

**PLANNING COMMITTEE MEETING HELD
WEDNESDAY 23 NOVEMBER 2022**

Table of Key Adoptions

| No. | Item | Summary of Decisions |
|--------------|---|--|
| 1. | Apologies | Alderman Boyle, Councillor P McShane |
| 2. | Declarations of Interest | Councillor McMullan That Alderman Duddy preside as Chair during consideration of Item 5.1 LA01/2021/1289/O (Council Interest) 160m West of No. 11 Cloghs Road, Cushendall |
| 3. | Minutes of Planning Committee meeting held Wednesday 26 October 2022 | Confirmed as a correct record |
| 4. | Order of Items and Confirmation of Registered Speakers | |
| (i) | LA01/2022/0233/O (Referral) 50m East of 51 Ballykelly Road, Rascahan Limavady | Deferred for Site Visit |
| (ii) | LA01/2021/1402/F (Referral) 57 Ballymacrea Road, Portrush | Deferred for Site Visit |
| (iii) | LA01/2022/0085/F (Referral) 80m North East of 4 Glenstaughey Road, Craiganee Ballintoy, Ballycastle | Deferred for Site Visit |
| 5. | Schedule of Applications | |
| 5.1 | LA01/2021/1289/O (Council Interest) 160m West of No. 11 Cloghs Road, Cushendall | Approve |
| 5.2 | LA01/2019/0941/F (Objection) Lands at Crocknamolt Quarry, Ballyhome Road Portrush | Approve |
| 5.3 | LA01/2020/0744/F (Referral) Lands between 24 & 26 Fivey Road, Armoy Ballymoney | Defer for 2 months for submission of further information |

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| 5.4 | LA01/2021/0756/F (Referral) Approximately 25m South of 23 Causeway Road Bushmills | <i>Disagree and Approve Conditions and Informatives are delegated to Officers</i> |
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| 5.5 | LA01/2021/0232/O (Referral) Lands adjacent to No. 16 Laurel Road, Glack Limavady | <i>Defer for a Site Visit</i> |
| | | |
| 5.6 | LA01/2021/1555/O (Referral) 42M SW of No. 18 Crock Na Brock Road, Foreglen Dungiven | <i>Disagree and Approve Conditions and Informatives are delegated to Officers</i> |
| | | |
| 5.7 | LA01/2021/1155/F (Referral) 40m South of 29 Boveedy Road, Kilrea | <i>Defer the application for two months to allow Agent to provide further information.</i> |
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| 6. | Development Plan | |
| 6.1 | BPN – Ballywillan National School | <i>Write to Historic Environmental Division to seek clarity and further information on decision reached and confirmation that they have considered Portrush Heritage Group submission</i> |
| 6.2 | TPO Confirmation – Portrush Road, Coleraine | <i>Agree to TPO</i> |
| | | |
| 7. | Reports | |
| 7.1 | Consultation on review of Permitted Development Rights | <i>“Head of Planning responds to the consultation agreeing to the proposed amendments.....”</i> |
| 7.2 | Consultation on Planning Application Validation Checklists | <i>“Head of Planning responds to the consultation.....”</i> |
| 7.3 | Dfl Call in – Londonderry Arms/Atlantic Bar, Portrush | <i>Option 1 AGREE with the Department’s opinion to grant planning permission for application LA01/2017/0689/F and listed building</i> |

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| | | consent for LA01/2018/0446/LBC and DO NOT REQUEST to be heard by the Planning Appeals Commission, or a person appointed by the Department for the purpose of a hearing and agrees for the Head of Planning to write to Dfl to advise |
| | | |
| 8. | Correspondence | |
| 8.1 | Dfl – Notification Direction – LA01/2021/0933/F – M&S, Riverside Retail Park | Information |
| 8.2 | Correspondence to Dfl – Second Homes & Short Term Let Council’s response to Dfl – DPPN 11 | Information |
| 8.3 | Correspondence to Dfl – Second Homes & Short Term Let | Information |
| 8.4 | DoJ – Consultation - The draft Planning Fees (Deemed Planning Applications and Appeal) (Amendment) Regulations (Northern Ireland) 2022 | Information |
| 8.5 | Guidance on How to get Involved in Planning Committee Meetings (for noting) | Information |
| | | |
| | ‘In Committee’ (Items 9, 9.1, 9.2) | |
| 9 | Confidential Items | |
| 9.1 | Update on Legal Issues | That Planning Committee would act in accordance with legal opinion received |
| 9.2 | Finance Period 1 - 6 - Update 2022/23 | Noted |
| | | |
| 10 | Any Other Relevant Business (in accordance with Standing Order 12 (o)) | None |

**MINUTES OF THE PROCEEDINGS OF THE MEETING OF THE PLANNING
COMMITTEE HELD IN THE COUNCIL CHAMBER, CIVIC HEADQUARTERS
AND VIA VIDEO CONFERENCE
ON WEDNESDAY 23 NOVEMBER 2022 AT 10.30AM**

Chair: Councillor McMullan (C)

Committee Members Present: Alderman Baird (C); Duddy (C/R); McKeown (R); S McKillop (R); Councillors Anderson (C); Dallat O'Driscoll (R); Hunter (R); McGurk (R); MA McKillop (C); Nicholl (R); Peacock (R); Scott (C); Storey (C)

Officers Present: D Jackson, Chief Executive (C)
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)
R Beringer, Senior Planning Officer (R)
S O'Neill, Senior Planning Officer (R)
J Lundy, Senior Planning Officer (R)
P Donaghy, Democratic and Central Services Manager (R)
S McAfee, Head of Health and Built Environment (R)
S Duggan, Civic Support & Committee & Member Services Officer (R)
I Owens, Committee & Member Services Officer (C)
J Keen, Committee and Member Services Officer (C)

In Attendance: J Winfield, ICT Manager (C/R)
A Lennox, ICT Officer (C/R)

Public 13no. (R) 1no. (C)
Press 2no. (R)

Key **R** = Remote **C** = Chamber

Registered Speakers

| Application No | Name |
|------------------|-----------------------|
| LA01/2019/0941/F | C Tinsley |
| LA01/2021/0756/F | J Martin |
| LA01/2021/0232/O | M Kennedy A O'Hara |

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| LA01/2021/1555/0 | O Quigg |
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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 received for Alderman Boyle and Councillor P McShane.

2. DECLARATIONS OF INTEREST

Councillor McMullan declared an interest in Item 5.1 LA01/2021/1289/O (Council Interest) 160m West of No. 11 Cloghs Road, Cushendall. Having declared an interest Councillor McMullan vacated the Chair and left the Chamber during consideration of this item.

Having declared an interest in Item 5.1 LA01/2021/1289/O (Council Interest) 160m West of No. 11 Cloghs Road, Cushendall, the Chair asked the Planning Committee to nominate an Elected Member to preside as Chair during consideration of this item.

Proposed by Councillor Anderson
Seconded by Councillor Scott

- That Alderman Duddy preside as Chair during consideration of Item 5.1 LA01/2021/1289/O (Council Interest) 160m West of No. 11 Cloghs Road, Cushendall.

RESOLVED - That Alderman Duddy preside as Chair during consideration of Item 5.1 LA01/2021/1289/O (Council Interest) 160m West of No. 11 Cloghs Road, Cushendall

3. MINUTES OF PLANNING COMMITTEE MEETING HELD WEDNESDAY 26 OCTOBER 2022

Copy, previously circulated.

Proposed by Councillor MA McKillop
Seconded by Alderman Baird

- that the Minutes of the Planning Committee meeting held Wednesday 26 October 2022 are signed as a correct record.

The Chair put the motion to the Committee to vote.
13 Members voted For, 0 Members voted Against, 1 Member Abstained.
The Chair declared the motion carried.

RESOLVED - that the Minutes of the Planning Committee meeting held Wednesday 26 October 2022 are signed as a correct record.

4. ORDER OF ITEMS AND CONFIRMATION OF REGISTERED SPEAKERS

(i) LA01/2021/1402/F (Referral) 57 Ballymacrea Road, Portrush

Proposed by Councillor Storey
Seconded by Councillor Scott

- That application LA01/2021/1402/F (Referral) 57 Ballymacrea Road, Portrush is deferred, and site visit held, in order to have all the relevant information to determine the application.

The Chair put the motion to the Committee to vote.
14 Members voted For, 0 Members voted Against, 0 Members Abstained.
The Chair declared the motion carried.

RESOLVED - That application LA01/2021/1402/F (Referral) 57 Ballymacrea Road, Portrush is deferred, and site visit held, in order to have all the relevant information to determine the application.

(ii) LA01/2022/0233/O (Referral) 50m East of 51 Ballykelly Road, Rascahan, Limavady

Proposed by Councillor Nicholl
Seconded by Councillor Scott

- That application LA01/2022/0233/O (Referral) 50m East of 51 Ballykelly Road, Rascahan Limavady is deferred, and site visit held, in order to see the site in relation to the Addendum, and in its totality.

The Chair put the motion to the Committee to vote.
14 Members voted For, 0 Members voted Against, 0 Members Abstained.
The Chair declared the motion carried.

RESOLVED - That application LA01/2022/0233/O (Referral) 50m East of 51 Ballykelly Road, Rascahan Limavady is deferred, and site visit held, in order to see the site in relation to the Addendum, and in its totality.

(iii) LA01/2022/0085/F (Referral) 80m North East of 4 Glenstaughey Road, Craiganee Ballintoy, Ballycastle

Proposed by Councillor Nicholl
Seconded by Councillor MA McKillop

- That application LA01/2022/0085/F (Referral) 80m North East of 4 Glenstaughey Road, Craiganee Ballintoy, Ballycastle is deferred, and site visit held, in order to see the character, scale and integration of the site.

The Chair put the motion to the Committee to vote.

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

The Chair declared the motion carried.

RESOLVED - That application LA01/2022/0085/F (Referral) 80m North East of 4 Glenstaughey Road, Craiganee Ballintoy, Ballycastle is deferred, and site visit held, in order to see the character, scale and integration of the site.

Alderman Baird commented on how there was low attendance at Site Visits from Elected Members and queried asking for Site Visits and then not attending. Alderman Baird sought clarification regarding the requirement for Elected Members to attend Site Visits.

The Head of Planning confirmed that it was not a mandatory requirement for Elected Members to attend Site Visits; that the Planning Protocol had been amended to remove the requirement for the proposer and seconder to attend Site Visits.

