 letters of objection. The objection points are set out in the Committee report and mostly relate to odour, noise and traffic.
- The café as previously approved under C/2014/0493/F and amended LA01/2018/1340/F had limited seating indoors and outside. No external flue or ventilation were approved under these proposals although a kitchen is shown on the plans.
- Environmental Health were content with the previous history as a café using a domestic extraction system was considered as part of planning permission C/2014/0493/F, granted 2<sup>nd</sup> June 2015.
- They also advised that any future changes to the business which requires the installation of commercial extraction may require a standalone planning application and Environmental Health would welcome the opportunity to determine the potential impact at that time.
- The proposed changes to the café include an outside store, extraction system, fixed outdoor seating and retractable awnings. The P1 form indicates a 50% increase in customers. No noise or odour assessment were submitted with the application despite repeated requests over a significant time period. Following notification of the application being presented to the Planning Committee last week the agent emailed on Friday to advise he would submit a noise and odour assessment and would provide details on Monday. No details have been provided.
- Environmental Health confirmed that the reports are still required. They have also advised that they reviewed the compliant history and have noted that no complaints relating to noise have been received. They have received a compliant relating to food odour but were unable to substantiate the claim due to being unable to establish communication with the complainant.
- As set out in the Planning Committee report concern has been raised by the neighbours who commissioned their own odour assessment. It has concluded that due to the increase in patron capacity by 50% that this would require significant intensification of use of the kitchen, requiring additional extraction to be installed. There has been no assessment of the required extraction system in line with guidance and raises concern with the proximity of residential receptors and scale of the increase of use.

- In relation to noise from the external seating area, no noise assessment has been submitted by the agent. The objectors noise assessment resulted in a significant change in the noise levels when open and the levels were higher than the WHO guidelines.
- The increase in seating also has an impact on the need for additional car parking. No information to rebut DfI Roads refusal has been submitted by the agent. The objectors have employed their own consultants and carried out surveys in 2020. The survey highlights the issue of congestion for service vehicles and traffic with cars parking on the footpaths and roads, blocking access to their residential properties and footpaths. The consultants' report is accompanied by photographs demonstrating the extent of on street parking.
- Photo of the external seating, rear extension, flue and canopy.
- Front elevation with seating.

Planning Officers have recommended refusal for the reasons set out in section 10.

In response to questions from Elected Members, Senior Planning Officer clarified the P1 form detailed a 50% increase of visitors and knock-on effect of cars, external seating and strong canopies extended. The Senior Planning officer clarified an historical application in 2014 for a change of use to a café, 23 seats indoor and domestic appliances approved. In 2018 a change of alterations to the front elevation, these were design changes. They asked for an external flue, Environmental Health asked for an odour assessment and noise assessment and the Agent removed the proposed flue from the plans. This third application is significantly increasing the use by 50%, proposed extension with external flue requiring an odour assessment requested by Environmental Health. This has been repeatedly asked for and has not been submitted; no external flue has been approved previously.

The Senior Planning Officer explained that there may be a noise impact from the flue, there is concern regarding the increase in patrons using the site and significant increase in outdoor seating. There are two apartment blocks either side with residential properties on the cliff. Environmental Health required the assessment due to the increase in external seating, external flue and response to the findings of the objectors' noise assessment.

The Senior planning Officer clarified the issues raised and documents requested since October 2020. She advised there had been an indication reports would be submitted on the Monday of the week of the Planning Committee meeting however no contact had been forthcoming; there had been very limited engagement. Senior Planning Officer clarified should this application be withdrawn, any re-application would require resubmission of all the details including the noise and odour assessment and a rebuttal to DfI Roads refusal reason and advised there was the opportunity to appeal on refusal of the application to the Planning Appeals Commission.

-The Senior Planning Officer clarified all works were retrospective and there was no permission granted for the changes. She clarified the previous approval of internal seating for 28 seats and 8 outside. There is a proposed increase in 120 daily visits, an expected increase of 60 for take-away, a significant increase which has not been

considered previously. The Senior Planning Officer clarified that the P1 Form had indicated that notice had been served on Council as the owner.

The Head of Planning advised that the applicant had a considerable period of time and had been asked continually for reports to be submitted in a timely fashion. The application had been brought forward for decision as it has been in the system for two years and information remains outstanding.

Alderman Duddy recommended refusal, he advised the applicant had every opportunity not only to engage with planning to provide reports, but had not addressed the Dfl Roads issues. He stated that this is for a small dead end road, very residential in character, and an increase in footfall would impact on residents in the area.

Proposed by Alderman Duddy  
Seconded by Councillor Scott

- 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** planning permission subject to the reasons set out in section 10.

Alderman Baird proposed to give the applicant one more month to submit the required reports, to make the business viable and to issue correspondence within the deadline.

#### Amendment

Proposed by Alderman Baird  
Seconded by Alderman Boyle

- That Planning Committee defer consideration for one month for submission of the required reports.

The Chair put the Amendment to the Committee to vote.

9 Members voted For, 2 Members voted Against, 0 Members Abstained.

The Chair declared the motion carried and application deferred.

**RESOLVED** - That Planning Committee defer consideration for one month for submission of the required reports.

\* **Councillor McAuley arrived at the meeting during consideration of the Item.**

The Chair declared a comfort break at 11.30am.

The Meeting reconvened at 11.35am.

The Head of Planning undertook a roll call.

\* **Councillor Storey re-joined the meeting at 11.12pm.**

## **5.5 LA01/2022/0735/F (Council) West Bay Car Park, Eglinton Street, Portrush**

Report and addendum previously circulated was presented by Development

Management and Enforcement Manager.

**Reason for presenting to Planning Committee:** Council application

**App Type:** Full Planning

**Proposal:** The retention of converted portable container being used for a coffee kiosk in West Strand Carpark Portrush.

**Recommendation**

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** planning permission subject to the reasons set out in section 10.

**Addendum Recommendation**

That the Committee note the contents of this Addendum and agree with the recommendation to refuse the proposed development in accordance with paragraph 1.0 of the Planning Committee Report

Development Management and Enforcement Manager presented via powerpoint presentation.

- This proposal comprises the provision of a catering kiosk serving coffees etc, to remain in-situ until 31 March 2024.
- In terms of the Northern Area Plan 2016, the site is located within the settlement development limit of Portrush within an area zoned as a Local Landscape Policy Area and identified as a major area of existing open space. The Northern Area Plan does not contain specific policies on such a facility. Therefore, regional policies apply.
- This application is a Council Interest item as the land subject of the application is owned by the Council.

**MAIN ISSUES-**

- **Local Landscape Policy Area-** The proposal is located within the West Bay Local Landscape Policy Area. The policy within this area is that it is protected from any development other than refurbishment or extension to existing buildings. The proposal does not comply with this policy.
- **Open Space-** The proposal is located within a major area of existing open space as identified by the Northern Area Plan 2016. This area includes the amenity green area with adjoining car park. PPS 8 Policy OS1 has a presumption against the loss of open space subject to specified exceptions. As this proposal does not meet any of these exceptions, development within this area is contrary to Policy OS1. The proposal is distinguishable from catering vans/ wagons which as they are moved on and off the site, are transitory and are not considered to be contrary to Policy OS1.
- **Design & Appearance-** The proposal is open to extensive critical views from the amenity green area and the associated car park. Given its appearance akin to a corrugated metal shipping container, it is a highly incongruous feature which fails to be sensitive to the character of this high amenity coastal area.

Accordingly, the proposal is contrary to Policy DES 2 of the Planning Strategy for Rural Northern Ireland.

- Representations- The detail of these is available in the report.
- Conclusion- The proposal is considered unacceptable with three refusal reasons regarding: the Local Landscape Policy Area, design/ appearance and; development within an area of open space. Notwithstanding the temporary period, the proposal would cause demonstrable harm warranting the refusal of planning permission.

In response to questions from Elected Members, the development Management and Enforcement Manager clarified the size of the container referring to paragraph 8.8 of the Planning Committee report, 4m length, 2.4m width, 2.8m height; the container sits on a crossed hatch area and does not sit on car park spaces. In the event of a refusal it would be likely Planning would contact the owner and ask them to remove it.

The Chair invited D Shirley to speak in support of the application. D Shirley stated she owned the rights to sell in West Bay, a lease from Council for three years until March 2024, supporting the public and jobs in the North Coast area. D Shirley stated the lease cost a substantial sum of money at £17,500 per annum and also restricts what can and cannot be sold. D Shirley stated it was not easy for a small business to make a livelihood, and she also wished to expand within other north coast areas. She stated that she had given up a full-time job and is now self-employed. D Shirley stated she had a written request from Council Concessionary Trading Team, she had her own designated space, stated she had received emails to remove the container and have the licence revoked. D Shirley stated she had now lodged a planning application to resolve the issues, and could not understand why a horse box was any different to a container, as it can still be removed on a trailer and that she does know of other containers in the Council area. D Shirley stated she does not have another unit to put the business into, if the container is not approved. She advised the lease finishes in March 2024 and wished to retain until then.

In response to questions from Elected Members, D Shirley clarified the length of the lease until March 2024, at a cost of £14,500 + VAT. There had been ongoing correspondence in Council with the Head of Infrastructure and had been given the go ahead in writing from the Concessionary Trading Team for a horsebox/container and that she did not see a difference with the horsebox.

The Chair invited J Allister MLA to speak in support of the application. J Allister stated D Shirley was trying to make her way and felt she had been treated very unfairly. She had received WhatsApp message of authorisation from within the Concessionary Department; that there were no issues with the vehicle container. She is now in a situation where the entire future of the project is in jeopardy.

