

<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2022/0663/O</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>24<sup>th</sup> September 2025</b>
<b>For Decision or For Information</b>	<b>For Decision – Referred Application by Alderman McAuley</b>
<b>To be discussed In Committee YES/NO</b>	

<b>Linkage to Council Strategy (2021-25)</b>	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Development Management and Enforcement Manager

<b>Estimated Timescale for Completion</b>	
Date to be Completed	

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

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

**No:** LA01/2022/0663/O

**Ward:** Magilligan

**App Type:** Outline

**Address:** Land adjacent to 60 Windyhill Road Limavady

**Proposal:** Site for replacement dwelling

**Con Area:** N/A

**Valid Date:**

**Listed Building Grade:** N/A

**Agent:** GM Design Associates, 22 Lodge Road, Coleraine, BT52 1NB

**Applicant:** MAM Developments, 60 Windyhill Road, Limavady

**Objections:** 1                      **Petitions of Objection:** 0

**Support:** 1                      **Petitions of Support:** 0

## **EXECUTIVE SUMMARY**

- Outline planning permission is sought for a Site for Replacement Dwelling
- The application site is located outside of any settlement development limits as identified in the Northern Area Plan (NAP) 2016.
- The proposal is considered to be contrary to Paragraph 6.73 of the SPPS and Policy CTY3 of PPS21.
- DFI Roads, NI Water, NIEA, Environmental Health were consulted in the application. No concerns were raised.
- One letter of objection and one letter of support has been received in relation to the proposal.
- The application is recommended for Refusal.
- Reasons for Referral by elected member are attached as an annex to this report.

Drawings and additional information are available to view on the Planning Portal-

<https://planningregister.planningsystemni.gov.uk/simple-search>

## 1 RECOMMENDATION

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

## 2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located on land adjacent to 60 Windyhill Road, Limavady
- 2.2 The application site is located on land adjacent to 60 Windyhill road, Limavady. The site accommodates a single storey building with the footing of a 'U' shape, situated approximately 40 metres from the Windyhill Road. The site is nestled between two single storey dwelling houses. It is located to the rear of dwelling no.60 which faces onto Windyhill Road. A further dwelling and large storage facility are located to the rear of the site.

Externally the building has the characteristics of a garage/outbuilding. There are garage doors, corrugated tin to roof, no windows to the eastern elevation. There are a number of metal framed window openings on the lower southern elevation. There is a single window on the upper southern elevation with window openings blocked up, these are not in any uniformity. The inner part of the 'U' has 2 metal framed window openings. The building is currently being used as a store.

- 2.3 The site is within the rural area and is located outside any settlement limits as defined in the Northern Area Plan 2016.

## 3 RELEVANT HISTORY

- 3.1 Proposal: Site for replacement Dwelling  
Application Number: B/1991/0326  
Decision: Permission Granted Decision Date: 27th May 1992
- 3.2 Proposal: Site for Dwelling  
Application Number B/1995/0165  
Decision: Permission Granted Decision Date: 18<sup>th</sup> December 1995

- 3.3 Proposal: Erection of replacement bungalow with attached domestic Garage  
Application Number: B/1996/0230  
Decision: Permission Granted      Decision Date: 17<sup>th</sup> October 1996
- 3.4 Proposal: Proposed Art Studio with car parking. Existing store to be demolished.  
Application Number: B/2013/0204/F  
Decision: Permission Refused      Decision Date: 18 August 2017
- 3.5 Proposal: Roof space conversion and erection of detached garage/store  
Application Number: LA01/2016/1233/F  
Decision: Withdrawal      Decision Date: 30 March 2017
- 3.6 Proposal: Retrospective application for farm diversification for change of use of former military squash courts/store to renewable energy commercial workshop B1 use and alteration to existing boundary fence.  
Application Number: LA01/2017/1057/LDE  
Decision: Permission Refused      Decision Date: 17 November 2017

## **4 THE APPLICATION**

- 4.1 This is an outline application for a replacement dwelling

## **5 PUBLICITY & CONSULTATIONS**

### **5.1 External**

One letter of objection was received Angela McClarey with No address

One letter of support has been received from Claire Sudgen MLA Office

### **5.2 Internal**

DFI Roads: No objection to the proposal  
Environmental Health: No objection to the proposal  
NI Water: No objection to the proposal  
NIEA WMU: No objection to the proposal

## **6 MATERIAL CONSIDERATIONS**

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The development plan is:
- The Northern Area Plan 2016 (NAP)
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

[The Northern Area Plan 2016](#)

[The Strategic Planning Policy Statement \(SPPS\)](#)

[Planning Policy Statement 3 \(PPS 3\) – Access, Movement and Parking](#)

[Planning Policy Statement 21 – Sustainable Development in the Countryside](#)

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the principle of development, integration and rural character, access, Sewage Disposal, Habitats Regulation Assessment and other matters