Alderman Baird requested that the Item it was placed on the Agenda for reconsideration when the protocol is being reviewed of whether Committee Members should have to attend.

Councillor MA McKillop supported the request from Alderman Baird.

Alderman Baird clarified she was not making a proposal.

- * **Having declared an Interest, Councillor McMullan vacated the Chair at 10:49am**
- * **Alderman Duddy assumed the Chair at 10:49am.**

5. SCHEDULE OF APPLICATIONS

5.1 LA01/2021/1289/O (COUNCIL INTEREST) 160M WEST OF NO. 11 CLOGHS ROAD, CUSHENDALL

Report, previously circulated, was presented by Senior Planning Officer S O'Neill.

Reason for Referral to Planning Committee: Elected Member Interest Application

App Type: Outline

Proposal: Proposed 2 Storey dwelling and garage on the farm

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

The Senior Planning Officer presented via Powerpoint presentation:

- (Slide) This is a Council Interest application. The proposal is for a two-storey dwelling on the farm located approximately 160m West of No. 11 Cloghs Road, Cushendall. The site is not located within any settlement development limit and is located within an Area of Outstanding Natural Beauty as identified within the Northern Area Plan 2016.
- Policy CTY 1 of PPS21 identifies a number of instances when an individual dwelling house will be granted permission. These include a dwelling on a farm in accordance with Policy CTY 10.
- Policy CTY 10 states that all of the following criteria must be met:
 - (a) The farm business is currently active and has been established for at least 6 years;
 - (b) No dwellings or development opportunities out-with the settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
 - (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm.
- DAERA was consulted on the proposal with regards to the Farm ID submitted as part of the application. DAERA responded stating the farm business ID has been in existence for the last 6 years (active since 1991) but has not claimed payments through the Basic Payment Scheme or Agri Environment schemes in each of the last 6 years. DAERA goes on to state that the application site is located on land associated with another farm business.
- The applicant confirmed that the land is/was being rented by another farmer during the Winter months, however the applicant and his son have been maintaining the land in good agricultural condition. The applicant has stated that he has been actively maintaining the land for the last 6 years which involves silage, bailing, drawing and stacking; and fertilizing, ploughing, reseeding and mowing; maintaining hedges, drainage system.
- Invoices/receipts have been submitted for each year of the last six years - since 2012. Additional information was submitted on 18th October which provided additional receipts which provided further evidence of farming activity and maintenance. It is considered that the information provided has demonstrated active maintenance of the lands in question. The proposal therefore complies with criteria (a) of Policy CTY 10.
- The agent confirmed that the lands highlighted in blue on the site location and lands which have been acquired at Dunaghy Road are part of the farm business. These lands have been checked and there has been no sell offs on the land. Further to this a signed affidavit has been provided from the applicant which confirms there has been no sell offs on

the farm. The proposal therefore complies with criteria (b) of policy CTY 10.

- (Slide) The proposed siting of the dwelling is to be located some 118metres west of the farm complex. There has been a building erected on the farm (under Permitted Development) approximately 80metres away since the first site inspection. On the second site inspection on it was observed that the building erected was a 3-sided temporary structure. Given the temporary nature of the newly erected building it cannot be included as within the assessment.
- Nevertheless, paragraph 5.41 of PPS21 states the proposed dwelling, when viewed from surrounding vantage points, should read as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them. Documents 01, 02, and 04 justifies the siting stating the applicant's intend to expand the farm holding and citing health and safety reasons in that the applicant feels the dwelling should not be closer to the farmyard due to foul smells, slurry tanks and farm machinery; the proposed siting would be at a reasonable distance from the farm buildings and farm hazards while also allowing reasonable independence from the principle farm dwelling.
- There are existing dwellings along this road and mature vegetation some 3+metres in height which screens views of the site. Views of the site are therefore fleeting however it is considered there would be a visual appreciation that the dwelling would be read as being linked to the farm holding. This is supported on page 84 of Building on Tradition where a site separated from the farm buildings is considered to visually link with them. When travelling along the Cloghs Road from the east, towards the west, a dwelling on this site will be visually interlinked with those buildings, with little appreciation of any physical separation. The proposal therefore complies with criteria (c) of Policy CTY 10.
- The northern and eastern boundaries of the site are defined by existing hedging however the southern and western boundaries do not benefit from boundaries. It is noted that the wider agricultural field however does benefit from mature vegetation and intervening vegetation between critical viewpoints. It is considered the existing vegetation would aid integration of a dwelling on this site. Given views of the site are minimal and that there is existing vegetation located around the site it is considered that a two storey dwelling with a ridge height of 7.5 metres would be acceptable. The proposal therefore complies with policy CTY 13.
- Having regard to Policy CTY 14 it is considered that the proposal would not have a detrimental impact on the character of the rural area or AONB due to the lack of critical views and the presence of mature vegetation and a backdrop. The proposal therefore complies with Policy CTY 14.
- (Slide) This shows the existing site and existing temporary agricultural building which is not considered an agricultural building for the purposes of this policy.
- (Slide 5 & 6) This shows the visual linkage between the existing agricultural buildings and the site
- (Slide 6, 7 & 8) These photographs show the minimal views of the site from key critical viewpoints.

- Approval is recommended.

In response to questions from Elected Members regarding clarification around the farm owning a Farm ID, the Senior Planning Officer confirmed there was an error in the report; that paragraph 8.16 should read that the farm business does own a Farm ID.

In order to further clarify the Head of Planning explained that although there were two farm businesses each with their own Farm ID it was the Farm ID related to the site that was relevant to the planning application.

In response to further questions, the Senior Planning Officer advised that there was no concern regarding the location of the site due to the visual linkage complying with Building on Tradition; there is visual appreciation with the existing buildings and vegetation limits views. The Senior Planning Officer further advised there was no evidence from Health and Safety but Environmental Health Officers recommend 75metre separation from the farm buildings.

Proposed by Councillor MA McKillop
Seconded by Alderman Baird

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

The Chair put the motion to the Committee to vote.
13 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 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.

In response to Councillor Scott the Head of Planning confirmed that a correction to the error in the report would be contained within the Minutes.

- * **Alderman Duddy vacated the Chair at 11:14am.**
- * **Councillor McMullan assumed the Chair at 11:14am.**

5.2 LA01/2019/0941/F (OBJECTION) LANDS AT CROCKNAMOLT QUARRY, BALLYHOME ROAD PORTRUSH

Report and erratum, previously circulated, were presented by Development Management and Enforcement Manager S Mathers.

Reason for Referral to Planning Committee: Objection Item
App Type: Full Planning

Proposal: Proposed regularisation and restoration of previously despoiled lands at Crocknamolt Quarry

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.

Erratum Recommendation

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

Development Management and Enforcement Manager presented via powerpoint presentation:

- (Slide) Proposal comprises two sites within the one application, one to the north and one to the south of the main quarry area approved initially in 1974. The proposed quarry operations comprise the extraction of basalt by blasting from quarry faces and subsequent processing. Further to this, the proposal includes a restoration plan.
- (Slide) In terms of the Northern Area Plan 2016, the site is located in the open countryside, beyond any designated settlement. The Northern Area Plan does not contain specific policies on such minerals development and directs that prevailing regional policies apply.
- (Slide) This is a “local” classified application and is being presented to the Planning Committee as an objection item as objections were received from more than five postal addresses.
- (Slide) Principle Of Development- Regional policy directs that extensions to existing minerals workings are preferable to new workings in greenfield sites. The proposal is acceptable in visual amenity terms as there are no critical views given the provision of the existing bund alongside Ballyhome Road.
- (Slide) Natural Heritage- The proposal involves dewatering the site by pumping to a watercourse- this is acceptable in principle as it shall be regulated by NIEA Water Management Unit. Regarding protected species, the proposal is acceptable subject to a blasting exclusion zone regulated by condition.
- (Slide) Public Safety & Amenity- The nearest dwellings to the application site are located approximately 100m away. Neighbours shall be notified in advance of blasting and vibration from blasting is to be regulated by a Pollution Prevention Control (PPC) permit by NIEA. Blasting is likely to occur between 2 and 4 times per year and extraction to occur over a 5 year period. The proposal, by reason of the nature of the activity, is unlikely to give significant rise to issues of dust to cause detriment to amenity.
- (Slide) Access- The access is via the established access to Ballyholme Road. Visibility is to be improved at the access by levelling of verges.

- (Slide) Restoration- Restoration comprises allowing the site to form a man-made water body and soil to be placed on the upper faces to allow for planting. Restoration is required to take place, by condition, either if extraction ceases for 6 months or on exhaustion of the site.
- (Slide) Representations- The detail of these are set out in the report.
- Conclusion- The proposal is considered acceptable and the recommendation is to approve.

In response to questions about the consequences of the blasting to nearby premises such as foundations and windows and the lack of public consultation, the Development Management and Enforcement Manager referred to paragraph 8.27 of the Planning Committee report highlighting the Environmental Health Officer had provided Conditions regarding the blasting; also stating it would be regulated by a PPC Permit which was controlled by NIEA. The Development Management and Enforcement Manager further confirmed that as this was not a major application, the standard advertisement was issued in the Coleraine Chronicle and on the Council website.

The Chair invited C Tinsley to speak in support of the application. C Tinsley stated he had nothing to add and invited questions from the Elected Members.

In response to questions, C Tinsley confirmed there would be no deepening of the quarry floor and this would be monitored; that complaints would be investigated in association with the Planning Authority; that he was unsure if any damage had been done by blasting in the past and that there was 110,000 tonnes in the quarry which was estimated to be 5 years of work.

Proposed by Councillor Nicholl
Seconded by Alderman Duddy

- 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.

14 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.

5.3 LA01/2020/0744/F (REFERRAL) LANDS BETWEEN 24 & 26 FIVEY ROAD, ARMOY BALLYMONEY

Report, Site Visit report, addendum and correspondence from Applicant previously circulated was presented by Senior Planning Officer, E Hudson.