J Allister referred to the refusal reasons:

Refusal reason ENV 1 – J Allister stated what features in carpark does the kiosk offend in terms of the environmental quality – it is a carpark;

Refusal reason DES 2 – J Allister stated it is in a carpark with vehicles of all sizes, shapes, design and material. How can the container offend in the way a horse box does not;

Refusal reason 'loss' of Open Space – J Allister stated Council offered a trading franchise for this spot in the carpark. Policy OS1 it is permissible where there are substantial community benefits that out way the loss; it serves tourists in a tourist area with community benefits. The SPPS strong on supporting sustainable economic growth and should not be refused on design grounds. Para. 5.72 states that development will be permitted unless there is demonstrable harm. J Allister stated Council can grant permission up to March 2024 for reasons of community and tourism benefit. The container will have unsubstantial impact on an open car park; the decision is common sense; there is no difference to a horse box.

J Allister MLA cited from paragraph 4.27 SPPS and paragraph 5.72 SPPS, there is no harm.

Development Management and Enforcement Manager clarified the contact had not been with the Planning Department and the applicant. He advised there were two processes, 1) Concessionary Trading and 2) acceptability of Planning; and the two should not be conflated. He clarified the feature of the LLPA referring to paragraph 8.6 of the Planning Committee report, as the amenity of the open space. He stated that the use of the car park is that cars can come and go and the feature remains and the container will detract from the open space characteristic of the LLPA.

The Chair ruled the speaker could not respond.

In response to questions from Elected Members, J Allister MLA referred to a WhatsApp message he had seen from a Council Officer within Concessionary Trading indicating that, subject to Planning, they had no issue with what was there and on good faith D Shirley had put a container coffee kiosk on the location. He stated that there is no environmental impact different from a horse box and a container; site feeds into a railway embankment behind; there is no fairness and this is the fundamental issue. roads, environment key focal point, prominent feeds into railway embankment behind. He advised that the applicant is not asking too much. 3-year lease temporary planning permission protects long term use of the site, a reasonable requirement.

Proposed by Alderman Duddy

Seconded by Alderman Baird

- that the Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **Approve** planning permission subject to the reasons:
- temporary approval until 31 March 2024
- The coffee kiosk container is small in nature, it sits within a pre-determined space provided by Council
- A tourism opportunity, integral part of community, give added community benefit, bring economic growth to the area and Portrush town, will support existing retail service area
- The size, scale and massing is not intrusive
- Not have a major impact on the local area; looking up from West Bay to the coffee kiosk,



the backdrop is the Railway line

- The location is significant consideration located with the car park around it; there is a toilet block not that far away
- It does not adversely affect amenity, it adds additionality by attracting people to the area
- During the tourist season the carpark is used for different events and functions which brings vehicles of all sizes

Alderman Duddy considered there should be joined up thinking of staff within Council, and advice of Planning Officers, before they suggest what suits a given area.

In response to Alderman Baird, the Head of Planning clarified each case considered on its individual merit in the context of the site and material considerations relevant to that application.

The Head of Planning cited the refusal reasons.

The Chair put the motion to the Committee to vote.

10 Members voted For, 0 Members voted Against, 1 Member Abstained.

The Chair declared the motion carried and application approved.

**RESOLVED** - that the Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **Approve** planning permission subject to the reasons:

- temporary approval until 31 March 2024
- The coffee kiosk container is small in nature, it sits within a pre-determined space provided by Council
- A tourism opportunity, integral part of community, give added community benefit, bring economic growth to the area and Portrush town, will support existing retail service area
- The size, scale and massing is not intrusive
- Not have a major impact on the local area; looking up from West Bay to the coffee kiosk, the backdrop is the Railway line
- The location is significant consideration located with the car park around it; there is a toilet block not that far away
- It does not adversely affect amenity, it adds additionality by attracting people to the area
- During the tourist season the carpark is used for different events and functions which brings vehicles of all sizes

**RESOLVED** – That Conditions and Informatives are delegated to Officers.

\* **Head of Capital Works, Energy and Infrastructure left the meeting.**

## **5.6 LA01/2020/0815/O (Referral) 124 Mullan Road & Lands immediately South East of 124 Mullan Road, Rasharkin**

Report, addendum and erratum and site visit report, previously circulated was presented by Senior Planning Officer S O'Neill.

**Reason for presenting to Planning Committee:** Referral application

**App Type:** Outline Planning

**Proposal:** Proposed offsite replacement (2 storey) and detached garage for no. 124 Mullan Road. Existing dwelling is within an active farmyard causing health & safety issues due to location & shared access. This site has been chosen as it is the nearest and most appropriate location to No. 124. Existing dwelling & garage to be demolished.

### **Recommendation**

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

### **Erratum Recommendation**

That the Committee note the contents of this Erratum and agree with the recommendation to refuse the application in accordance with Paragraph 1.1 of the Planning Committee report.

### **Addendum Recommendation**

That the Committee note the contents of this Addendum and agree with the recommendation to refuse the application in accordance with Paragraph 1.1 of the Planning Committee report

Senior Planning Officer presented via powerpoint presentation.

- (Slide) This application is for the Proposed offsite replacement (2 storey) and detached garage for no. 124 Mullan. The proposed dwelling is located on lands immediately South East of 124 Mullan Road and is on a roadside location. The documents include an Addendum which relates to the potential to create a further infill dwelling, Addendum 2 which relates to a further submission from the agent and Erratum which corrects paragraph 8.15 of the Committee report.
- (Slide) The site is located within the open countryside and is not located within any designations as shown in the Northern Area Plan 2016. The proposal was considered against the policies in the Northern Area Plan, the SPPS and PPS 21 with particular regard to policies CTY 3, 13, and 14.
- Within policy CTY 3 of PPS 21 it is stated 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. Given the dwelling to be replaced is currently lived in, it does exhibit the essential characteristics of a dwelling and all external structural walls are substantially intact.
- All replacement cases must also meet 5 other criteria relating to the proposed curtilage, the overall size and visual impact, the design, services and access.
- The key to this assessment relates to the first of these criteria which states that the proposed replacement should be sited within the established curtilage of the existing building unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in a demonstrable landscape, heritage, access or amenity benefits. It is considered the existing curtilage is sufficient to host an appropriately scaled dwelling given this exception (b) is the relevant consideration.

- The agent has annotated on drawings that an off-site replacement dwelling is 'necessary due to its location within the existing farmyard and with the associated health and safety risk for children. It was noted that farming activity takes place on three sides of the existing dwelling. However daily farming appears to take place on only one side of the dwelling. It is considered that the lane to the south east is a field entrance which is occasionally used to access farmland. There is no set lane or hardstanding which can constitute active farm activity along this boundary. It is also considered that the bale store area to the north east can be accessed from a different location on the farm.
- The agent raised two appeals in support of this application 2011/A0045 and 2016/A0059. It is considered that these differ to the current application. Appeal 2011/A0045 there was an issue in regard to limited amenity space whereas in this case there is ample amenity space associated with the dwelling to be replaced. The proposed dwelling to be replaced was also sandwiched between a road and agricultural building to the rear. In regard to 2016/A0059 this related to a conversion application in which a noise survey was submitted and it did not relate to a dwelling that currently co-exists with farm buildings and has done so for a substantial period of time.
- Within appeal 2019/A0199 the existing site was considered to be of a sufficient scale and would easily accommodate a dwelling of modern scale and standard. The existing dwelling to be replaced also has a substantial plot with a large area of amenity space to the rear. A second example is 2017/A0060 which was dismissed on similar grounds. It is accepted that there are differences between this application and the applications considered in the above appeals. However, some of the issues raised are similar.
- Further to this an approval on the new offsite location will also open up an opportunity for a new infill dwelling on the site of the current dwelling. The agent stated that they would accept a condition to restrict any potential development on the site. However, this is not possible as any application must be assessed on their own merits. It was also stated that the amenity concerns caused by the existing farm buildings would be a reason to refuse an application. However, the planning history would reveal that a dwelling existed on the site for many years and would also be a consideration. It must also be considered that the existing dwelling has co-existed with the existing farm buildings for a substantial period of time.
- The Environmental Health consultation response recommends the proposed dwelling to be situated a minimum 75 metres from farm buildings. The proposed site for the new dwelling is approximately 50 metres from the existing farm buildings and therefore the proposed site will also experience amenity issues. It is considered that the existing curtilage is of a sufficient scale as it remains within close proximity to farm buildings and that an off-site replacement would not result in demonstrable amenity benefits.
- In terms of policies CTY 13 and CTY 14 the proposed site is open and raised in level from the public road, with a low height hedgerow to the front and two side boundaries. The site has a frontage of 60m, and an additional 60m of planted boundary definition would be required to define the rear boundary and provide a backdrop to the proposed dwelling. Given the open and raised nature of the site

this alone would present a negative visual impact and would not assist in any integration of a dwelling within the site. The new dwelling would be visible on approach from the south east and would appear as a prominent hilltop feature.

- It is also considered that the proposal would add to a ribbon of development along Mullan Road. The proposed development will also provide a potential infill opportunity on the site of the existing dwelling. This will add further to the ribbon of development along Mullan Road and would create a suburban style build-up of development. Within the supporting statement the agent states that any new dwelling would face the same amenity concerns and would not be appropriate. However, the existing dwelling has co-existed with the farm building for a substantial period of time and this would also be a consideration. The proposal therefore fails to comply with policies CTY 13 and CTY 14.
- (Slide) This is a photo of the existing dwelling in context with the existing agricultural outbuildings when travelling north west.
- (Slide) This a photo from the other direction travelling south east.
- (Slide) This shows the location of the proposed off site replacement which is on a very open site with limited boundary treatments.
- (Slide) This shows the overall site which rises toward the rear of the site with limited backdrop.
- (Slide) This shows the level of existing amenity space to the rear of the site which is deemed sufficient.
- Overall it is considered that the proposal fails to comply with policy CTY 3 as it has not been demonstrated that the off-site location would have demonstrable amenity benefits and policy CTY 14 as it will create a ribbon of development along Mullan Road.
- Refusal is recommended.