### **Principle of development**

- 8.2 The proposal must be considered having regard to the NAP 2016, SPPS, and PPS policy documents specified above.
- 8.3 Planning Policy Statement 21 – Sustainable development in the Countryside, Policy CTY 1 notes there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development, this includes a replacement dwelling in accordance with Policy CTY 3
- 8.4 CTY 3 notes that Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all references to ‘dwellings’ will include buildings previously used as dwellings.
- 8.5 The building subject to replacement has a ‘U’ shape footprint and is single storey with corrugated iron to roof. Along the western elevation there is a roller door and large double shed style doors and white painted walls. The inner ‘U’ elevations are unpainted and include a number metal framed windows along with the southern and northern elevations. Externally, the building does not exhibit the characteristics of a dwelling.
- 8.6 Internally, the footprint is largely open plan and bare wooden trusses in poor condition with the metal corrugated roof sitting on top and a smooth concrete floor. The building is currently used for storage. There is no evidence of a dwelling or previous use as a dwelling, with no fireplaces, its open plan nature and garage doors. There is red brick exposed and concrete blocked up windows and doors. The window openings are irregularly placed within the elevations there is no evidence of chimneys on the ridge or fireplaces present. Overall,

the building fails to exhibit the essential characteristics of a dwelling house.

- 8.7 The agent cites PAC Decision 2015/A0175 (Appendix 1) which relates to a replacement dwelling, whereby the PAC upheld the appeal. The appeal was upheld due to the remains of a hearth and chimney breast within the building and remains of a chimney pot on the ridge being evident on/within the building to be replaced. The external walls were of stone construction and the openings appear to be original. Part of the floor which was visible was stone.
- 8.8 Given that no features such as chimneys, fireplaces or hearths are observed on/within the subject building this appeal is not directly comparable to the application and does not assist the applicant in this matter.
- 8.9 Defence Heritage Records identify the subject building as a 'structure provided accommodation for officers'. The site is identified as a 'Barracks'. The Oxford Dictionary defines a Barracks as 'a large building or group of buildings used to house soldiers.'

The Planning (Use Classes) Order (Northern Ireland) 2015 PART C Residential Uses Class C4: Secure residential institutions Use for the provision of secure residential accommodation, including use as a prison, young offenders centre, detention centre, juvenile justice centre, short term holding centre, secure hospital, or use as a military barracks. This building therefore would not originally have been constructed or used as a dwelling house.

Information received on 1st September 2022 included 4 letters and aerial footage a map with handwritten keys.

- Letter from 60 Windyhill Road said that the property to the rear of number 60 was let to three families. This was occupied until the early 1970s. Property let to McGonigale, Boyd and Boyle Families.
- Letter from 68 Windyhill Road said the property was where the Boyd, McGonigle Family and Joe Boyle lived.
- Letter from 22 Killane Road said that their parents lived in the building shown from 1950 to 1960 and that Boyd family lived next door and Joe Boyle lived at the back of the building until about 1970.
- Letter from 64 Windyhill Road said that building material was stored in the property to the rear of 60 Windyhill Road in 1996/1997. There was a stove in the property removed to feature in their own house.



- Aerial photograph is not dated and shows the dwelling at No 60 and building to the rear.
- The map shows sectioned areas where the building was split for people to live in.

Further information was received on 22nd October 2022 which included historical photographs and birth certificates and a post stamped envelope. This information however, does not provide site specific, verifiable evidence that the building in question was used as a dwelling or that the photos taken were at the building under this application.

- 8.10 Historical applications B/1991/0326, B/1995/0165 and B/1996/0230 relate to a replacement dwelling for part of the 'U' shaped building under this application. The proposal was for an off site replacement for the dwelling now known as No 64 located to the north of the application site. One of the conditions imposed on the approval states 'Upon occupation of the new dwelling the existing dwelling marked red on the enclosed plan, shall there after not be used for human habitation and may only be used for agricultural purposes or for any other purpose incidental to the enjoyment of the approved dwelling house'. This is indicative of what is on site today with the building currently being used as a storage shed.
- 8.11 Given the planning history on part of the subject building the agent was requested to identify the extent of the three units located within the subject building. The latest information received from the Agent on 6th May stated that 'As per the evidence submitted the building was previously divided into 3 dwellings. With this application the applicant is proposing to replace the complete building with a single dwelling'. However as part of the building has already been granted planning permission to be replaced and this permission has been implemented, this section of the building is not eligible for replacement again under this application.
- 8.12 From the above information it is unclear as to the former use of the building. While it may have been used at a time as a residential unit /units, the extent and number of any such units has not been satisfactorily verified, other than the unit granted permission to be replaced by the planning approvals outlined at Paragraph 8.9. Regardless, as set out at paragraphs 8.6 and 8.7 above the building fails to exhibit the essential characteristics of a dwelling.