Reason for Referral to Planning Committee: Referral Item

App Type: Full

Proposal: Proposed dwelling and detached garage to include proposed driveway, landscaping and all associated site works

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 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 for the following reason:
The proposal is contrary to para. 6.73 of the Strategic Planning Policy for Northern Ireland (SPPS) and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

The Senior Planning Officer presented via powerpoint presentation:

- (Slide) Planning Application LA01/2020/0744/f. This is a full application for a dwelling and detached garage at lands between 24 and 26 Fivey Road, Armoy. A site visit was carried out on Monday and note of this site visit has been circulated. There is an addendum to your Committee report considering information submitted by the applicant.
- (Slide) This is the red line boundary of the site. The site is located within the open countryside as defined by the Northern Area Plan 2016. There are 2 letters of support for the application.
- (Slide) This is the site layout drawing. Full permission for a dwelling is being sought on this site on the basis that a material start has commenced on site on previous historic applications D/2004/0897 – Outline permission and D/2007/0633 subsequent reserved matters permission.
- The key date for a material start having commenced on site was 10th October 2010.
- (Slide) The proposed dwelling for the site.
- (Slide) Looking at some photos of the site. This first one is the site frontage. The site has a narrow frontage opening up to the rear.
- (Slide) Looking across to the rear of the site.
- (Slide) Evidence of a trench on site.
- During the case officer's inspection of the site infilling and regrading had taken place across the site. This was granted as part of the reserved matters and also under a separate planning permission. The infilling of the site with building material would not in itself represent a material start for the construction of the dwelling. This linear trench was also evident at the time of inspection. The layout of the trench is not consistent with

the approved layout and appeared more recent than may be expected based on the date of the permission.

- There was no building control inspection carried out to support the timing of the digging of the trench or pouring of concrete.
- During the processing of the application information was submitted to support that a material start had commenced on the site during the timeframe of the application. This included invoice for delivery of fill, hire of a digger, receipt for concrete, invoice for beech hedging and a letter from an engineering company regarding inspection of a foundation in November 2009. These are all dated 2009.
- (Slide) Looking at some dated aerial images of the site. This first one is dated 11/04/2010 so within the timeframe of the approval and approximately 5 months after the works outlined in the supporting information took place. The image shows a number of small structures on site but does not appear to include any excavation or construction works.
- (Slide) This next image is dated 7th May 2013 so after expiry of the permission. Again no evidence of construction.
- (Slide) Image 8th June 2015. Evidence of site clearance but no other works.
- (Slide) Image 24th May 2018. Evidence of additional material deposited on site.
- (Slide) This is an up to date image of the site approx. 2020. A foundation/trench is clearly evident but is outside the time frame of the planning permission.
- Clarification was sought from the agent with regards to the disparity between the positioning of the foundation on site and the approved layout as well as the supporting information submitted and the dated aerial photographs. The agent advises that the aerial images are not conclusive, that the site and foundation were overgrown at the time the current applicant purchased the site and the incorrect placing of the foundation could be down to human error and that part of the footprint accords with the approval.
- However, the aerial images show limited work on site prior to 2013 by which time permission had expired and show significant inconsistencies between the timeline identified in the supporting information and that evident in aerial images. There are also discrepancies in the submitted receipts which are detailed in paragraph 8.24 in the Committee report.
- Based on the information available it has not been demonstrated that commencement of development has taken place within the timeframe of the planning permission. As such the principle of development is unacceptable and does not meet any of the types of development identified within policy CTY 1 of PPS 21.
- Refusal is recommended.

In response to questions regarding the validity of the inspection of the foundation by a consultant, the Senior Planning Officer referred to paragraph 8.19 of the Planning Committee report, highlighting the aerial photography, dated 5 months after the inspection, showed no evidence of foundations;

paragraph 8.36 of the Planning Committee report referred to company invoices from 2009 which showed VAT at 20% - and this 20% rate was not introduced until 2011. The hedging reflects VAT accurately. In relation to previous applications the Senior Planning Officer stated that the policy context was different at the time.

In response to questions about the history of planning applications on the site, the Senior Planning Officer stated that previous planning approval had been granted in the context of the policy at the time. The current application did not meet any policies within PPS21; it did not meet the exceptions contained within policy CTY8; and contrary to policy CTY1. The Senior Planning Officer cited policy CTY8, providing a definition of a substantial and built-up frontage in relation to ribbon development, stating there were only two buildings at the front and therefore did not meet Policy CTY8.

In response to questions about discrepancies on the invoice, Senior Planning Officer confirmed that invoicing should be completed at the time of the work being carried out and the invoice from 2009 showed a discrepancy in relation to the VAT. The Senior Planning Officer confirmed that Bank statements had also been received and that as these refer to an amount of money only, they are not substantial evidence.

In response to questions, the Senior Planning Officer confirmed that supporting information had been received to state a trench was in place as part of the previous planning permission; the key issue was the trench was not in place by October 2010.

In response to questions to clarify the definition of commencement of development, the Senior Planning Officer referred to the 1991 Planning Order. To further assist in clarifying the requirements for commencement of development, the Head of Planning cited from the Planning section of the Council's website relating to this issue.

Following a request of Councillor Scott the Senior Planning Officer read the correspondence from the Consultant.

In response to questions regarding the foundations, the Senior Planning Officer referred to the aerial photography in November 2010 which showed no evidence of concrete pouring. The Senior Officer referred to invoices to confirm the amounts of concrete purchased at different periods and the hire and use of a digger. It was further confirmed there was no building control letter in relation to the foundations. The Senior Planning Officer confirmed that at the site visit, the trench was overgrown but there was a small amount of concrete; this did not tally with the footprint of the approved house.

The Senior Planning Officer confirmed that access was a pre commencement condition; visual splays not in place to the Department of Infrastructure Roads' satisfaction.

In response to questions regarding raising the levels of the site, the Senior Planning Officer advised this was part of separate planning permission and clarified that materials and trial pits were in relation to the separate planning permission.

Alderman S McKillop stated there was some information still required; that a substantial amount of evidence had been received in relation to the concrete purchased, diggers hired and used and engineers report and that invoices were possibly missing. Alderman S McKillop stated she believed a material start had been made.

Proposed by Alderman S McKillop
Seconded by Councillor Storey

- That Planning Committee defer consideration for 2 months for submission of further information in order to bridge gaps in the invoicing evidence.

The Chair put the motion to the Committee to vote.
11 Members voted For, 1 Member voted Against, 1 Member Abstained.
The Chair declared the motion carried and application deferred.

RESOLVED - That Planning Committee defer consideration for 2 months for submission of further information in order to bridge gaps in the invoicing evidence.

- * **The Chair declared a recess at 12.15pm.**
- * **The meeting resumed at 12.30pm.**

The Head of Planning undertook a roll call.

5.4 LA01/2021/0756/F (REFERRAL) APPROXIMATELY 25M SOUTH OF 23 CAUSEWAY ROAD BUSHMILLS

Report and Site Visit report, previously circulated, were presented by Senior Planning Officer, R Beringer.

Reason for Referral to Planning Committee: Referral Item

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.

Senior Planning Officer presented via powerpoint presentation:

- The application was initially presented to the October Planning Committee and was deferred to allow a site visit. The site visit took place on Monday.
- Accompanying the committee report is a site visit note.
- (Slide) The site as shown in the red line is located at Causeway Fun Farm, 19 Causeway Road, Bushmills. The site is located in the countryside, outside of any defined settlement development limit identified in the Northern Area Plan 2016.
- (Slide) The site is located within the Distinctive Landscape Setting of the Giant's Causeway and Causeway Coast World Heritage Site, Designation COU 3 of the NAP. The site also lies within the Causeway Coast AONB. The surrounding area is rural in character.
- (Slide) The site comprises a timber building containing toilet facilities and an area of hardstanding. The proposal seeks the retention of this building associated with the Open Farm. This building did not form part of the previous Open Farm Approval.
- (Slide) The Open Farm was approved under LA01/2016/1514/F which granted permission for a farm diversification scheme to include an education exhibition area, animal petting areas, a farm café, a party room and activity area, milking viewing area and associated toilets and car parking.
- (Slide) The 2016 application included two areas for toilet facilities, 1 in the café and the other adjacent to the party room / indoor activity area. Both of these areas were located within existing buildings on the site and the Planning Department are content that these are available. This has been clarified with the agent. In addition, the 2016 application proposed to return areas of hardstanding back to grass along with a considerable area that was to be finished in grasscrete or similar. The alterations to the hard surfaced areas were secured by condition.
(After slides)
- The SPPS states that development that would adversely affect the Outstanding Universal Value of a WHS or the integrity of its setting must not be permitted unless there are overriding exceptional circumstances. The SPPS goes on to state that the inclusion of a WHS on a list published by UNESCO highlights the importance of the site as a material consideration in the determination of planning applications. Applications which affect the WHS must be carefully considered, taking into account the safeguarding of critical views to and from the WHS, access and public approaches, and the understanding and enjoyment of the WHS by visitors.
- The Distinctive Landscape Setting of the WHS is designated under COU 3 of the Northern Area Plan 2016. Policy COU 4 of the Northern Area Plan 2016 restricts development within this sensitive landscape setting. No development within the Distinctive Landscape Setting outside of settlement development limits will be approved unless it falls within one of the 3 specified exceptions permitting development. The exceptions facilitate extensions to existing buildings, replacement of occupied dwellings, and exceptionally modest scale facilities (without landscape detriment) necessary to meet the direct needs of visitors to the WHS.

- The proposal does not fall within any of these exceptions and the principle of development on this site is considered unacceptable. Policy COU 4 is clear that no development shall be permitted except for the specified exceptions. The proposal is contrary to Policy COU 4 of the NAP.
- Policy COU 4 is complimented by Policy BH 5 of PPS 6 which requires a presumption in favour of the preservation of World Heritage Sites. Development which would adversely affect such sites or the integrity of their settings will not be permitted unless there are exceptional circumstances. The previous approval for the Open Farm included the provision of toilet facilities within the existing buildings. No exceptional circumstances have been demonstrated to support the need for this proposal and the retention of the toilet facilities would result in an adverse impact on the setting of the World Heritage Site given the addition of a further building on this site, and the encompassing area of concrete hardstanding. The proposal appears incongruous in this sensitive landscape setting and is contrary to Policy BH 5 of PPS 6.
- Policy TSM 2 of PPS 16 permits an extension to an existing tourist amenity, in this case the Open Farm, where the scale and nature of the proposal does not harm the rural character, landscape quality or environmental integrity of the local area. Where possible, such proposals are expected to be accommodated through the conversion, reuse or extension of existing buildings on the site, and designed so as to integrate with the overall development, unless it can be demonstrated that this is not a feasible option. Any conversion, extension or new building should respect the scale, design and materials of the original buildings on the site and integrate with the overall development. No supporting information has been provided to demonstrate why the toilet facilities cannot be provided within one of the existing farm buildings, in addition to those approved as part of the 2016 application. This additional building, set within an area of hardstanding, is detrimental to rural character within this sensitive landscape setting. The proposal is contrary to Policy TSM 2 of PPS 16.
- The retention of this building and the associated hardstanding would cause a detrimental change to the character of this sensitive landscape. The proposal is located in a prominent position with publicly available views. The proposal is contrary to Policy CTY 14 of PPS 21.
- As the principle of development is not acceptable under policy, refusal is recommended.