In response to questions from Elected Members, the Senior Planning Officer clarified the proposal is still within 75m of the farm building and as advised by Environmental Health, there would be amenity issues. The existing dwelling has co-existed for a substantial period of time; will create an infill opportunity; has limited integration; and is open in comparison to the existing site. He clarified that the distance from the proposed application site to the farmyard is 50m approximately and agricultural activity is largely only on one side. The Senior Planning Officer suggested that a new access to access bales to the rear could be considered. The existing dwelling and farmyard have co-existed, separated by a wall and existing vegetation.

The Senior Planning Officer advised that as the proposed site is within close proximity and within 75m of the agricultural building there are no demonstrable amenity benefits to accept the off-site replacement that would also outweigh impact of a potential infill opportunity. In terms of rural character and integration, there is the potential for another dwelling and creation of a ribbon development.

The Chair invited T Cassidy to speak in support of the application. T Cassidy stated the following matters on behalf of the applicant:

- the application accords with policy CTY3 off-site replacement as it has been demonstrated that it complies with policy as there are amenity benefits to the off-site location.

- The farm is around 110 acres in size with 100 cattle housed and calving in the sheds and other farming activities. There are separation benefits as the applicant has no association with, or control over, the farming activity.
- Circumstances change – friction between the two units. There is demonstrable harm to amenity.
- The applicant wants to reside in the existing dwelling when building the replacement dwelling.
- Amenity issue within 75m raised by Environmental Health.
- Other offsite replacements approved - LA01/2021/1182 is 50m from existing dwelling for improved amenity benefits.
- Policy CTY 13 is not a test of invisibility – the dwelling will blend in with the area, hedges will be retained and any removed will be replaced behind visibility splays. In terms of the test of integration, visual impact of the new dwelling will not be significantly greater – can condition scale and height.
- The garden area amenity will also be improved.
- Any future application will be assessed on its own merits. The proposal will not create ribbon development.

In response to questions from Elected Members, T Cassidy clarified the dwelling can integrate sufficiently into the landscape; the existing dwelling is prominent and the proposed will be similar but can condition similar ridge height. Landscaping can be augmented and will give more enclosure after a number of years. The proposal should be assessed against baseline of the existing dwelling. T Cassidy advised that the existing dwelling is right beside an active farm with housing/wintering of cattle and calving, up to 100 cattle at any one time with silage storage to the rear. She advised that there is no separation between the farm yard and the residential building with the gable of the garage right on the edge of the farm yard. T Cassidy advised that the farm yard is used for storage as well with constant traffic. She advised that Environmental Health have suggest a minimum of 75m separation, even for a farmer; 50m will be a massive improvement from the existing position reducing the adverse impact on amenity.

T Cassidy suggested a Condition could be attached for the reason of off-site due to amenity issues. If it is still an active and working farm amenity issues will still be considered if infill application submitted and it will be assessed on its own merits. Planning history does not have to have determining weight, amenity issues can still be upheld.

Proposed by Councillor McGurk  
 Seconded by Councillor Nicholl

- that the Committee has taken into consideration and disagrees with the reasons for recommendation set out in Section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve planning permission for the reasons:
- Siting the new dwelling 50m away from the farm yard will create amenity benefits and meets the criteria for a replacement dwelling;
- The existing dwelling is prominent in the landscape, take away one dwelling and add one dwelling with the backdrop of the existing farm buildings. This is outline planning permission, the design and landscaping can be designed at reserved matters to reduce the impact on the landscape ensuring that it does not erode rural character further

- The existing dwelling once demolished, the environmental amenity concerns cannot be ignored. Planning history can be considered and not given determining weight. Separation distance of 10m at most at present; there is limited scope for an infill dwelling;
- Visual impact will not have a greater impact than what is there.

The Chair put the motion to the Committee to vote.

8 Members voted For, 0 Members voted Against, 3 Members Abstained.

The Chair declared the motion carried and application approved.

**RESOLVED** - that the Committee has taken into consideration and disagrees with the reasons for recommendation set out in Section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve planning permission for the reasons:

- - that the Committee has taken into consideration and disagrees with the reasons for recommendation set out in Section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve planning permission for the reasons:

- Siting the new dwelling 50m away from the farm yard will create amenity benefits and meets the criteria for a replacement dwelling;

- The existing dwelling is prominent in the landscape, take away one dwelling and add one dwelling with the backdrop of the existing farm buildings. This is outline planning permission, the design and landscaping can be designed at reserved matters to reduce the impact on the landscape ensuring that it does not erode rural character further

- The existing dwelling once demolished, the environmental amenity concerns cannot be ignored. Planning history can be considered and not given determining weight. Separation distance of 10m at most at present; there is limited scope for an infill dwelling;

- Visual impact will not have a greater impact than what is there.

**RESOLVED** – that Conditions and Informatives are delegated to Officers.

\* **The Chair declared a recess for lunch at 12.53 pm.**

\* **The meeting resumed at 1.55 pm.**

The Head of Planning undertook a roll call.

## **5.7 LA01/2022/0061/0 (Referral) Lands located immediately North of 41B Tirkeeran Road, Garvagh**

Report and site visit report, previously circulated, was presented by Senior Planning Officer, S O'Neill.

**Reason for presenting to Planning Committee:** Referral application

**App Type:** Outline Planning

**Proposal:** Site for cluster dwelling in compliance with Policy CTY2A of PPS21

### **Recommendation**

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

Senior Planning Officer proceeded to present:

- (Slide) This application is a site for a cluster dwelling in compliance with policy CTY2A of PPS21. The proposed dwelling is located on lands located immediately north of 41B Tirkeeran Road Garvagh. The site is located on a laneway off Tirkeeran Road.
- (Slide) The site is located within the open countryside and is not located within any designations as shown in the Northern Area Plan 2016. The proposal was considered against the policies in the Northern Area Plan, the SPPS and PPS 21 with particular regard to policies CTY 2A, 13, and 14.
- Within policy CTY2A it is stated that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:
  - The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
  - The cluster appears as a visual entity in the local landscape;
  - The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads
  - The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
  - Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside;
  - Development would not adversely impact on residential amenity
- It is considered that the first 3 criteria have been met as there is a cluster of development which appears as a visual entity. The cluster is also associated with a focal point which is a creche and playgroup which was formerly a public house. Criteria 6 relating to residential amenity has also been met.
- Criteria 4 states that the site should provide a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.
- The site lacks boundaries to the south and west and opens up into the wider countryside. A laneway runs along the eastern boundary separating the site from No. 41C Tirkeeran Road. A band of trees beyond the laneway boundary also separates the two sites. The site is only bounded on one side by No. 41B Tirkeeran Road. Development located to the opposite side of the laneway does not constitute as bounding the application site. Appeal refs: 2019/A0214 and 2020/A0112 confirm that the presence of a road separating the application site from the development on the opposite side of the road results in them not providing a degree of enclosure. It was confirmed that the site must physically adjoin the other development on at least two sides and that a laneway would not constitute 'development' as it is not a building and cannot therefore 'enclose' in the way that a building would. The proposal therefore fails this criterion.
- Within appeal 2019/A0214 it was also stated that given the lack of enclosure that the proposed development failed to consolidate or round off the cluster.

- Application LA01/2018/1130/O which was approved under appeal 2018/A0235 was raised by the agent. This application is located opposite the site and now houses the dwelling at 41C Tirkeeragh Road. It is considered that this site was more central to the existing cluster while the current application is more detached from the existing cluster and would intrude into the open countryside if approved. The section of the laneway located between the appeal site and the polytunnels and the proposed site is considered minor and this particular issue was not directly raised during the appeal stage as the key issue was whether the polytunnels to the east of the site were permanent structures. Within this appeal it was identified that the polytunnels shared an existing access with an existing business. Further to this appeals 2019/A0214 and 2020/A0112 were decided more recent to appeal 2018/A0235.
- The fifth criterion of policy CTY 2a requires that the development can be absorbed into the existing cluster, through rounding off or consolidation and will not significantly alter the character or visually intrude into the open countryside. Given the lack of enclosure and degree of separation from the surrounding development within the cluster it is considered the proposal will intrude into the open countryside and would have a detrimental impact on the area if approved. There is a public view of the site from the laneway.
- In regard to criteria 6 it is considered that an appropriately designed dwelling could be erected on site that would have no significant adverse impact on the residential amenity experienced at existing properties.
- Although the site lacks established natural boundaries to the south and west given the sites location on a laneway and given the existing built form located around the site it is considered that the proposal complies with policy CTY 13 which relates to integration.
- In terms of policy CTY14 it is considered that the proposal would result in ribbon development along this laneway. The proposal therefore also fails to comply with policy CTY14.
- (Slide) This shows an aerial of the site with laneway between the proposed site and the site of the dwelling at 41C Tirkeeragh Road. As you can see there is a degree of separation between the proposed site and the existing development within the cluster.
- (Slide) This shows the site frontage which is quite open and the vegetation is quite sparse particularly in the winter months and the site then opens up into the open countryside.
- (Slide) This is a view down the existing laneway with proposed site just on your right and the dwelling at 41B Tirkeeragh Road also just here.
- (Slide) This photograph shows the laneway and bank of trees which separates the site from 41C Tirkeeragh Road located on the eastern side of the boundary.
- (Slide) This photograph shows the existing dwelling at 41B Tirkeeragh Road in which the propose dwelling will be located to the rear.
- This proposal fails to comply with the 4th and 5th criteria of policy CTY 2A and also policy CTY14 as the proposal will create a ribbon of development along this laneway. Refusal is recommended.