## **Integration and Rural Character**

- 8.13 Views of the application site are obtained over a distance of approximately 115m when passing No. 56 in a North Eastern direction. From here the application site is read with the existing adjacent dwellings and associated landscaping. The rising topography to the distant north/northeast provides a backdrop for development ensuring it does not appear unduly prominent/skyline. Views on approach from the north east are well screened by the existing dwelling and associated buildings at No. 76. Given that there is already a building in situ it is felt that a modest single storey dwelling could be accommodated on the with which would respect the surround character, avoid being unduly prominent and satisfactorily integrate. Subject to this the proposal would meet with the requirements of Paragraph 6.70 of the SPPS and Policy CTY13 and 14 of PPS21.

## **Access**

- 8.14 PPS 3, Policy AMP 2, Access to Public Roads notes planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.
- 8.15 The application proposes the use of an existing access onto Windyhill Road. DFI Roads were consulted and raised no objections. The proposal is considered to comply with Policy AMP 2 of PPS 3.

## **Sewerage Disposal**

- 8.16 Policy CTY 16 of PPS 21 – Development relying on non-mains sewerage, applies; Planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.
- 8.17 Following initial comment from NI Water advises that there is no capacity within the existing foul sewer the applicant proposes to discharge foul waste via a septic tank. Environmental Health and Water Management Unit have been consulted and are content therefore the proposal complies with CTY 16 of PPS 21.

## **Habitats Regulation Assessment**

- 8.18 The potential impact this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The Proposal would not be likely to have a significant effect on the Features, conservation objectives or status of any of these sites.

### **Other Matters**

- 8.19 An Objection was received from Angela McClarey. No address was given. The objection raised issue with a loss of view and light at the property. As outlined above at Paragraph 8.12 any dwelling approved on site should be single storey in scale and the siting of the dwelling would need to respect the surrounding amenities of neighbouring properties. Subject to appropriate design a modest dwelling could be accommodated on the site without unacceptable detrimental impact on neighbouring properties. The loss of a view from a property is not a material planning consideration and this concern is afforded no weight in the assessment of the application.

## **9 CONCLUSION**

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations including the Strategic Planning Policy Statements paragraphs 6.70 and 6.73 Planning Policy Statement 21 – Sustainable development in the Countryside, CTY 1 and CTY 3 in that the building to be replaced does not exhibit the essential characteristics of a dwelling. Additionally, no overriding reason as to why the development is essential in this location could not be located within a settlement have been provided. Refusal is recommended.

## **10 Reasons for Refusal**

1. The proposal is contrary to paragraph 6.73 of the SPPS and Policy CTY 1 of PPS 21: Sustainable Development in the Countryside in that there are no overriding reasons why the development is essential and could not be located within a settlement

2. The proposal is contrary to The Strategic Planning Policy Statement Paragraph 6.73 and Policies CTY 1 and CTY 3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling.

## Site location Map



## Referral Request



**Causeway  
Coast & Glens  
Borough Council**

Development Management  
Information Note 07

January 2024

### Annex 1

#### **Template for Requesting Referral of a Contentious Delegated Decision to Issue' List Planning Application to Planning Committee for Determination**

The Protocol for the Operation of the Planning Committee provides for an Elected Member to request a planning application listed on the weekly list of 'contentious delegated decisions ready' to be referred to Planning Committee for determination. This request must be received by the Planning Department no later than 10am on the Monday following the issuing of the contentious list and submitted via email to [planning@causewaycoastandglens.gov.uk](mailto:planning@causewaycoastandglens.gov.uk).

Planning Reference	LA01/2022/0663/O Land adjacent to 60 Windyhill Road Limavady
Elected Member Name	Alderman John McAuley
Contact Details	Tel: 07736474848 Email: <a href="mailto:john.mcauley.dup@gmail.com">john.mcauley.dup@gmail.com</a>

#### **Refusal Reasons**

1. The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement and Policy CTY 1 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.
2. The proposal is contrary to The Strategic Planning Policy Statement Paragraph 6.73 and Policies CTY 1 and CTY 3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling.

#### **Reasons for referral**

The planning reasons for the request are based on the following:

- The reason for refusal is based on the principle of the proposal with no other planning or consultee concerns raised
- Evidence was submitted demonstrating that the building historically was 3 individual dwellings. This application only seeks replacement to provide a single dwelling
- The building still exhibits characteristics of its formal residential use including evidence of internal sub-division and position of external openings
- Appeal decision 2015/A0175 is comparable in the consideration of this application where evidence was submitted in relation to the previous residential use and where the building was adapted for an alternative use but characteristics of a dwelling remained.
- Council's opinion is that the building does not display the essential characteristics of a dwelling. If this remains the position then Policy CTY 3 also facilitates the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality. The candidate building would comply with the spirit and intent of this element of the policy.
- We note the comments made in relation to an historic approval replacing 'part' of the building and the uncertainties regarding the approval and its implementation as the red line identifying the application site refers to a different site and not the site of this current application. The evidence submitted confirmed the building previously accommodated 3 dwellings therefore 2 genuine replacement opportunities remain if an historic approval was indeed implemented.