In response to questions, the Senior Planning Officer confirmed the photograph of the toilet block was taken in August 2021 and did not have the date from when the toilet block had been in place.

The Chair invited J Martin to speak in support of the application.

J Martin stated the fun farm complies with Policy COU4 as it is an extension to an existing building; there is a small gap between the toilet block and adjoining building; this is a 0.15% extension set out within the parameters of the policy. J Martin stated that where it states in the planning report there is an adverse

impact; this is untrue. The toilet block is adjacent to large farm sheds and falls within the backdrop of the buildings. The originally approved toilet block was omitted in error. This was a working farm and building space limited. The toilet block is located at the carpark to the front of the farm to allow for easy access for families with young children. J Martin referred to the visual impact of the building stating it measures 2.6m high, 6m long and 3m wide; within the backdrop of the other farm buildings. The farm is diversifying to become a recreational destination. The toilet block meets requirements.

In response to questions from Elected Members, J Martin clarified the last time he was at the farm, the toilet block was the same colour as shown in the pictures presented and stated whether they were this colour, or painted black, that either option blends in with the other farm buildings. He further confirmed the toilet block was in the original proposal, but was omitted, though it was a fundamental need and that clients had wanted it from the outset. It was confirmed the existing toilets are in the heart of the farm. J Martin confirmed the fun farm has been operational prior to 2019; he was brought in by the client in 2019. J Martin stated that cladding could be added overall to the cluster of buildings. J Martin confirmed the location of the existing toilets as being in the heart of the farm. He advised the toilet block had been constructed from wood rather than metal, like the other farm buildings, because of the availability of building materials. J Martin confirmed the wooden shed had been in situ since 2019.

In response to questions regarding the building being used as storage for hay/meal, J Martin stated that agricultural storage can be used up to 500m². The Planning Committee had previously agreed to the terms of the Open Farm as it met the direct needs of visitors. A visual impact assessment should be completed against the farm, not as a single entity but against the backdrop of farm buildings. When considering the toilet block from a public vantage point you read the toilet block as part of a cluster of farm buildings so there is no visual impact on the landscape. The location of the toilet block at the carpark is for easy access on arrival to the farm.

In responses to questions, the Senior Planning Officer provided a definition of an extension as a part that was added to something to enlarge it. The Senior Planning Officer confirmed the toilet block was a new building and that toilet facilities had been approved within an existing building. The Senior Planning Officer illustrated via slides the location of the toilet block and the existing toilets.

In response to questions regarding the Giants Causeway being adversely impacted by the development of the toilet block, the Senior Planning Officer cited from Policy COU4 stating the 3 exceptions cited did not apply.

The Head of Planning provided further clarity stating the COU4 policy refers to the Giants Causeway Distinctive Landscape Setting to the World Heritage Site; that the approach and views needed to be protected, as well as the actual WHS. The Head of Planning confirmed the policy does apply; that no

development should be approved apart from those which fall within the 3 exceptions.

The Senior Planning Officer confirmed the toilet block is visible from the public road when approaching towards the Giants Causeway and primarily within the Open Farm.

Proposed by Alderman S McKillop
Seconded by Councillor Storey

- 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 set out in section 10 for the following reasons:
 - It will not impact on the landscape setting
 - It meets the needs of visitors, and the building is not more than 20% of the cubic content of the buildings
 - On the site visit the toilet block was not seen until entering the carpark
 - It reads as part of the existing buildings
 - It is necessary to have toilets at the carpark; it is similar to that at the World Heritage Site
 - The needs of disabled visitors also need to be taken into account when considering the proximity of the toilets to the carpark
 - The painting and colouring of the toilet block means it blends into the surroundings
 - There have been no objections
 - The toilet block will only be seen by those using the facility

The Chair put the motion to the Committee to vote.
10 Members voted For; 0 Members voted Against; 4 Members Abstained.
The Chair declared the motion carried and the 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 set out in section 10 for the following reasons:

- It will not impact on the landscape setting
- It meets the needs of visitors and the building is not more than 20% of the cubic content of the buildings
- On the site visit the toilet block was not seen until entering the carpark
- It reads as part of the existing buildings
- It is necessary to have toilets at the carpark; it is similar to that at the World Heritage Site
- The needs of disabled visitors also need to be taken into account when considering the proximity of the toilets to the carpark

- The painting and colouring of the toilet block means it blends into the surroundings
- There have been no objections
- The toilet block will only be seen by those using the facility

RESOLVED - That Conditions and Informatives are delegated to Officers.

- * **The Chair declared a recess for lunch at 1.21pm.**
- * **Meeting reconvened at 2.20 pm**

The Head of Planning undertook a roll call

5.5 LA01/2021/0232/O (REFERAL) LANDS ADJACENT TO NO 16 LAUREL ROAD, GLACK LIMAVADY

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

Reason for Referral to Planning Committee: Referral Item

App: Proposed Farm Dwelling

Proposal: Outline

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 for the reasons set out in section 10.

Senior Planning Officer presented via power point presentation.

- Site is located in rural area, outside the settlement limit of Glack. At the end of a row of 8 rural dwellings.
- The site is a flat open field.
- Access is via existing access lane.
- Western boundary post & wire fence
- Northern boundary ranch fence
- South and eastern boundaries undefined.
- The proposal seeks outline permission for a farm dwelling and therefore falls primarily to be determined under PPS21. DAERA have confirmed that while the farm business ID has been in existence for more than 6 years the farm business has not claimed any payment or subsidy in the last 6 years and is therefore not currently active. DAERA have also confirmed that the site is on land associated with another farm business. The agent has confirmed that the applicant lets 6ha of land including the application site and that they claim the subsidy payments on the land. Therefore, the site is farmed under a different farm business and is not eligible for a dwelling under the applicant's farm business.

- Further evidence has been provided in the form of receipts to demonstrate active farming. The receipts span 3 of the required 6 years. Some receipts relate to a construction business and some are not to a named individual or address and therefore do not demonstrate active farming over the required period. 1 year of receipts refer to a forestry operation on other lands and does not demonstrate active farming on the application site. The information provided does not demonstrate active farming over the required period as required by policy. The proposal is contrary to policy CTY10 and as no overriding reasons have been forthcoming the proposal is also contrary to policy CTY1.
- The site is prominent due to the open roadside location, the roadside boundary is defined by a post & wire fence the southern and rear boundaries are undefined. The site does not possess any enclosure or backdrop and fails to blend into the landform. The site fails to integrate and relies on new planting. This is contrary to policy CTY13.
- The site is positioned at the end of a line of 8 dwellings and if permitted would extend development into an open field which would add to the existing ribbon of development and would result in build-up which would be detrimental to the character of the area.
- It has not been demonstrated that the land on which the site is located is on the applicant's farm and it has not been demonstrated that the farm business has been actively farmed over the last 6 years. The proposed site fails to adequately integrate, would add to ribbon development and would result in build-up. Refusal is recommended.

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

There were no questions put to Senior Planning Officer.

The Chair invited M Kennedy to speak in support of the application. M Kennedy said the application meets Planning principle and in terms of the 3 tests under Policy CTY10 there is evidence of established and active farming for the past 6 years and DAERA has issued an ID number which supports this. Of the 32 hectares farmed by the applicant, 6 are currently let out on conacre terms for part of the year. An A4 file has been provided containing evidence including invoices and receipts. The land has been drained and managed in accordance with an environmental scheme and the applicant is supported by the Ulster Farmers Union. There were 2 previous planning applications on this land which had not been enacted. The reason for refusal is unsustainable and in accordance with Policy CTY10 was not suburban and was a clusters with development. A ribbon development has been in existence since the 1930's and significant weight should be given to the two previous applications.

The Chair invited A O'Hara to speak in support of the application. A O'Hara advised that she was an only child, her parents were in their 70's and she was

their main source of support and father has declining health. She would like to be close to them also to assist with managing the farm which was established by her grandfather.

The Chair invited questions from Elected Members for Speakers.

At the request of an Elected Member, M Kennedy confirmed that previously approved applications were in 1988 and 1992, were never enacted and planning permission had lapsed.

At the request of an Elected Member, M Kennedy confirmed the 6-8 hectares let out were taken back by the applicant for between 3-5 months each year and the applicant had kept the land in good agricultural condition including piping, planting, drainage and improving productivity and quality of land. Activity for the 24 hectares includes providing commercial wood through forestry activities and planting of crop to be harvested. The wood not used for commercial purposes is cut for firewood. This is a busy and active farm seeding and harvesting trees which are not planted for cosmetic purposes rather for provision of wood to the building trade.

Proposed by Councillor Nicholl
Seconded by Councillor Scott

- that Planning Committee defer the application and hold a Site Visit in order to view activity on the land to help make an informed decision.

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 Planning Committee defer the application and hold a Site Visit in order to view activity on the land to help make an informed decision.

5.6 LA01/2021/1555/O (REFERRAL) 42M SW OF NO. 18 CROCK NA BROCK ROAD, FOREGLEN DUNGIVEN

Report, previously circulated was presented by the Senior Planning Officer, S O'Neill.

Reason for Referral to Planning Committee: Referral Item

App Type: Outline

Proposal: Outline application for dwelling and garage.

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 presented via power point presentation.