- \* **During the presentation the Chair declared a 2 minute recess to allow Councillor McGurk to leave and re-join the meeting after which the meeting resumed.**

The Chair invited questions to the Planning Officer from Elected Members.

In response to Elected Members question regarding proximity of other dwellings the Senior Planning Officer confirmed that it was 20 metres to the shared boundary, 30 metres to other dwellings and 90 metres back from the public road. The Senior Planning Officer also confirmed that a building on the map was a small shed style structure which formed part of the curtilage of the dwelling. The Senior Planning Officer further advised that a key issue for the application was whether the buildings were temporary.

The Chair invited A Roarty to speak in support of the application.

A Roarty stated that she disagreed with the Planning Officers recommendation referring to policy CTY2A of PPS21 which she said has been met and was in agreement with Planning that a cluster exists, she stated Planning say that Criteria 4 and 5 are offended.

Regarding Criteria 4 the site is bounded and enclosed on 2 sides and does not form a curtilage. The red line curtilage of the application is bounded at 3 sides by 39b trampoline, green house and dwelling 41C.

Regarding Criteria 5 the application is not intrusive, not seen from Tirkeenan Rd nor does it alter character. There are no critical view points, it is rounded off and proper vegetation is in place. The area is occupied by family and cannot result in suburban build up if it meets policy CTY2A.

There are no views of the site due to screening and vegetation, the application meets criteria and there were no objections. The proposed site is also accessed by a private laneway.

The Chair invited questions from Elected Members for the Speaker.

No questions were put to the Speaker.

In response to an Elected Member, the Senior Planning Officer said the road / laneway was considered similarly and that he did appreciate that one was more minor than the other.

Proposed by Councillor McGurk

Seconded by Councillor Nicholl

-that the Committee has taken into consideration and disagrees with the reasons for recommendation set out in Section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** planning permission subject to the conditions set out in section 10 for the reasons:

- Application meets cluster policy and the two areas referred to by Planning Officer have boundaries on two sides. A laneway is not comparable with a road. The lands above where greenhouse sits is comparable to appeal case which was

considered for the application for 41C where polytunnels are part of the wider curtilage development and bounded site.

- At the site visit it was clear the greenhouse formed part of garden of property and bounds the site.
- There are no critical view points from Tirkeenan Road and backdrop of other development can be seen. The development is suburban in style, the area is quite heavily populated with development, it rounds off development and there is no clean separation.
- Development continues further down laneway and down Tirkeenan Road and will not erode character of area. The development extends past mouth of laneway and does not affect the rural character of the area.

The Head of Planning cited the refusal reasons.

The Chair put the Proposal to the Committee to vote  
6 Members voted For; 4 Members voted Against; 1 Member Abstained  
The Chair declared the Motion Carried and application approved.

**RESOLVED** – that the Committee has taken into consideration and disagrees with the reasons for recommendation set out in Section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** planning permission subject to the conditions set out in section 10 for the reasons:-

- Application meets cluster policy and the two areas referred to by Planning Officer have boundaries on two sides. A laneway is not comparable with a road. The lands above where greenhouse sits is comparable to appeal case which was considered for the application for 41C where polytunnels are part of the wider curtilage development and bounded site.
- At the site visit it was clear the greenhouse formed part of garden of property and bounds the site.
- There are no critical view points from Tirkeenan Road and backdrop of other development can be seen. The development is suburban in style, the area is quite heavily populated with development, it rounds off development and there is no clean separation.
- Development continues further down laneway and down Tirkeenan Road and will not erode character of area. The development extends past mouth of laneway and does not affect the rural character of the area.

**RESOLVED** – that Conditions and Informatives are delegated to Officers.

## **5.8 LA01/2020/1135/F (Referral) Site at 80a Curragh Road, Dungiven**

Report and addendum, previously circulated, was presented by the Senior Planning Officer, J McMath.

**Reason for presenting to Planning Committee:** Referral application

**App Type:** Full Planning

**Proposal:** Proposed Replacement Dwelling

## **Recommendation**

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.

## **Addendum Recommendation**

That the committee note the contents of this Addendum and agree with the recommendation to refuse the application in accordance with paragraph 1.1 of the Planning Committee report.

Senior Planning Officer proceeded to present:

- (Slide) This full application seeks planning permission for a replacement dwelling at 80a Curragh Road, Dungiven.
- (Slide) The site is in the countryside outside of any defined settlement limit as per the Northern Area Plan 2016 but outside any environmental designations.
- The red line extends east of the existing defined curtilage to include a small grassed parcel of land to the east of 80a. The site is surrounded by agricultural lands to the north, east and south. To the west of no. 80 there are footings laid for a dwelling.
- (Slide) No. 80a shares a curtilage and access with adjacent bungalow no. 80 to the immediate west of the site.
- (Slide) this slide shows no 80 with the structure at 80a in the background, photo is taken from roadside
- (Slide) The replacement candidate is a detached, single storey structure of temporary construction. It is yellow in colour with white PVC windows and white guttering. It has a low pitched roof and is set on a brick/concrete base.
- Southern roadside boundary is defined by an existing hedgerow.
- (Slide) photo taken from east
- (Slide) photo taken from west
- East of the mobile is an existing high hedgerow which will be removed to provide the extension of curtilage. The eastern boundary is defined by post and wire fencing.
- Full planning permission is sought for a replacement dwelling at 80a Curragh Road, Dungiven. The replacement candidate is a detached, single storey structure of temporary construction. The proposed house type is a one-and-a-half storey which has been slightly reduced in dimensions during the processing, it is to be sited closer to the road and the curtilage is to be extended to the east. The proposal also includes a garage which has been reduced from storey and a half to single storey.
- Policy CTY3 also states that buildings of a temporary construction will not be eligible for replacement under this policy.
- As seen in the photos, the structure to be replaced is a single storey prefabricated structure. It has been on site since 1997. It is set on a brick plinth which has a foundation it is unclear whether it was brought to site in one or multiple pieces or erected on site. the structure does not have planning

permission and permission would have been required. Even though immune it is not eligible for replacement under policy CTY3. The walls, roof covering, pitch and general appearance is similar to temporary buildings. As the structure is of temporary construction it is not eligible for replacement under policy CTY3.

- The applicant/agent has raised precedent cases all of which have been discussed in detail in the Planning Committee report. Cases are not comparable as from the file notes or photos they are of block work construction rendering them permanent or relate to an application for infill development or there has been a lack of information from agent or the decisions pre-date PPS21.
- (Slide) The Planning Committee report quotes 3 PAC decisions. The 2018 in particular is comparable. The appearance of the structure is comparable. It is made of prefab sections on a platform. The platform does not appear as integral part of the building. The appearance is similar to the temporary building. The proposal is contrary to policy CTY3.
- Further information was submitted for the August Planning Committee and then in Sep/Oct 2022 which listed medical conditions of the applicant and stated a bungalow would greatly enhance the applicants quality of life. The address for the applicant is 80a on the P1 form but is 80 on the medical letter. The medical issues have not been explained. Information has been provided to state that the applicant's daughter is the registered carer. The agent has advised that the applicant's sister is also a registered carer but no information on this has been forthcoming. It has not been demonstrated that a new bungalow is a necessary response and that a genuine hardship would result. The information highlights the existing mobile home on site does not meet specific standards and is restricted in size and is in need of repair. This information refers to the inadequacies of the existing temporary accommodation. The information presented, when reviewed along with the previously submitted medical letter, does not demonstrate the need for certain physical apparatus or standards and does not demonstrate a level of care required by the applicant that is compelling and site specific to merit the need for a dwelling in this location. While the Planning Department notes the deterioration of the existing temporary structure this does not merit a dwelling under policy CTY6. No demonstration of a site specific reason for the need for a dwelling in this location has been forthcoming. It has not been demonstrated that a genuine hardship would result if a dwelling was refused.
- There has been no consideration of any alternative solutions as required by policy. There has been no consideration as to the site specific need for a dwelling at this location. The site is in close proximity to the development limit of Dungiven and there has been no consideration as to why a dwelling within the settlement limit could not be acquired to provide the required amount of accommodation or by altering no 80.
- The proposal is for a one and a half storey dwelling and is not supported by the medical letter which makes reference to bungalow and no evidence has been forthcoming to demonstrate that alternatives have been explored.
- The proposal is contrary to policies CTY1, 3 and 6.
- Refusal is recommended.

The Chair invited questions to Planning Officer from Elected Members.

Elected Members asked for clarity and further information regarding the medical letter in support of the application and the Head of Planning advised that this should be discussed, *'in committee'*.

**MOTION TO PROCEED *'IN COMMITTEE'***

Proposed by Alderman Duddy

Seconded by Councillor MA McKillop

**AGREED** – that Planning Committee move *'In Committee'*.

\* **Press and public were disconnected from the meeting at 2.45 pm.**

***The information contained in the following items is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.***

With the agreement of the Chair and Head of Planning, the Senior Planning Officer read extracts from the letter, after which discussion ensued regarding the bearing of the letter on the application.