## Appendix 1



# Appeal Decision

Park House  
87/91 Great Victoria Street  
BELFAST  
BT2 7AG  
T: 028 9024 4710  
F: 028 9031 2536  
E: [info@pacni.gov.uk](mailto:info@pacni.gov.uk)

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<b>Appeal Reference:</b>	2015/A0175
<b>Appeal by:</b>	Ms Marie Metcalfe
<b>Appeal against:</b>	Refusal of Outline Planning Permission
<b>Proposed Development:</b>	Replacement Dwelling
<b>Location:</b>	Adjacent to 28 Lany Road St James, Lisburn
<b>Planning Authority:</b>	Lisburn and Castlereagh City Council
<b>Application Reference:</b>	S/2015/0073/O
<b>Procedure:</b>	Written Representations with Commissioner's Site Visit on 28 <sup>th</sup> April 2016
<b>Decision by:</b>	Commissioner Helen Fitzsimons on 4 <sup>th</sup> May 2016.

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### Decision

1. The appeal is allowed subject to conditions.

### Reasons

2. The main issue in this appeal is whether the proposed development is acceptable in principle in the countryside.
3. The appeal site lies in the open countryside as defined by the Belfast Metropolitan Area Plan 2015. The plan offers no policy or guidance in respect of the proposal before me. Policy CTY 1 of Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21) is a material consideration and provides the policy framework for determining this appeal.
4. PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Dwellings in accordance with Policy CTY 3 'Replacement Dwellings' will be acceptable provided certain criteria are met.
5. Policy CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls are substantially intact. The policy continues that all references to 'dwellings' will include buildings previously used as dwellings.
6. The appeal building is currently used as an office. Internally it has been subdivided into four areas. The internal walls are comprised of concrete block work. A roller shutter door is located on the northern end of the front elevation. There are also a domestic sized modern door and two modern domestic sized windows on the front elevation. There are no distinctive features on the gable

2015/A0175



walls and the rear elevation has been subsumed into an adjacent building. The remains of a chimney pot are evident. The roof is corrugated metal. The Planning Authority holds the view that there is insufficient evidence to demonstrate that the appeal structure was a former dwelling.

7. The appellant's evidence is that notwithstanding its current use and modern internal subdivisions the appeal structure was a former dwelling. She argued that it appears on the 1858 ordnance survey map and is located adjacent to an outhouse which remains on the appeal site today; that an aerial photograph dated 1964 shows the dwelling and outhouse in situ in the original farm yard along with the original entrance; that letters of support state that the structure is a former dwelling; and that a letter of objection also states that the structure was a dwelling.
8. At my site visit I noted the following; the building is linear in form with the main window and door openings expressed along the front and rear walls (evident from an internal inspection). External walls are of stone construction and the openings appear to be the original ones. The remains of a hearth chimney breast on the southern wall reflect the position of the remnants of the chimney pot on the ridge above. Part of the floor which was visible was stone. All of this suggests to me that the appeal building was at one time a vernacular dwelling and not an agricultural outbuilding. I am reinforced in this by accounts of the appellant's supporters and I pay particular attention to the objector's letter which assists this aspect of the appellant's case. Although it was alluded to that the former dwelling had already been replaced I was given no evidence in support of this, for example, in the form of a planning history or more specific details of that event. Given all of this I conclude that the proposed development meets the requirements of Policy CTY 3 of PPS 21 and the Planning Authority has not sustained its reason for refusal.
9. In order to comply with policy conditions requiring the demolition of the existing building and a restricted siting for the new building are required. Visibility splays are necessary in the interests of road safety.

### **Conditions**

1. Except as expressly provided for by condition 3 the following reserved matters shall be as approved by the planning authority – the design and external appearance of the dwelling, the means of access thereto and the landscaping of the site.
2. The dwelling marked green on the attached plan annotated PAC 1 shall be demolished and all resultant rubble removed from the site prior to the commencement of any development.
3. The dwelling shall be sited within the area hatched in black on the attached map numbered annotated PAC 1.
4. Prior to the commencement of any building works visibility splays of 2.4m x 90m shall be laid out at the entrance of the appeal site with the laneway and permanently retained.

2015/A0175

5. Application for approval of the reserved matters shall be made to the planning authority before the expiration of three years from the date of this decision.
6. The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

This decision is based on the 1:1250 scale site location plan annotated PAC 1.

**COMMISSIONER HELEN FITZSIMONS**