- (Slide) This application is a site for a cluster dwelling in compliance with Policy CTY2A of PPS21. The proposed dwelling is located on lands 42m SW of No.18 Crock-Na-Brock Road, Foreglen, Dungiven. The new A6 is located south of the site. The site is located outside the Settlement Development Limit for Dungiven and is not located within any specific designated sites.
- (Slide) 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 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; and
 - development would not adversely impact on residential amenity.
- It is considered that the site is not part of a cluster given the degree of separation distance between the dwellings located along Crock Na Brock Road. The dwellings in the near vicinity do not appear as a visual entity in the local landscape due to the separation distances between the dwellings located along Crock Na Brock Road.
- There is a church located approximately 350 metres from the site, a community hall located approximately 230 metres from the site and a standing stone located approximately 230 metres from the site. However, the site does not provide any physical connections to these sites. Appeal decisions 20017/A0168 and 2016/A0099 refer to distances and in those cases distances of 126m and 290m to the focal point were considered to be unacceptable separation from the cluster.
- The site lacks boundaries to the south, west and east, and opens up into the wider countryside. The site has 4 boundaries (sides) of which one is only bounded. Dwelling no.18 bounds the site on one side. The site is very open bar the aforementioned, with no vegetation or buildings to support the site providing a degree of enclosure. Given the lack of enclosure it is considered the proposal will intrude into the open countryside and would have a detrimental impact on the area if approved. As there is no identifiable cluster the proposed site would not round off or consolidate the area and indeed would alter its existing

character. The proposal therefore fails criteria 1 to 5 of Policy CTY2A. It is considered that the proposal could meet criteria 6 which relates to residential amenity if appropriately designed.

- Given the proposed development will add to a ribbon of development and that there is no buildings located south of the development site there is no small gap between buildings. Given this the proposed development fails policies CTY 8 and CTY 14 of PPS 21.
- Given the openness of the site with no vegetation on any of the boundaries the proposed development would be reliant on new landscaping to absorb into the site. The proposed site would also be prominent. The proposal therefore fails policy CTY 13 of PPS 21.
- Within the supporting statement reference is also made to precedent cases which have been approved and include applications LA01/2021/0023/O, LA01/2019/0641/O and LA01/2017/0555/O. It is considered that these are distinguishable from the current application as applications LA01/2019/0641/O and LA01/2017/0555/O were considered to be within a cluster of development. Application LA01/2021/0023/O was approved by the Planning Committee and although the site was separate from the cluster of development it was located 210 metres from the road and had limited views unlike this site which is roadside.
- (Slide) This is a view of the site travelling south toward the site which shows the separation distance between the dwellings which are not considered to be a single visual entity. The existing site is hidden behind a bend in the road.
- (Slide)
- This shows the site next to the existing dwelling and the existing bend in the road which restricts views of existing development located close to the site.
- (Slide) This shows the boundaries of the site which are minimal and restricted to a post and wire fence.
- (Slide 7, 8) This photograph shows the site which again is very open.
- The proposal fails to meet the principle policy requirements under policy CTY1 for dwelling in the countryside as the proposal does not meet the criteria for a dwelling in an existing cluster, as outlined in Policy CTY2a.
- The proposal is contrary to policies CTY13 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that a dwelling would be a prominent feature on the landscape, has limited screening and would result in a suburban style build-up of development when viewed with existing buildings and would result in ribbon development. The proposal does not meet the exception under policy CTY8 as it is not a small gap site.

The Chair invited questions from Elected Members for the Senior Planning Officer.

At the request of an Elected Member, the Senior Planning Officer further illustrated power point slides showing the embankment which had been subject to DfI works for a new road and where vegetation had to be replanted. The Senior Planning Officer advised that consideration had been given to the fact that vegetation had been removed as part of road structure works, however, the frontage was still open and the current tree planting did not currently integrate the site and there was no cluster in existence.

At the request of an Elected Member, the Senior Planning Officer confirmed that a 'Mass Rock' was not considered as a physical association.

The Head of Planning cited from paragraph 8 of PAC decision 2017/A0168, referred to minutes of Planning Application LA01/2022/0061/0 and read Policy CTY2A. The Head of Planning referred to a previous application LA01/2022/0061 and illustrated power point slides by way of a comparison.

The Chair invited O Quigg to speak in support of the application. O Quigg said he was not in agreement to the reference to cluster in paragraph 8.7 of the Planning Committee Report and the focal point should be considered as part of an existing cluster. To have development in the immediate vicinity of a 'Mass stone' would take away from it and is an identifiable entity used for gathering of the community for social interaction. On completion of the A6 By-Pass Road works, semi-vegetation was planted on the slope. A ribbon development already exists and the applicants wish to return from Australia to live in the townland where they were born and raised.

The Chair invited questions from Elected Members for Speaker. There were no questions put to the Speaker.

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 following reasons:-
 - o Dissatisfied with the reasons given by the Senior Planning Officer for application not to be considered as a cluster
 - o No separation distance had been specified in policy or PAC decisions.
 - o 'Mass rock' is a focal point for the area and 120m radius takes this in
 - o The natural 'dead end' generated by the A6 works would mean this would be the last viable site in this cluster.
 - o Enough buildings in the area and bounded by no.18 and building to the north

The Chair put the motion to the Committee to vote.
5 Members voted For, 4 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 following reasons:-

- Dissatisfied with the reasons given by the Senior Planning Officer for application not to be considered as a cluster
- No separation distance had been specified in policy or PAC decisions.
- ‘Mass rock’ is a focal point for the area and 120m radius takes this in
- The natural ‘dead end’ generated by the A6 works would mean this would be the last viable site in this cluster.
- Enough buildings in the area and bounded by no.18 and building to the north

RESOLVED – That Conditions and Informatives are delegated to Officers.

5.7 LA01/2021/1155/F (REFERRAL) 40M SOUTH OF 29 BOVEEDY ROAD, KILREA

Report, previously circulated was presented by the Senior Planning Officer, S O’Neill.

Reason for Referral to Planning Committee: Referral Item

App Type: Full

Proposal: Dwelling and garage under Policy PPS 21, CTY2a

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 reasons set out in section 10.

Senior Planning Officer presented via power point presentation.

- (Slide) This application is a site for a cluster dwelling in compliance with Policy CTY2A of PPS21. The proposed dwelling is located on lands 40m South of 29 Boveedy Road, Kilrea. The dwelling is located outside the settlement development limit and is within the open countryside. The site is also located in proximity to Boveedy Presbyterian Church which is a Grade B listed building.
- (Slide) 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 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; and
- Development would not adversely impact on residential amenity.
- It is considered that given the level of development located in close proximity to the site that there is a cluster of development. When travelling in both directions along the Boveedy Road the existing cluster is not viewed as single visual entity which stands out from the wider rural landscape as being an existing cluster of development. No's 28, 32 and 32A are isolated, heavily vegetated and are not visible within the cluster. The only visible buildings would be No's 27 and 29 Boveedy Road and the Church adjacent. There is not an awareness of a cluster in this area.
- The proposed site is located directly adjacent to the Boveedy Presbyterian Church which is a community building/facility. The proposal would meet this aspect of the policy.
- The site lacks boundaries to the south east and south west and opens up into the wider agricultural field. The site is only bounded one side by No. 29 Boveedy Road and is very open. Development located to the opposite side of the road 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. The site therefore does not have a suitable degree of enclosure. It is considered the proposal will intrude into the open countryside and would have a detrimental impact on the area if approved. The proposal therefore does not round off or consolidate the existing cluster.
- (Slide 4) Policy CTY 13 - It is considered that the proposed dwelling would be a prominent feature in the landscape, that the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and would rely primarily on the use of new landscaping for integration, the design of the building is inappropriate for the site and its locality and the dwelling would fail to blend with the landform and buildings therefore failing policy CTY13 of PPS21. In terms of design, it is considered that given the proposed size, scale and massing, being larger than the existing dwellings, that the proposal would fail to integrate and would be read as a prominent feature in the landscape. Historic Environment Division has also raised concerns regarding the proposed dwelling and its impact on the listed building. HED had requested a detailed site plan and road frontage contextual elevations. The agent

was contacted in regard to the proposed design but no amended plans were forthcoming. The proposal therefore also fails Policy BH 11 of PPS 6 as it has not been demonstrated that the proposal will not adversely affect the listed building.

- It is considered a proposed dwelling on this site would appear as a prominent feature in the landscape, would result in a suburban style build-up of development when viewed with existing buildings; create ribbon development, does not respect the traditional pattern of settlement exhibited in that area and if approved would cause a detrimental change to the rural character of an area therefore failing Policy CTY 14 of PPS 21.
- (Slide) This shows a photograph of the site which shows the site is very open with minimal boundary treatments.
- (Slide) This is a view of the site travelling north toward the site.
- (Slide) This is a view of the site which shows the linkage between the church and the existing pair of semi-detached dwellings.
- (Slide) This shows that there is no appreciation of a cluster within the area with only the two semi-detached properties on view. This also shows the vegetation which screens other existing development from view.
- (Slide) This is a photo of the site travelling south toward the site which again only shows the two semi-detached dwellings.
- It is considered that the proposed development fails criteria 2, 4 and 5 of Policy CTY 2A of PPS 21. The proposal also fails Policy CTY 13 and CTY 14 of PPS 21.
- Refusal is recommended.

The Senior Planning Officer advised the cluster of development could not be viewed as a single entity and the design was more prominent and larger in size than existing dwellings. Historical Environment Division concerns had been raised, however, no amendments had been provided by the Agent.

The Chair invited questions from Elected Members for the Senior Planner. There were no questions put to Senior Planner.

Proposed by Councillor Storey
Seconded by Councillor Anderson

- that Planning Committee defer the application for two months to allow agent to provide further information.

The Chair put the motion to the Committee to vote.
13 Members voted For, 0 Members voted Against, 0 Members Abstained.
The Chair declared the motion carried

RESOLVED - that Committee has taken into consideration and application is deferred for two months to allow agent to provide further information.

6. DEVELOPMENT PLAN

6.1 BPN – BALLYWILLAN NATIONAL SCHOOL

Report, previously circulated, was presented by the Development Plan manager.

Purpose of Report

To present the report relating to a Building Preservation Notice (BPN) request on the council owned former Ballywillan National School (Quigley's Cottage), Magheraboy Road, Portrush.

Background

On 10 May 2022 the Council received correspondence from Portrush Heritage Group seeking a BPN on the above property (see Appendix 1 (circulated)).