**MOTION TO PROCEED *'IN PUBLIC'***

Proposed by Councillor Scott

Seconded by Councillor Alderman Duddy

**AGREED** – that Planning Committee move *'In Public'*.

\* **Press and public were readmitted to the meeting at 2.55 pm.**

The Senior Planning Officer advised that the current structure was immune from planning permission and further advised that buildings of temporary construction were not eligible for replacement. The Senior Planning Officer suggested that the application should have considered an extension to the permanent structure at number 80 where applicants sister and caregiver resides. Policies CTY1 and CTY6 refer to other material considerations which includes medical information and other information from applicant and agent. The Senior Planning Officer said that there was no evidence an alternative solution had been sought for accommodation in the Dungiven area. The Senior Planning Officer said that the medical information provided as well as information provided from the Agent would not alter the fact that under policies CTY6 and CTY1 the application does not meet the required criteria.

At the request of Elected Members, the Head of Planning advised that under policy CTY6 personal circumstances could be considered in the first instance with regard to an extension at no. 80 and would be a good alternative solution given the close proximity and family connection.

The Head of Planning advised that under policy CTY6 that consideration is given to the long term needs of the applicant and potential hardship and read an extract from

policy CTY6, reminding Elected Members that amending the description would require readvertising and new neighbour notifications to be issued.

Proposed by Councillor McGurk

Seconded by Councillor Nicholl

-that the application be deferred to allow for the description to be amended to include policy CTY6.

The Proposer, Councillor McGurk said, that the circumstances should not be ignored, and policy CTY6 was more appropriate to consider given the potential for genuine hardship.

The Chair put the Proposal to the Committee to vote.

11 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the Motion Carried.

**RESOLVED** -that the application be deferred to allow for the description to be amended to include policy CTY6.

#### **5.9 LA01/2021/0756/F (Referral) Approximately 25m South of 23 Causeway Road**

Report previously circulated.

**Reason for presenting to Planning Committee:** Referral application

**App Type:** Full Planning

**Proposal:** Retention of existing toilet facilities associated with open farm

#### **Recommendation**

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** planning permission subject to the reasons set out in section 10.

Proposed by Councillor Scott

Seconded by Alderman Duddy

-that application be deferred for a site visit to see in context whether or not the application integrates and how prominent it is.

The Chair put the Proposal to the Committee to vote.

11 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the Motion Carried.

**RESOLVED** -that application be deferred for a site visit to see in context whether or not the application integrates and how prominent it is.

\* **The Chair declared a recess for a comfort break at 3.15 pm**

\* **The meeting resumed at 3.20 pm**

## **5.10 LA01/2022/0130F (Referral) Lands to the rear of and adjacent to No. 45 Middlepark Road, Cushendall**

Report, previously circulated, was presented by Senior Planning Officer, E Hudson.

**Reason for presenting to Planning Committee:** Referral application

**App Type:** Full Planning

**Proposal:** Application to vary condition 17 of approval ref. LA01/2018/0585/F "None of the dwelling units in the development hereby approved shall be occupied until such time as all the dwelling units in the development approved under ref. LA01/2020/1333/F are substantially complete" to "None of the dwelling units in the development hereby approved shall be occupied until such time as development has commenced on the adjoining site, as per approval ref LA01/2020/1333/F".

### **Recommendation**

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.

Senior Planning Officer proceeded to present:

- (Slide) Planning Application LA01/2022/0130/F. This is an application to vary a condition on a previous planning permission and it relates to a housing development approved in Cushendall.
- The Application is to vary condition 17 of approval ref. LA01/2018/0585/F which stated "None of the dwelling units in the development hereby approved shall be occupied until such time as all the dwelling units in the development approved under ref. LA01/2020/1333/F are substantially complete" to "None of the dwelling units in the development hereby approved shall be occupied until such time as development has commenced on the adjoining site, as per approval ref. LA01/2020/1333/F".
- (Slide) This is the red line boundary of the approved housing development LA01/2018/0585 and it is located within the settlement development limits of Cushendall just south of Mount Edwards Hill.
- (Slide) This shows the site layout of both the private housing development to the north and the 5 social housing units to the south. The site in its entirety is zoned for housing in the Northern Area Plan 2016.
- (Slide) This is the relevant housing zoning in the NAP designation CLH 12. One of the key site requirements for this site is that a minimum of 5 dwellings shall be provided for social housing.
- The Housing Executive have advised that based on the latest housing needs assessment carried out in March 2021 there is a projected housing need for the period 2021/2026 of 39 social housing units for Cushendall. This will be met through the 5 social housing units associated with this application and the additional social units proposed at Kilnadore Brae. This is at odds with the figure quoted by the agent in supporting information which referenced to a need for 23 social units in Cushendall up to 2025.

- Careful consideration was given to the wording of Condition 17 at the time permission was granted. The proposed wording ensures that the 5 no. social housing units are substantially complete before the dwellings in the adjoining private residential development are occupied. As such this is giving an assurance that the social housing units will be delivered.
- The proposed wording only requires the social units to be commenced on site prior to occupation of the private residential housing units. This has a level of uncertainty without a guarantee that the social units will be completed.
- As such the application to vary condition 17 fails to ensure the delivery of the required social units for Cushendall and therefore is contrary to Policy HOU 2 of the NAP 2016.
- Refusal is recommended.

The Senior Planning Officer advised that correspondence had been received from the Housing Association indicating agreement to support but with no certainty of delivery and no legal agreement to ensure delivery within the key timeframe of 2026.

At the request of Elected Members, the Senior Planning Officer advised that there were two developments, one application for 25 residential units in 2018 with the condition that they would not commence until the five social housing units were substantially complete.

The Senior Planning Officer outlined at the request of an Elected Member accessibility to the site and explained with the aid of the map the relationship between the two sites.

The Head of Planning explained the difference in the terms referred to:-

Commencement – erection of foundations and access conditions;

Substantially complete – erection of walls, roof and windows (weatherproof).

The Chair invited C Bryson to speak in support of the application.

C Bryson presented as follows:

- Planning Officers are concerned on delivery of the social housing aspects but at the minute the two permissions are intrinsically linked. We are not seeking to remove or not deliver on what was agreed but request the flexibility to allow development across both sites without being grounded down by regional or local policy.
- Guidance within the Northern Area Plan does not compel to build or deliver and the social housing can be completed in the future.
- Rural Housing Association will be delivered and there is a commitment from provider that development will go ahead. I am not familiar with a previous permission for this type of build with such a condition imposed.

The Chair invited questions to the Speaker from Elected Members.

In response to Elected Members C Bryson advised that an agreement was in place with the Rural Housing Association for management of these units. A developer is building on their behalf and then handing over to the Rural Housing Association. The



concern is that the developer cannot sell housing until social housing substantially complete. We understand there will be remuneration by the Rural Housing Association for the build, however all the infrastructure has to be put in place for both developments in advance of this.

C Bryson advised that Causeway Coast and Glens Borough Council was the only one with an adopted policy for social housing, referring to the imposition of a condition to build out in a phased manner. C Bryson referred to another area where there was mixed tenure and no such policy was in place LA01/2020/0515/F.

The Head of Planning advised that Causeway Coast and Glens was the first Council in line with the Northern Area Plan after the transfer of function to incorporate this policy saying this type of development was to be encouraged.

The Head of Planning advised that layout of LA01/2020/0515/F incorporated social housing as part of the overall development and read conditions 2 and 3 of decision notice to Elected Members.

Some Elected Members expressed concern that if the condition remains in place the development may not reach completion stage and C Bryson admitted that this was a possible outcome.

C Bryson referred to the five year time limit for building and Elected Members suggesting exploring flexibility in wording to allow some of the housing development to be sold in advance of furtherance of the social housing.

An Elected Member suggested agreeing a percentage figure to be achieved as a way towards reaching a consensus. The Head of Planning advised that should members wish to take this approach a deferral would be required to implement.

The Head of Planning advised that if the wording was to be amended that the description would need to be amended on the P1 Form and repeat neighbour notification and readvertisement undertaken.

Proposed by Councillor Scott

Seconded by Alderman Duddy

- that application be deferred to allow Head of Planning and Agent to amend P1 varying of conditions, re-advertise and issue new neighbour notification

The Chair put the Proposal to the Committee vote.

13 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the Motion Carried.

**RESOLVED** – that application be deferred to allow Head of Planning and Agent to amend P1 varying of conditions, re-advertise and issue new neighbour notification

## **6. DEVELOPMENT MANAGEMENT AND ENFORCEMENT**

### **6.1 Quarterly report on Planning Performance**

Report, previously circulated, was presented by the Head of Planning.

## Background

Schedule 4 of The Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015 sets out the statutory performance targets for the Planning Department for major development applications, local development applications and enforcement cases.

The statutory targets are:

- Major applications processed from date valid to decision or withdrawal within an average of 30 weeks
- Local applications processed from date valid to decision or withdrawal within an average of 15 weeks
- 70% of all enforcement cases progressed to target conclusion within 39 weeks of receipt of complaint.

The Northern Ireland Planning Statistics is an official statistics publication issued by Analysis, Statistics & Research Team within Department for Infrastructure. It provides the official statistics for each Council on each of the statutory targets and is published quarterly and on an annual basis. The First Quarter 2022/23 Statistical Bulletin was published on 29 September 2022 providing planning statistics for this period. It also provides a summary of Council progress across the three statutory targets.

## Details

Website provided the link to the published bulletin.

### Development Management Planning Applications

Table 1 circulated provided a summary of performance in relation to the statutory targets for major development applications and local development applications for the first quarter of 2022-23 business year and provides a comparison of performance against all 11 Councils.