Building Preservation Notice (BPN)

The Council has a responsibility under the Planning Act (NI) 2011, the "Act", to protect and conserve the historic environment for the benefit of our present and future generations. The Council has powers under S.81 & 82 the Act to serve a BPN if it appears that the building is of special architectural or historic interest and is in danger of demolition or significant alteration. A BPN is a form of temporary listing. It provides statutory protection to an unlisted building for a 6-month period, within which time any works to the building will require listed building consent. The building must meet the following tests to be considered eligible for a BPN:

- It is of special architectural or historic interest; and
- It is in danger of demolition or alteration in such a way as to affect its character as a building of such interest.

The Council would normally consult with the Department for Communities: Historic Environment Division (HED) asking them to consider permanently listing the building. However, in this instance, Portrush Heritage Group has already commenced this process by submitting an application to HED to have the building listed. In considering a listing HED normally:

- take into account any information forwarded to them by Council, e.g the "Listing Query Report Form" (see Appendix 2 (circulated));
- record the structure;
- consider the building against published listing criteria, available to view at: <https://www.communities-ni.gov.uk/publications/criteria-scheduling-historic-monuments-and-listing-buildings-special-architectural-or-historic>
- undertake statutory and non-statutory consultations; and
- make a final decision.

The BPN legislation is carefully written to make clear that its test is one of initial assessment. Detailed research and assessment can be carried out later. This lower test allows for swift action, should it be required. If it appears to the Council that an emergency BPN should come into force, it may, instead of

serving the notice on the owner and occupier of the building, affix the notice conspicuously to some object on the building. Only emergency BPNs are a delegated function under the Council's current Scheme of Delegation. Further information on BPNs is available to view at: <https://www.communities-ni.gov.uk/publications/guidance-councils-building-preservation-notice>

Compensation Payable

It is important to have due regard to the potential for compensation claims when considering serving a BPN. The guidance states that there are two circumstances in which it may occur, as follows:

a) Upon revocation of an existing planning permission:

A BPN can be served on a building even if there is an existing planning permission for its demolition or alteration. However, should the building be subsequently listed, Listed Building Consent (LBC) will then be required for any proposed works in relation to the existing permission. If LBC is not granted for such works the current planning permission may have to be revoked and the applicants may seek compensation from Council for losses.

To avoid this scenario a building will not normally be considered for listing once planning permission, which will affect its special architectural or historic interest, has been granted and is still valid, or while works which have received such planning permission are under way. It should be noted that if the Council is actively considering serving a BPN in this circumstance, then the exceptional nature of the case should be highlighted in the request for listing submitted to HED.

b) Should the building fail to merit statutory listing:

Compensation may also be payable for losses incurred due to the serving of a BPN if, after consideration, the structure is not listed, i.e. any loss or damage directly attributable to the effect of the notice.

The Site

The building in question is located on a roadside location along the southern side of Magheraboy Road, to the south of the settlement of Portrush. It is enclosed by the surrounding graveyard and ruins of Ballywillian Old Church and is opposite to the current Ballywillan Cemetery (see photographs at Appendix 3). The building is also known locally as 'Quigley's Cottage' and is currently under the ownership of Causeway Coast and Glens Borough Council.

The building is not listed and does not lie within a Conservation Area/Area of Townscape Character; therefore consent is not currently required for its demolition. Further details are set out in Appendix 2 (circulated).

Expert Advice

Planning officials consulted HED in relation to this building. HED confirmed that, further to their consideration of this building, they will not be taking this

building forward for a full survey – i.e. it will not be considered for listing. They also advised that the structure is within the setting of a scheduled monument (Ballywillin Old Church – ref. LDY003:013), and that this would have a bearing on any future proposals. HED also provided a link to its publication ‘Guidance on Setting and the Historic Environment’ which sets out further details on this matter. It may be viewed online at: <https://www.communities-ni.gov.uk/publications/guidance-setting-and-historic-environment>

Consideration of BPN Request

The Listing Query Report Form attached at Appendix 2 (circulated) sets out the Council’s preliminary assessment of the building, as is required at this stage.

Recommendation

IT IS RECOMMENDED that Members agree to the Head of Planning writing to Portrush Heritage Group advising that a BPN will not be served on this building.

Some Elected Members felt that the Historical Environment Division should not be referring to lengthy documents which was too vague in nature and felt that they should be asked to clarify, in more detail, the decision reached and if they have accepted the Portrush Heritage Group submission.

Proposed by Alderman Baird

Seconded by Councillor Storey

-that Head of Planning write to Historic Environmental Division to seek clarity and further information on decision reached and confirmation that they have considered Portrush Heritage Group submission.

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 the Head of Planning write to Historic Environmental Division to seek clarity and further information on decision reached and confirmation that they have considered Portrush Heritage Group submission

6.2 TPO CONFIRMATION – PORTRUSH ROAD, COLERAINE

Report, previously circulated, was presented by the Development Plan Manager.

Purpose of Report

To present the TPO Confirmation for site at Lands between 7 College Mews and 75 Portrush Road, Coleraine

Background

Under Sections 122 and 123 of the Planning Act (NI) 2011 and the provisions of the Planning (Trees) Regulations (Northern Ireland) 2015 the Council may make Tree Preservation Orders (TPOs) to afford statutory protection to

selected trees or woodlands if their removal is likely to have a significant impact on the local environment and its enjoyment by the public.

Trees can have a high amenity value and can make an important contribution to the environment, creating a varied, interesting and attractive landscape. They can help define the character of an area and create a sense of place acting as landmark features in urban and rural areas. They also have nature conservation, historic and recreational value. Trees in the Northern Ireland landscape are limited, therefore, where they do exist their contribution is valued.

The Council may make a TPO for the purpose of protecting trees if they are considered to be of special value in terms of amenity, history or rarity, which may or may not be under threat. Therefore to be considered for a TPO, trees must be of high amenity value and in reasonable condition. The following criteria are used when assessing the merits of a potential TPO:

- Potential Threat: Priority will be given to the protection of those trees deemed to be at immediate risk from active felling or damage from development on site. All other requests will be assessed and prioritised accordingly.
- Visibility: The extent to which the trees or woodlands can be seen by the general public will inform the assessment of whether the impact on the local environment is significant.
- Individual Impact: The mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The tree's particular importance will be assessed by reference to its size and form. Its future potential as an amenity should also be assessed, taking into account any special factors such as its screening value or contribution to the character or appearance of an area. In relation to a group of trees or woodland, an assessment will be made of the collective impact.
- Wider Impact: The significance of the trees in their local surroundings will also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.
- Historical Importance: Certain trees, because of their age, association with the setting of listed buildings, or the contribution they make to the special character of a conservation area, may require consideration for TPO protection.
- Rarity: There may be occasions where a tree(s) may be considered for TPO protection solely on the grounds of its rarity. The priority of the consideration will reflect the rarity of the species.

All types of tree can be protected. The Order can cover anything from a single tree to woodlands. Normally, unless a Woodland TPO is proposed, only trees over 3.5m in height are considered for a TPO. Hedges, bushes and shrubs will not be protected.

In terms of the process and timescales, a Provisional TPO is normally served first, with the final confirmation within six months, or it can be allowed to lapse

if it is considered, as a result of detailed assessment, that the trees are not considered worthy of protection.

Site Context

The site is located on the eastern side of Portrush Road south of the junction with Shell Hill Bridge, between the apartment developments of College Mews to the North and 75 Portrush Road to the south. The subject lands are heavily wooded containing mature trees and are bounded to the east by the railway line and embankment with adjacent cemetery grounds further to the east. The topography of the site includes raised embankment presumably formed at the time of the construction of the adjacent railway line with the land falling both to the east and west with a drainage channel on the lower western side running parallel to the Portrush Road. A paladin fence runs along the eastern boundary separating the site from the adjacent railway line.

The Northern Area Plan 2016 currently defines the site as Whiteland within the Settlement Development Limits of Coleraine and within the Shell Hill and Hermon Lodge Local Landscape Policy Area (LLPA) Designation CEL 03 with the supporting map and text set out below (previously circulated).

Trees contemplated for potential removal would relate to those in poor condition, and any healthy trees would be expected to be retained.

The site includes a well-established and significant level of mixed mature trees along this attractive site, including specimen Lime, Beech, Elm, Austrian Pine, Sycamore, and Horse Chestnut with a good understorey of regeneration of these species. The majority of trees are in healthy condition and are considered to significantly contribute to the visual amenity and character of the area. The Trees are long-established environmental assets and features of the area, with many likely to be over 100+ years old, with tree cover on site documented on the historic OS 3rd edition maps from 1900 onwards.

Map of area circulated in the report.

Reason for TPO Protection

A TPO request regarding this site was received by the Planning Department from a member of the public on 6th June 2022, seeking consideration of a TPO to be placed on this woodland to prevent it being removed by any potential future development. The land ownership and potential threat at the time of the request was unknown to the Planning Department. Sales particulars via local estate agents, NRE, indicated the land has residential development potential being marketed as suitable for 5 detached dwellings (including advertisement in Belfast Telegraph Friday 8th June 2022). The sales particulars stated that the land is owned by Causeway Coast and Glens Borough Council with an advertisement notice on site also stating that the land is for sale under the Asset Realisation Department of Causeway Coast and Glens Borough Council.

Consideration of the TPO is in response to this threat from potential future land sale and development proposal. Planning Section considered that a level

of protection was required for the trees which are considered to make a valued contribution to the local environment and character of the area, creating an attractive landscape feature with the local setting of Portrush Road. As they are visually significant with high public amenity value they should be retained and protected from any future development. A Provisional TPO was therefore served on site on 4th August 2022 (see Appendix 1 (circulated)).

This notice took effect immediately and provided protection for all trees on site for a period of six months - until 4th February 2023. In line with legislation a copy of the Provisional TPO documentation was posted to inform interested parties and adjoining neighbours on 4th August 2022. Copies of the Order were also attached to protected trees in obvious locations within the site on 4 August 2022.

The consultation process allows comments and representations to be made in writing to the Council, within 28 days from the date of notice of the Provisional TPO, (i.e. up to 1 September 2022). No representations have been received.

Within this period a detailed assessment was carried out by a qualified Arboriculturist (see Appendix 2). This has resulted in a detailed survey of all trees on site which helps identify the physical condition of each individual tree, allowing for consideration of what level of protection is required.

Detailed Assessment of Trees

Andrew Boe, independent Arboricultural Consultant, surveyed the site on 5th October 2022. A total of 76 Trees and Tree Groups were identified on site. Of these, the vast majority (66no.) have been found suitable for TPO protection. The exceptions are tree no's T001, T003, T004 (Beech), T007 (Sycamore), T027 (Austrian Pine), T044 (Beech), which are all reported to be unsuitable for retention (Category U) due to physical condition, (diseased, dead) or have structural defects, with a recommendation to fell. Tree no's T067-T70 (Elm) are considered to be unsuitable for protection due to their limited amenity value, location and relationship to existing adjacent housing.

Of the 66 trees found suitable for protection 43 are considered to be Category B1 and of moderate quality and condition with the remaining 23 trees classified as category C with the majority also in fair condition. The vast majority of trees on site are considered to be in healthy condition and to positively contribute to the character and setting of the area and are therefore considered worthy of TPO Protection.

Summary

In summary, the vast majority of trees (66 out of the 76 Surveyed), are considered worthy of TPO protection. These trees have high public amenity value, being located in a roadside prominent section along the public road. The trees provide an important and valued contribution to the local environment and character of the area, creating an attractive landscape within the urban setting of Coleraine and are considered worthy of TPO protection.

Financial Implications

A TPO will affect future development potential on the site, therefore it is likely to impact on the site valuation.

Options

Option 1: Resolve to confirm the TPO.

Option 2: Resolve not to confirm the TPO.

Recommendation

IT IS RECOMMENDED that Members agree to either Option 1 or 2 above.

An Elected Member referred to a Motion agreed by Causeway Coast and Glens Borough Council to plant and conserve trees and stressed the importance of retaining the character created by trees.

At the request of an Elected Member, the Development Plan Manager described the tree classifications and cost of tree preservation in relation to TPO.

Proposed by Alderman Baird
Seconded by Councillor Anderson

- That Planning Committee approve Option 1 - resolve to confirm the TPO.

The Chair put the put the Motion to the Committee to vote
14 Members voted for; 0 Members voted Against; 0 Members Abstained
The Chair declared the Motion Carried.

RESOLVED - That Planning Committee approve Option 1 - resolve to confirm the TPO.

7. REPORTS

7.1 CONSULTATION ON REVIEW OF PERMITTED DEVELOPMENT RIGHTS

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

Background

The Department of Infrastructure issued a public consultation on 28 October 2022 to obtain views on proposals to amend permitted development rights for:

- Installation of microgeneration equipment; and
- Reverse vending machines.

Copies of the Consultation Paper may be downloaded from the website at: [Consultation on changes to planning permitted development rights to protect the environment and help address climate change | Department for Infrastructure \(infrastructure-ni.gov.uk\)](https://www.infrastructure-ni.gov.uk/consultation-on-changes-to-planning-permitted-development-rights-to-protect-the-environment-and-help-address-climate-change)

The closing date for receipt of comments is 23 December 2022.

Details

The public consultation by DfI into the review of permitted development rights is for:

- Installation of microgeneration equipment
 - Air source heat pumps
- Reverse vending machines.

Installation of microgeneration equipment

The Action Plan published on 20 January 2022 to accompany the Executive's Energy Strategy (16 December 2021) contained a commitment that DfI would review permitted development legislation for low carbon heat installations to ensure it is up-to-date and fit for purpose.

As a result of the review amendments are proposed to Part 2 of the Schedule to The Planning (General Permitted Development) Order (Northern Ireland) 2015 by DfI to permitted development rights for the installation, alteration or replacement of heat pumps.

The amendments for air source heat pumps include:

- Must comply with Microgeneration Certification Scheme (MCS)
- Be at least 1m from another dwellinghouse (currently 30m)
- Not exceed 3m in height (currently 2m)
- All other restrictions and conditions remain unchanged.

The amendments for ground or water source heat pumps

- No conditions or limitations

No provision for permitted development for domestic wind turbines

- Do not intend to make provision for permitted development

Reverse Vending Machines

The Department of Agriculture, Environment and Rural Affairs has plans to introduce a Deposit Return Scheme for single-use drinks containers alongside England and Wales in 2024. The scheme aims to change consumer behaviour to encourage higher levels of drinks container recycling where resources are kept in use for as long as possible and waste is minimized.

The amendments proposed to The Planning (General Permitted Development) Order (Northern Ireland) 2015 by DfI includes adding a new Class D to Part 3 (minor operations) of the Schedule specifically for reverse vending machines (RVMs). The conditions and limitations include:

- No limit to the number of RVMs installed within the curtilage of a shop
- Where installed on the wall of a shop must not exceed 2m beyond the outer surface of the wall
- Not exceed 4m in height
- Footprint must not exceed 80sq.m
- Not face onto and be within 5m of a road

- Not situated within 15m of the curtilage of a residential building
- Not in WHS, conservation area, ASSI, Site of Archaeological Interest, or within curtilage of listed building

Recommendation

IT IS RECOMMENDED that the Committee **AGREES** to the Head of Planning responding to the consultation agreeing to the proposed amendments for the air, ground and water source pumps and vending machines and requesting DfI further consider bringing forward permitted development for domestic wind turbines to align with England, Scotland and Wales.

Some Elected Members questioned the rationale for including of vending machines and others felt that there should be moves to include domestic wind farms in Permitted Development Rights.

Proposed by Alderman Baird
Seconded by Councillor Scott

- that the Committee **AGREES** to the Head of Planning responding to the consultation agreeing to the proposed amendments for the air, ground and water source pumps and vending machines and requesting DfI further consider bringing forward permitted development for domestic wind turbines to align with England, Scotland and Wales.

The Chair put the Motion to the Committee to vote.
14 Members voted For; 0 Members voted Against; 0 Members Abstained.
The Chair declared the Motion Carried.

RESOLVED -that the Committee **AGREES** to the Head of Planning responding to the consultation agreeing to the proposed amendments for the air, ground and water source pumps and vending machines and requesting DfI further consider bringing forward permitted development for domestic wind turbines to align with England, Scotland and Wales.

7.2 CONSULTATION ON PLANNING APPLICATION VALIDATION CHECKLISTS

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

Background

The Department of Infrastructure issued a public consultation on 07 November 2022 to obtain views on proposals to amend The Planning (General Development Procedure) Order (NI) 2015 to introduce validation checklists for planning applications. This consultation forms part of DfI's Planning Improvement Programme.

Copies of the Consultation Paper may be downloaded from the website at:
<https://www.infrastructure-ni.gov.uk/consultations/consultation-changes-improve-quality-planning-applications>

The closing date for receipt of comments is 06 January 2022.

Details

The public consultation by DfI is to obtain views on proposals to amend The Planning (General Development Procedure) Order (NI) 2015 to introduce validation checklists for planning applications to address 'poor quality' or 'incomplete' applications entering the planning system. Ultimately the requirement for planning applications to be accompanied by all necessary information should result in improved planning performance.

It is proposed that the changes to the legislation will enable Councils to prepare and publish individual planning application checklists that suits their local area and planning issues.

Applications will not be considered valid until they are accompanied with the required information contained in the published 'checklists'.

It is also proposed to introduce a 'validation dispute mechanism' similar to England or Wales. In England, where a local planning authority requires particulars or evidence to be included with an application and the applicant disputes this, the applicant can serve a notice on the planning authority saying why the additional information requested is considered unreasonable and request it waived. The planning authority can notify the applicant that it no longer requires the information, called 'a validation notice' or one stating that the information is still required, 'a non-validation notice'. After the statutory time period for determining the application has expired the applicant can appeal the non-determination to the Planning Inspectorate.

In Wales, there is a stand-alone dispute mechanism which deals solely with consideration of the information required. Where the planning authority issues a notice to the applicant that the application does not comply with the validation requirement, the applicant can either provide the information or appeal to the Planning Inspectorate within 2 weeks from the date of the notice.

Consideration

The proposal to introduce changes to The Planning (General Development Procedure) Order (NI) 2015 to introduce validation checklists for planning applications is welcomed and supported by recommendations from the Public Accounts Committee Report on the Review of Planning and also the NIAO Report on the Operation of the Planning System in Northern Ireland. However, introducing individual checklists for each council can be over-complicating and confusing for applicants preparing to submit planning applications throughout Northern Ireland, and also for the Planning Appeals Commission (PAC) in terms of adjudicating on non-determination appeals. A consistent approach across all councils will provide consistency and certainty for applicants and PAC on validation procedures.

The Planning Act (Northern Ireland) 2011 already makes provision for the PAC to hear appeals for non-determination of applications, including applications where they have been considered as invalidly made. This

procedure to appeal disputes regarding validation should be retained and extended to include those that do not meet the amended validation requirements.

Recommendation

IT IS RECOMMENDED that the Committee **AGREES** to the Head of Planning responding to the consultation agreeing to

- the proposal to introduce changes to The Planning (General Development Procedure) Order (NI) 2015 to introduce validation checklists for planning applications
- to advise that the checklists should be set out in legislation rather than by individual councils to ensure consistency in approach and certainty for applicants
- appeal mechanism to the PAC to include these unvalidated applications.

Elected Members generally welcomed validation checklists and consistency in approach but raised the need to for balance between what needs to be provided and what may be potentially required.

Elected Members also raised concern regarding costs of undertaking application reports, potential impact on development in the area and additional burden of bureaucracy on the applicant.

Proposed by Councillor Scott
Seconded by Alderman Baird

- that the Committee **AGREES** to the Head of Planning responding to the consultation agreeing to
- the proposal to introduce changes to The Planning (General Development Procedure) Order (NI) 2015 to introduce validation checklists for planning applications
- to advise that the checklists should be set out in legislation rather than by individual councils to ensure consistency in approach and certainty for applicants, but needs to be a balance between what needs to be provided and what may potentially be required
- appeal mechanism to the PAC to include these unvalidated applications is costly and overly bureaucratic; Planning Committee should have role in disputes.

The Chair put the Motion to the Committee to Vote.

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

The Chair declared the Motion Carried.

RESOLVED - that the Committee **AGREES** to the Head of Planning responding to the consultation agreeing to

- that the Committee **AGREES** to the Head of Planning responding to the consultation agreeing to

- the proposal to introduce changes to The Planning (General Development Procedure) Order (NI) 2015 to introduce validation checklists for planning applications
- to advise that the checklists should be set out in legislation rather than by individual councils to ensure consistency in approach and certainty for applicants, but needs to be a balance between what needs to be provided and what may potentially be required
- appeal mechanism to the PAC to include these unvalidated applications is costly and overly bureaucratic; Planning Committee should have role in disputes.