### **Table 1: Planning Applications (circulated)**

In the Q1, Causeway Coast and Glens Borough Council issued the highest number of major planning applications out of the 11 councils, 100% of which were approved. These decisions included the granting of planning permission for the redevelopment of Coleraine Grammar School and the expansion of Armstrong Medical. The average processing times for major applications surpassed the statutory target by 4.5 weeks and an astonishing 25.8 weeks faster than the NI average. This Council was one of only two Councils to meet the statutory target for the processing of major planning applications.

Performance continued to improve in the processing of local category of planning applications during Q1 when compared to the same period in the previous business year. Although not meeting the statutory target, the Business Plan target was met and in an improved ranking of 6<sup>th</sup> fastest out of the 11 councils. Again, the approval

rate of 96% was above the NI average of 95.1%. The overall approval rate for decisions on planning applications was 96.1%, 1.0% above the Northern Ireland average.

In terms of live applications, this Planning Department has the 5<sup>th</sup> highest live applications with the 3<sup>rd</sup> highest percentage of live applications over 12 months in the system. Focus is required over the next year to reduce the over 12 month applications in the system. This is likely to have a negative impact on the average processing times for local applications.

Over the reporting period, Council received the highest number of commercial and agricultural types of applications out of the 11 Councils and the 4<sup>th</sup> highest number of residential applications. For residential applications, the approval rate was 96.8%, 1.7% above the NI average.

### Enforcement

Table 2 circulated showed statistics in relation to enforcement for Q1 of the 2022/23 business year. The statutory target for processing enforcement cases to conclusion has been met over this period, sitting 3.8% above the NI average. Although the number of cases opened remains high, the number of cases concluded is lower than needed to reduce the live caseloads. This is in part due to vacancies within the Enforcement Team during this period with the Planning Assistant post filled in May and the Senior Planning Officer remaining vacant at the end of Q1.

Table 2: Enforcement (circulated).

### **Percentage of Local applications determined under delegated powers**

Table 3 circulated detailed the total number of Local applications determined under delegated powers. Determined is taken as the date the decision issued and excludes withdrawn applications. DfI Development Management Practice Note 15 Councils Schemes of Delegation recommends that councils should aim to have 90-95% of applications dealt with under the scheme of delegation. To date 93.9% of applications determined were delegated under the scheme of delegation.

Table 3: Percentage of Local applications determined under delegated powers (circulated).

### **Number of applications taken to Planning Committee and percentage of Committee decisions made against officer recommendation**

Table 4, circulated, provided details on the number of decisions that were determined by the Planning Committee at each monthly meeting and the percentage of decisions made against officer recommendation, including Major, Council and Local applications. This is taken from the date of the decision notice issued. Of note is that all applications overturned were referred applications and of concern is the total overturn rate of decisions by Planning Committee at 40%. The overturn decisions related to a mixture of types of applications.

Table 4 Decisions at Planning Committee against Officer Recommendation (circulated).

## **Percentage of appeals against refusals of planning permission that are dismissed**

Table 5 circulated detailed the number of appeal decisions issued in Q1 of 2022/23 business year. Please note that these figures relating to planning appeal decisions are unvalidated statistics extracted from internal management reports. Two appeal decisions have been received in Q1 of this year; both appeals were dismissed by the PAC in favour of Council's decision. One appeal related to the erection of an external metal staircase and landing to the rear of a dwelling and the other for a CLUD in relation to the completion of a dwelling and access.

Table 5: Planning Appeal Commission Decisions (circulated).

## **Other Activity by Planning Department**

Tables 6 , circulated, indicated the level of other activity carried out by the Planning Department over Q1 of 2021/22 business year.

Table 6: Other Activity (Circulated).

In addition to the formal applications received, the Planning Department received 58 other types of applications relating to planning applications.

## **Conclusion**

In conclusion, performance within the Planning Department continues to steadily improve with significant progress made in the processing of major planning applications to meet the statutory target. Planning is meeting 2 of the 3 statutory targets and performance towards meeting the local statutory target continues to be made. In comparison to other Councils, Planning is now sitting mid-rank in terms of performance for local applications and 2<sup>nd</sup> fastest for major applications. Recruitment of staff to fill vacant posts continues which will assist in reducing workloads and improving average processing times for both planning applications and enforcement cases. Focus on progressing the older applications in the system will be taken forward over the next 6 months and this may negatively impact on the average processing times of local applications.

## **Recommendation**

**IT IS RECOMMENDED** that the Planning Committee note the Planning Departments Quarterly Report.

Some Elected Members referred to the good work and progress made which led to this report saying they hoped it would continue.

At the request of an Elected Member the Head of Planning provided clarity on the definitions and statistics within the Enforcements Prosecutions explaining the procedure when complaint of alleged unauthorised development is received by the Enforcement Team. The Head of Planning confirmed that consideration is only given to reporting of breaches if the senders details have been included; anonymous complaints are not investigated.

At the request of an Elected Member the Head of Planning advised that her staff were working in accordance with the Agile Working Policy which had recently been implemented across Council which was practice for all Causeway Coast and Glens office based employees.

At the request of an Elected Member the Head of Planning advised that she now had a full complement of staff in the Enforcement Section.

\* **Councillor Scott left the meeting at 4.35 pm.**

## **7. DEVELOPMENT PLAN**

### **7.1 Quarterly Verbal Update**

Verbal report was presented by the Development Plan Manager.

Members will be aware of the work undertaken to date to get us to this stage of the Plan-making process, including the following:

#### **Evidence Gathering to inform Draft Policy Approach**

- Topic-based research & evidence gathering.
- Project Management Team Consultation.
- 18 x Member Workshops – Draft Policy Approach.
- 2x LDP Steering Group Meetings (and subsequent planning committee meetings).

#### **dPS Public Consultation Document clearance**

- SLT clearance 15<sup>th</sup> August 2022.
- Planning Committee agreement 24<sup>th</sup> August.

#### **Going forward from here:**

- On 1<sup>st</sup> November Full Council agenda for agreement.

#### **Preparation for dPS Publication**

- Design and Print.
- Finalising accompanying assessments, appraisals, questionnaire, etc.
- Accompanying document library to be collated.
- Review existing LDP Timetable.

#### **dPS Publication**

- Indicative date for dPS publication - early 2023.

**RESOLVED** – That Planning Committee note the report.

## 8. CORRESPONDENCE

### 8.1 Council's response – Advance Notice of Listing – War Memorial, Ballydevitt Road, Aghadowey

Information report, previously circulated, was presented by the Head of Planning.

**RESOLVED** – That Planning Committee note the report.

## 9. REPORTS

### 9.1 Design Arbitrator

Report, previously circulated, was presented by the Head of Planning.

#### **Background**

Council, at its meeting held on 01 September 2020, ratified the recommendation of the Corporate Policy and Resources Committee meeting held on 25 August 2020 as follows:

“Given the strategic significance of planning to Causeway Coast and Glens Borough Council – this Council calls for a full Independent review of Planning processes by an appropriate qualified body or Group, to include Service Users, Agents and Applicants; and for this to be carried out within a 6 months’ timescale.

On 01 December 2020 Council approved a direct award contract to Mr Jim Mackinnon to provide the full independent review.

The report was presented to Corporate Policy and Resources Committee at the meeting held on 28 September 2021 and ratified by Council at its meeting held on 05 October 2021. Council further resolved at that meeting that a working group be established of 8 Members to meet bi-monthly to take the action plan forward.

#### **Details**

The Action Plan sets out 4 overarching goals:

Seek amendments to the complex planning legislation and detailed policy;  
Improve efficiency in the processing of planning applications;  
Improving communications with customers to improve customer service;  
Stabilise staffing resources.

One of the actions within the Action Plan is to “*Introduce a process for impartial advice on design matters*”. As a result, the Scheme of Delegation for the Planning Department was amended to enable Members to request referral of a planning application that is recommended for refusal on design matters to be referred to the Planning Committee for determination. Secondly, a selection of senior planning officers have completed an RTPI masterclass in ‘Planning and Good Design’. The report addresses the final action to scope procurement of impartial design arbitrator.

The first step in scoping the procurement of an impartial design arbitrator is to look at other jurisdictions to ascertain the type of design arbitrators they have available to assist on design in the planning application process and secondly to establish best practice.

## **Wales**

The Design Commission for Wales was established by the National Assembly for Wales to promote good design. They are an expert multi-disciplinary team of 38 practising professionals who work with local planning authorities, investors, developers and commissioning clients. They are not a membership organisation or professional body and do not represent the interests of a single profession. They have a range of experience including architecture, urban design, commercial property development, landscape, transport, energy, civil and structural engineering, sustainability, carbon reduction, planning and environmental design.

The Design Review Service that the Design Commission offers provides an opportunity for early discussion on plans and projects prior to the submission of planning applications. Their comments represent material considerations in the determination of planning applications providing an independent expert view. They consider projects of varying types and scale.

The review is carried out with the client, design team and local authority present. Their review is informed by relevant legislation, national and local planning policy, guidance and standards. A written report is issued to those who attended the meeting within 10-14 working days and normally made available publicly.

## **Scotland**

Architecture & Design Scotland was set up by the Scottish Government in 2005 as an executive Non-Departmental Public body (NDPB) to help change how Scotland's places are planned, designed, delivered and sustained.

The Design Forum works with community groups, architects, local authorities and all key stakeholders and draws on a range of experience from a multi-disciplinary team.

The local authority officers engage in the advice process with the Design Forum and the client improving the review process and improving dialogue to solve issues of concern. It reduces the need for written reports and this iterative facilitative approach is considered to have greater benefits than a peer review panel which can be detached from the overall process.

There is a 3 stage process which can be tailored to the particular needs of the project. Shorter meetings or telephone calls may be offered to allow the project to progress. A meeting with the local authority may take place at the end of the appraisal stage to assist in understanding unresolved issues. For smaller projects the A&D staff can provide advice through informal meetings. The process is limited to 3 meetings or workshops.

Inverness Design Review Panel is made up of representatives from organisations that have an interest in improving the quality of buildings and places for the public benefit. These organisations include Inverness Civic Trust, Inverness City Heritage Trust, Inverness Architects' Association, RTPI, High Life Highland, Inverness College UHI, Police Scotland and Historic Scotland. Six panel meetings take place per year with up to 3 development proposals discussed at each meeting.

The Panel seeks to meet and advise design teams and developers as an early stage of the design process. The review process consists of:

- Short presentation by the Highland Council
- Short presentation from the design team for the developer
- Facilitated panel discussion
- Preparation of confidential written Panel report
- Circulation of Panel Report to the design team
- Publication of the Panel Report in the public record of the planning application if application is lodged

### **England**

The Design Review comprises a group of multi-disciplinary built environment professionals providing expert advice to applicants and local authorities on design issues in relation to important new development schemes and proposals for important public spaces, including significant minor applications, major planning applications and PAD proposals. The Design Review Panel's feedback is a material consideration in the determination of planning applications.

Applicants or their design team present their scheme to the Design Panel and the Panel members are then given the opportunity to ask questions of the presenters. The Design Panel then consider the scheme in private before bringing the presenters and local authority back into the meeting. The Design Review Panel Chair verbally summarises the comments of the Panel. A written Feedback Document is produced by the Design Panel and this is emailed to the person who requested the review meeting.

### **Northern Ireland**

The Ministerial Advisory Group (MAG) is sponsored by the Department of communities (DfC) and at present provides free advice. It comprises publicly appointed experts from across the built environment professions. It is the only independent advisory group in Northern Ireland. It offers expert, independent and impartial advice on the design of new buildings, landscapes and public spaces.

The role of MAG is to advise and assist in delivering better designs and better places. is no limit to the scale of the proposed development that MAG will consider. They offer briefing reviews, briefing workshop, pre-planning design reviews and reviews as part of the planning process, all of which are currently free of charge.

Briefing reviews allow for engagement at the inception stage of a project. They allow for identification of project potential in the wider context. Briefing workshops can take account of the wider social, environmental and economic contexts in setting an holistic strategic ambition for the project. This can help ensure project potential is optimised with respect to contributing to the urban or rural environment and the community in which it is based. Design peer reviews offer a non-adversarial, collaborative approach based on UK and international best practice.



Projects may be referred to MAG by developers and their project team; design teams; or by Planning Authorities within Councils. The review will consist of the developer and their project team, a panel of 3 independent MAG advisors, MAG Secretariat and Planning Officers where the application is referred by the Planning Authority.

The review process consists of a pre-meeting with the Panel Chair and MAG Secretariat. Relevant documents submitted by the project team are reviewed and the panel undertake a site visit. This is followed by the Design Workshop/Review. The Design Review consists of a 10 minute introduction and preambles by the panel chair followed by a 5 minute introductory comments by the Planning Officers.

The Project Team present the project for 20-30 min and this is followed by a 15 minute question and answering session by the panel. Discussions are opened for approximately 1 hour and the review is concluded by the provision of a summary feedback and conclusions. A written report with a full summary of the Panel's comments and observations is normally issued within 14 days and issued to the primary contact for the referral. If the review is initiated by the Project Team, the MAG will comply with the teams wishes concerning distribution of the report which may result in the report not being placed in the public domain or copied to Planning Officials. If the project Team or the Planning Authority choose to bring the report into the public domain it must be published in its entirety. The process normally takes 5-6 weeks from start to finish.

MAG have been involved in previous planning applications in this Council area. Martin Hare, McAdam Design, Managing Director engaged with MAG for the design of the new Coleraine NRC. He is quoted as saying of his experience with MAG "The involvement of MAG was extremely positive at both Coleraine & Ballymena NRC. As independent professional advisors they provided sound advice which improved the architectural proposals and aided the planning process. I was particularly impressed by their sensitive appreciation of all the project challenges including budget and programme which manifest in their willingness to partner towards agreed solutions which clearly benefited the scheme and end-users. I would have no hesitation in working with MAG on future projects and would recommend them as a valuable mediator in the design development of future projects undertaken by McAdam Design."

The Royal Society of Ulster Architects (RSUA) also offer a design review service. 15 architects have been appointed through an open process to this newly established peer-approved Design Quality Panel. The panel assists in a range of matters including assessing design quality at tender, design input at project inception, undertaking design reviews and awareness training in design quality

### **Best Practice**

Across the 4 jurisdictions there are similarities in the key components of Design Review Panels. The review panels for Design Commission for Wales, Architecture & Design Scotland, The Design Review England and the Ministerial Advisory Group Northern Ireland have all multi-disciplinary panel members from across the built environment professions. This provides a breadth of expertise to peer review

planning applications taking account of the wide spectrum of social, economic and environmental issues of a project.

Each panel undertake a number of stages to their reviews that can be tailored to suit the scale of the project and the stage in the process advice is sought. All Design Review Panels provide a balanced advisory report from discussions that if released to the Planning Authority in full can be taken as a material consideration in the assessment of the project.

Project teams are encouraged to engage at the earliest possible stage of the process however, the process can be tailored dependent on the stage in the planning application process the Design review Panel is engaged.

At a time of severe pressures on budgets, a key consideration is also costs. There is currently no charge for this service by MAG at this time.

### **Recommendation**

**IT IS RECOMMENDED** that the Planning Committee note the above comparison of design reviews across the 4 jurisdictions, the breadth of expertise of the multi disciplinary panel members from across the built environment professions, the zero cost for the advisory service provided by the Ministerial Advisory Group (MAG) and agrees to engage with MAG on design reviews where the Head of Planning considers is beneficial to the Planning Process.

At the request of Elected Members, the Head of Planning advised this proposal was beneficial to Council and that Agents and Applicants could also avail of this service saying that guidance can be provided independently which is of mutual benefit to all parties.

Proposed by Councillor McGurk

Seconded by Councillor McMullan

-that the Planning Committee note the above comparison of design reviews across the 4 jurisdictions, the breadth of expertise of the multidisciplinary panel members from across the built environment professions, the zero cost for the advisory service provided by the Ministerial Advisory Group (MAG) and agrees to engage with MAG on design reviews where the Head of Planning considers is beneficial to the Planning Process.

The Chair put the Proposal to the Committee to vote.

11 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the Motion Carried.

**RESOLVED** - that the Planning Committee note the above comparison of design reviews across the 4 jurisdictions, the breadth of expertise of the multidisciplinary panel members from across the built environment professions, the zero cost for the advisory service provided by the Ministerial Advisory Group (MAG) and agrees to engage with MAG on design reviews where the Head of Planning considers is beneficial to the Planning Process.

## 9.2 Second Homes

Report, previously circulated was presented by the Head of Planning.

### **Purpose**

This Paper looks at the various options for dealing with the issues of second homes and short-term holiday lets and provides a comparison with other jurisdictions on tackling this issue. It provides a recommendation on the way forward to assist in addressing this issue.

### **Background**

There is growing concern around the issue of second homes and short-term holiday lets in the Borough, especially in our coastal settlements and others just inland from a coastal setting.

This issue has generated much debate with some considering there to be a direct correlation between the number of second homes and short-term holiday lets to a reduction in the number of homes available within the price range of those looking to get onto the housing market and how this is impacting negatively on these communities. The difficulty of purchasing homes at affordable prices is considered to impact on the ability to retain the younger generation in these areas resulting in older populations, impact on labour resources and declining populations.

Others do not consider there to be a direct correlation and consider that the provision of second homes and short-term holiday lets to have a positive impact on settlements, resulting in a greater range of services that would not normally be expected for settlements of their scale; provide extra income for those properties owned by locals; and, have a positive impact on the tourism industry.

Research has not established evidence to demonstrate that the presence of second homes in a location is the sole reason for high property prices. Research has also highlighted positive impacts of the presence of second homes, for example in terms of better services and facilities in the area than the permanent population might otherwise enjoy.

Council's Community plan has identified issues of loneliness for permanent residents in affected settlements, particularly where the population is older.

The issue of second homes in the Borough has been factored into the Regional Development Strategy Housing Growth Indicators (HGIs). The HGIs are an estimation of future housing needs and estimate that there will be 2,700 second homes in the Borough by 2030. Where it has been demonstrated that the presence of second homes raises a local issue in particular settlements, for example a significant level of affordable housing need as identified through the Housing Needs Assessment, experience has been that the most effective way to assist in redressing the imbalance and provide a substantial number of new affordable housing units in that settlement through the planning system is to zone land specifically for affordable housing purposes. However, this does not address the

issue of controlling the number of second homes in a settlement. Further interaction is necessary.

### **Details**

Evidence gathered in relation to the number of second homes in the Borough is detailed below (circulated):

### **Summary of Potential Percentages of Second Homes Compared to Housing Stock in the Borough's coastal Settlements (Rounded Figures) (Circulated).**

In looking at planning interventions to assist in addressing the issue of second homes, research has been undertaken to compare practices in other jurisdictions. However, it is important to point out that some of these are not directly comparable to Northern Ireland due to the differing governance and planning policy responsibilities.