* **The Chief Executive and member of the Public joined the meeting at 4.50pm.**

* **The Chair declared a comfort break at 4.55pm.**

* **The Meeting reconvened at 5.00pm.**

* **The Head of Planning undertook a roll call.**

* **The Chief Executive and a member of the Public left the meeting at 5.00pm.**

7.3 DFI CALL IN – LONDONDERRY ARMS/ATLANTIC BAR, PORTRUSH

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

Background

Planning Committee, at its meeting held on 23 January 2019 resolved to grant planning approval and listed building consent for applications LA01/2017/0689/F and LA01/2018/0446/LBC for the Retention and part refurbishment/restoration of the structural walls, shop fronts and roofs of both No 39 and 41 Main Street and demolition of the residual elements of the listed building within the full extent of the site at 39-41 Main Street and 2 Atlantic Avenue Portrush, so as to erect a three to five storey, 87 bedroom hotel with a restaurant, bar and all associated ancillary services. Planning Committee members resolved that the proposal would:

- Be of economic importance to the area
- Proposal will have no physical impact on the surrounding listed buildings when considering the adjacent apartment building which is higher
- Proposal will retain the important features of the building – front and side façade and shop fronts
- There is nothing internally that is so important to retain apart from those features proposed to be retained
- Impact on residents minimal when considering the apartment block adjacent to the residential properties and use of obscure glazing will minimise overlooking
- Sympathetic materials to be detailed prior to issuing decision
- Demonstrate that this is an exception due to the £6.5m investment and the viability of the proposal makes good business sense.

Details

As the resolution to grant consent was against the advice of the Department of Communities Historic Environment Division, Council notified the Department of its intention to grant listed building consent in accordance with Section 89 of the Planning Act (Northern Ireland) 2011.

The Department issued holding letters on 20 February 2019 stating that it required more time to consider whether the applications should be referred to it for determination and instructing Council not to issue the decisions.

On 29 August 2019, the Department directed under Section 88 of the Planning Act (Northern Ireland) 2011 that planning application LA01/2018/0446/LBC be referred to it for determination. Furthermore, the Department directed under Section 29 of the Planning Act (Northern Ireland) 2011 that application LA01/2117/0689/F be referred to it for determination. The Department stated that it issued these Directions in view of the proposed development's potential conflict with regional built heritage planning policies and with key aspects of the Strategic Planning Policy Statement in terms of sustainable development. It considered that the regional issues raised would benefit from further scrutiny by the Department.

On 27 October 2022, the Department issued the Notices of Opinion for LA01/2017/0689/F and LA01/2018/0446/LBC stating their opinion to grant planning permission and listed building consent subject to conditions and informatives. Council has 28 days from the service of the notice to request in writing an opportunity to appear before and be heard by the Planning Appeals Commission, or a person appointed by the Department for the purpose of a hearing. On request, the DfI extended the time period for response to 40 days from the service of the notice.

Since the issue of the Notice of Opinion by DfI letters of objection have been received by the Planning Department in relation to the proposed development. These are included in the attached appendix. However, it will be the DfI who will make the final decision on this application, not Council.

The Head of Planning read the following extract:-

“A wide variety of issues have been raised in the representation of objection including the impact on listed buildings and their setting, appearance, visual impact, loss of town's character and heritage, roads and parking issues, impact on residential amenity, economic disbenefits, detrimental impact on cultural heritage and sense of community and the need to retain the Atlantic Bar.

The representations in support of the application have included the provision of much needed hotel accommodation, quality design and built heritage aspects, strategic importance of site in town centre, the regenerative and positive economic impact of the proposal, its compliance with existing tourism policy and the extent of local consultation and design changes. The representations have been considered by consultees and in the planning assessment.

After fully assessing the development proposal, the information submitted in support of the application, the comments of all consultees and having regard to the relevant planning policy context, the statutory development plan, the draft plan strategy and all other relevant material consideration, the following conclusion have been reached:

The proposal has the potential to regenerate and revitalise a part derelict building and secure a viable and long term use. This weights in favour of the proposal.

The proposed new build element will not detrimentally affect the special architectural or historic interest of the building in question. This weights in favour of the proposal.

The redevelopment element of this proposal will not be out of keeping with the surrounding townscape in terms of design, scale and use of materials. This weighs in favour of the proposal.

The Department has gone on to consider whether there are other material consideration which outweigh the harm and in particular the previous site history. I note that when the application was submitted in May 2017 the proposal would have reflected the non-listed status of the site at that time with the statutory constraints imposed only after the planning application was submitted. I also note that the site had the benefit of a number of previous approvals including a larger unencumbered 92 bedroom hotel approval in 2008 with a minor amendment approved in February 2013. In terms of setting of surroundings listed buildings, the previous approvals were not considered to have adverse impact on their setting, in addition planning approval of the Coast Link Apartments on the southern side of Atlantic Avenue is of a height akin to this proposal and again this proposal was not considered to have an adverse impact on setting of the surrounding listed buildings.

On careful weighing up of all material considerations including benefits and harm; the objections and concerns regarding the impacts on built heritage and townscape are outweighed by the range of potential economic benefits, contribution to the tourism industry and previous planning history. It is concluded therefore that the proposal is acceptable as it would not result in detrimental harm to the built heritage interest of Portrush.

The proposal involved demolition of a significant part of the existing listed building and is therefore contrary to Policy BH10 of PPS6. This weights against the proposal.

The proposed redevelopment has the potential to deliver a tourist development which can make a contribution to the local and wider economy in terms of the revenues it can generate, the employment opportunities it can provide, and the potential it creates for economic growth. This weights in favour of the proposal.”

Recommendation

IT IS RECOMMENDED that the Committee agrees to either Option 1 or Option 2

Option 1

AGREE with the Department's opinion to grant planning permission for application LA01/2017/0689/F and listed building consent for LA01/2018/0446/LBC and **DO NOT REQUEST** to be heard by the Planning Appeals Commission, or a person appointed by the Department for the purpose of a hearing and agrees for the Head of Planning to write to Dfl to advise.

Or

Option 2

DISAGREE with the Department's opinion to grant planning permission for application LA01/2017/0689/F and listed building consent for LA01/2018/0446/LBC and **REQUEST** to be heard by the Planning Appeals Commission, or a person appointed by the Department for the purpose of a hearing and agrees for the Head of Planning to write to Dfl to advise.

Some Elected Members raised concern around the timeline for this matter being progressed, cost to development and potential for loss of investment into the community.

At the request of an Elected Member, the Head of Planning advised that it was a legislative requirement for the decision to be brought to the Planning Committee for consideration. The Head of Planning clarified the cost of Option 2 would include Officers time and provision of legal advice. The Head of planning clarified that the final determination decision on these applications rests with Dfl and not Council.

Proposed by Councillor Scott
Seconded by Councillor Storey

- Option 1 **AGREE** with the Department's opinion to grant planning permission for application LA01/2017/0689/F and listed building consent for LA01/2018/0446/LBC and **DO NOT REQUEST** to be heard by the Planning Appeals Commission, or a person appointed by the Department for the purpose of a hearing and agrees for the Head of Planning to write to Dfl to advise.

The Chair put the Motion to the Committee to Vote.

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

The Chair declared the Motion Carried.

RESOLVED - Option 1 agree with the Department's opinion to grant planning permission for application LA01/2017/0689/F and listed building consent for LA01/2018/0446/LBC and do not request to be heard by the Planning Appeals

Commission, or a person appointed by the Department for the purpose of a hearing and agrees for the Head of Planning to write to DfI to advise.

8. CORRESPONDENCE

8.1 DFI – NOTIFICATION DIRECTION – LA01/2021/0933/F – M&S, RIVERSIDE RETAIL PARK

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

RESOLVED – That Planning Committee note the report.

8.2 COUNCIL’S RESPONSE TO DFI – DPPN 11

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

RESOLVED – That Planning Committee note the report.

* **Alderman Baird and Councillors MA McKillop, McGurk and Nicholl left the meeting at 5.20 pm.**

8.3 CORRESPONDENCE TO DFI – SECOND HOMES & SHORT TERM LET

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

RESOLVED – That Planning Committee note the report.

* **Councillor Anderson left the meeting at 5.25 pm.**

8.4 DOJ – CONSULTATION - THE DRAFT PLANNING FEES (DEEMED PLANNING APPLICATIONS AND APPEAL) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2022

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

RESOLVED – That Planning Committee note the report.

8.5 GUIDANCE ON HOW TO GET INVOLVED IN PLANNING COMMITTEE MEETINGS (FOR NOTING)

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

RESOLVED – That Planning Committee note the report.

The Head of Planning gave the Planning Committee a further update on the launch of new Planning Portal which goes live across all Councils in Northern Ireland on 5th December 2022.

MOTION TO PROCEED ‘IN COMMITTEE’

Proposed by Councillor Scott
Seconded by Councillor McMullan and

AGREED – that Planning Committee move ‘*In Committee*’.

- * **Press and public were disconnected from the meeting at 5.25 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.

9. CONFIDENTIAL ITEMS

9.1 UPDATE ON LEGAL ISSUES

Verbal update provided by the Head of Planning.

The Head of Planning provided an update in relation to Craigall Quarry and appeal of JR decision to Court of Appeal.

The Head of Planning provided an updated in relation to East Road, Drumsumn Court of Appeal.

The Head of Planning discussed correspondence received in relation to the decision issued on LA01/2021/0993/F. The Head of Planning sought agreement from Members on the way forward.

Proposed by Councillor McMullan
Seconded by Councillor Storey

- that Planning Committee would act in accordance with Legal Opinion received.

All members in attendance were in agreement.

RESOLVED – that Planning Committee would act in accordance with legal opinion received.

9.2 FINANCE PERIOD 1 - 6 - 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 6 of the 2022/23 business year.

Recommendation

IT IS RECOMMENDED that the Committee notes the update provided on the Planning budget as of end of period 6 of 2022/23 financial year.

RESOLVED – That Planning Committee note the report.

MOTION TO PROCEED ‘IN PUBLIC’

Proposed by Councillor Storey

Seconded by Councillor Scott

AGREED – that Planning Committee move ‘*In Public*’.

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

There was no Other Relevant Business.

This being all the business the Chair thanked everyone for being in attendance, confirmed that the next Planning Committee meeting would be held on Wednesday 21 December and the meeting concluded at 5.35 pm.

Chair