### **Wales**

The Welsh Government has made changes to planning legislation in a bid to tackle the issue of second homes and holiday lets. The changes to planning legislation includes an amendment to the Use Classes Order to create a new use class for 'dwellinghouses used as sole or main residences', 'dwellinghouses used otherwise than as sole or main residences' and 'short-term lets'. In addition, it is making changes to the General Permitted Development Order to allow permitted changes between these new use classes. These permitted development rights can be dis-applied through an Article 4 Direction for a specific area where the local planning authority has robust local evidence that highlights the impact of second homes and short-term lets on specific communities. These legislative changes come into effect on 20 October 2022.

Changes are also being made to the national planning guidance Planning Policy Wales which will make it explicit that the prevalence of second homes and short-term holiday lets in a local area must be taken into account in the local development plans when considering housing requirements and policy approach.

### **Scotland**

The meaning of development has been amended in the Planning (Scotland) Act 2019 enabling planning authorities to designate all or part of an area as a Short-Term Let Control Area (STLCA). In a STLCA, change of use of a dwellinghouse will always require planning permission. The objective of this policy change is to help manage areas with high concentrations of short-term letting, control their development in ill-suited areas and help local authorities to manage their housing stock to best effect.

The Scottish Government has also introduced a licensing scheme to cover issues not covered by planning.

### **England**

The English planning system has a different plan system where a number of Neighbourhood Plans are addressing the issue of second homes through policies to

limit new-build to principal private residences. In Northumberland County Council, for example, it is proposed that all new dwellings in parishes with 20% or more household spaces with no usual residents will only be supported where first and future occupation is restricted in perpetuity to ensure that each new dwelling is occupied only as a 'principal residence'.

### **Northern Ireland**

Northern Ireland has not proposed any changes to legislation to date to address the issue of second homes and short-term holiday lets. Currently, the change of use from a dwellinghouse to a second home does not require planning permission as there is no differentiation in the Use Classes Order between such. Therefore, the problem is unregulated and difficult to control.

### **Conclusion**

Northern Ireland is lagging behind the approach by other governments in tackling the issue of second homes. A change to legislation is required to reflect the Scottish and Welsh approach to controlling this issue.

A change to the Planning Act (Northern Ireland) 2011 is required to define a change of use to a second home or short-term let as development. Secondly, a change to the Use Classes Order is required to set out the sub-classes of second homes and short-term lets. Thirdly, a change to the General Permitted Development Order is required making a change from a permanent residence to a second home not of permanent residence or short-term let as permitted development. This would enable Council to issue Article 4 Directions removing such permitted development only in those settlements where there is robust evidence to demonstrate the negative impact that such development is having.

Other approaches to align with these planning interventions are also being implemented in the other jurisdictions. These include licensing of short-term holiday lets where demonstration that planning permission has been obtained is a pre-requisite; and, local taxing for second homes and self-catering accommodation.

### **Recommendation**

**IT IS RECOMMENDED** that the Planning Committee note the above comparison of how the issue of second homes and short-term lets has resulted in legislative change in other jurisdictions and **AGREES** to the Head of Planning writing to DfI Chief Planner requesting that:

- planning legislation is amended in Northern Ireland to define a change of use from a permanent dwelling to a second home or short-term let as development;
- making the necessary changes to the Use Classes Order and General Permitted Development Order;

enabling Council to issue Article 4 Direction removing permitted development in those areas where there is robust evidence of the negative impact that second homes and short-term lets is having on those areas.

The Chair raised concern on the inability of young people to secure housing in rural areas and the impact of settlements, schools and sports clubs in this regard.

Members also raised concern about homelessness, worries raised by Community Groups around housing issues and the need to protect the tourist trade in the area.

Alderman Baird felt there should be a wider perspective regarding housing and a Working Group could be established.

Proposed by Councillor McMullan

Seconded by Alderman Boyle

-that the Planning Committee note the above comparison of how the issue of second homes and short-term lets has resulted in legislative change in other jurisdictions and **AGREES** to the Head of Planning writing to DfI Chief Planner requesting that:

- planning legislation is amended in Northern Ireland to define a change of use from a permanent dwelling to a second home or short-term let as development;
- making the necessary changes to the Use Classes Order and General Permitted Development Order;

enabling Council to issue Article 4 Direction removing permitted development in those areas where there is robust evidence of the negative impact that second homes and short-term lets is having on those areas.

\* **Alderman McKillop left the meeting at 5.10 pm.**

The Chair put the Proposal to the Committee to vote.

8 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the Motion Carried.

**RESOLVED** - that the Planning Committee note the above comparison of how the issue of second homes and short-term lets has resulted in legislative change in other jurisdictions and **AGREES** to the Head of Planning writing to DfI Chief Planner requesting that:

- planning legislation is amended in Northern Ireland to define a change of use from a permanent dwelling to a second home or short-term let as development;
- making the necessary changes to the Use Classes Order and General Permitted Development Order;

enabling Council to issue Article 4 Direction removing permitted development in those areas where there is robust evidence of the negative impact that second homes and short-term lets is having on those areas.

### **9.3 Amended Retention and Disposal Schedule**

Report, previously circulated, was presented by the Head of Planning.

#### **Background**

Ten of the local Councils in Northern Ireland and the Department for Infrastructure (DfI) have been working collaboratively to deliver a new Planning Portal. The management of the regional Planning IT System is a shared service amongst the ten councils and DfI. It will be serviced by the Intelligent Client Function ("ICF") in Belfast City Council on behalf of all Planning Authorities, in accordance with a

Service Level Agreement previously agreed. It is anticipated that the new Portal will be live by early December 2022.

### **Details**

The introduction of the new Planning Portal has involved new retention and disposal rules to be set within the system. As a result, the ten councils have been working collaboratively and with DfI to establish a regionally agreed approach to planning records. There has also been engagement with PRONI who has stated that all planning authorities should be applying the same rules across the board to make it easier for citizens to understand.

As a result of this work, it has been determined that an addendum should be added to each council's wider Retention and Disposal Schedules in order to take account of the changes brought about by the Planning Portal. PRONI has indicated that it will be up to each council to go through the process of officially clearing these changes with their respective committees and PRONI individually.

Causeway Coast and Glens Borough Council (CCGBC) already has an agreed planning retention and disposal schedule and in the main, the amendments arising from the proposed amendments align with the current schedule.

As a holder of public records, CCGBC is subject to the Public Records Act (NI) 1923 which requires public bodies to operate a Retention and Disposal Schedule. The schedule is the mechanism by which CCGBC has the legal authority to dispose of its records. Without an operating schedule, no records (regardless of format) should be disposed of. In the event there is a class of records held by the Public Authority which is not identified on the schedule, it is important that these are included in the next iteration of the schedule, or in an addendum to a current schedule.

Any iterations to a schedule must be quality assured and agreed by PRONI. Once finalised, the schedule is laid before the Northern Ireland Assembly in order to meet the requirements of the Public Records Act (Northern Ireland) 1923. As the Assembly is not currently sitting and the implementation of the Portal is imminent, it has been determined that the best course of action is for CCGBC to seek the Planning Committee's approval in respect of the regionally agreed planning schedule so that it is in a position to apply the schedule as soon as the Portal is live.

The amended Schedule is attached at Appendix 1, previously circulated.

### **Recommendation:**

**IT IS RECOMMENDED** that the Committee agrees to the amendments made to the Retention and Disposal Schedule.

Proposed by Councillor McMullan

Seconded by Alderman Baird

- that the Committee agrees to the amendments made to the Retention and Disposal Schedule.

The Chair put the Proposal to the Committee to vote.

7 Members voted For; 0 Members voted Against;.

The Chair declared the Motion Carried.

**RESOLVED** - that the Committee agrees to the amendments made to the Retention and Disposal Schedule.

\* **Alderman Boyle and Alderman McKeown left the meeting at 5.20 pm.**

#### **9.4 Planning Publication Policy**

Information report, previously circulated, was presented by the Head of Planning.

#### **MOTION TO PROCEED 'IN COMMITTEE'**

Proposed by Alderman Baird  
Seconded by Councillor McMullan and

**AGREED** – that Planning Committee move *'In Committee'*.

\* **Press and public were disconnected from the meeting at 5.20 pm.**

***The information contained in the following items is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.***

### **10. CONFIDENTIAL ITEMS:**

#### **10.1 Update on Legal Issues**

Senior Council Solicitor provided an update regarding Judicial Review in connection with Craigall Quarry advising the application had been dismissed.

Following questions, Senior Council Solicitor advised that Council had no option but to go to Judicial Review on this occasion.

#### **10.2 Finance Period 1 - 5 - Update 2022/23**

Confidential report, previously circulated, was presented by the Head of Planning.

##### **Background**

This Report is to provide Members with an update on the financial position of the Planning Department as of end Period 5 of the 2022/23 business year.

Detail was provided within the confidential report.

##### **Recommendation**

**IT IS RECOMMENDED** that the Committee notes the update provided on the Planning budget as of end of period 5 of 2022/23 financial year.

**RESOLVED** - that the Committee note the report.



### 10.3 New Planning Portal

The Head of Planning provided a verbal update of the timeline for the implementation of the Planning Portal including downtime and process for transfer of data and access to the portal for all stakeholders during the transition period.

#### **MOTION TO PROCEED '*IN PUBLIC*'**

Proposed by Alderman Baird  
Seconded by Councillor McMullan

**AGREED** – that Planning Committee move '*In Public*'.

### 11. ANY OTHER RELEVANT BUSINESS (IN ACCORDANCE WITH STANDING ORDER 12 (O))

There were no Items of Any Other Relevant Business.

This being all the business the Chair thanked everyone for being in attendance and the meeting concluded at 5.35 pm.

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Chair