

<b>Planning Committee Report LA01/2015/0519/F</b>	<b>22<sup>nd</sup> March 2017</b>
<b>PLANNING COMMITTEE</b>	

<b>Linkage to Council Strategy (2015-19)</b>	
<b>Strategic Theme</b>	Protecting and Enhancing our Environment and Assets
<b>Outcome</b>	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
<b>Lead Officer</b>	Principal Planning Officer
<b>Cost: (If applicable)</b>	N/a

**South of 74 Carhill Road  
Garvagh  
LA01/2015/0519/F  
Full Planning**

**22<sup>nd</sup> March 2016**

<b><u>App No:</u></b>	LA01/2015/0519/F	<b><u>Ward:</u></b>	Garvagh
<b><u>App Type:</u></b>	Full Planning		
<b><u>Address:</u></b>	South of 74 Carhill Road Garvagh.		
<b><u>Proposal:</u></b>	Retrospective change of use application from auto repairs to plant hire and workshop for the repair of plant and machinery, with ancillary customer service area.		
<b><u>Con Area:</u></b>	N/A	<b><u>Valid Date:</u></b>	7th August 2015
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>Target Date:</u></b>	
<b>Applicant:</b>	Darren Nicholl, 11c Laragh Road, Swatragh, Maghera, BT46 5NS		
<b>Agent:</b>	OJQ Architecture, 89 Main Street, Garvagh.		
<b>Objections:</b>	0	<b>Petitions of Objection:</b>	0
<b>Support:</b>	0	<b>Petitions of Support:</b>	0

Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)

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

## 2 SITE LOCATION & DESCRIPTION

- 2.1 This is a roadside site located between the Carhill Road and the Old Carhill Road. There is an existing barrel roof barn on the site. A tools and plant business is operating from the site. A significant number of lorries, cranes, diggers and heavy plant equipment were observed on site (outside the building) during the site inspection. The boundaries of the site are defined by

high level fencing. The surface is finished in gravel. An outbuilding is located in the NE corner of the site. Existing access is from Carhill Road. The access onto the Old Carhill Road was locked at the time of the site inspection.

- 2.2 The site is located in the countryside to the south of Garvagh. It is open countryside to the south of the site; to the west of Carhill Road; and to the east of Old Carhill Road. A two storey dwelling is located to the north of the site.
- 2.3 The site is located within the rural area as defined in the Northern Area Plan 2016.

### **3 RELEVANT HISTORY**

C/2003/0850/F - Change of use from disused agricultural building to furniture spraying business. Lands adjacent to No. 74 Carhill Road, Garvagh. Approved 14.02.2005

C/2009/0747/F - Re-use & adaption of redundant farm building to provide kitchen / bedroom manufacturing business with ancillary display office & customer services area. Lands adjacent to No. 74 Carhill Road, Garvagh. Approved 28.07.2010

C/2011/0533/F - Retrospective change of use from kitchen manufacturing workshop to auto electrics workshop and storage with car wash facilities. 37 metres south of No. 74 Carhill Road, Garvagh. Approved 21.05.2012

LA01/2015/0915/LDE - Existing Commercial Vehicular Access as constructed onto the Carhill Road. (A29-Protected Route) – Approved (in place for more than 5 years) 02.02.2016

### **4 THE APPLICATION**

- 4.1 Planning permission is sought for the retrospective use of the existing building for plant hire and workshop for the repair of plant and machinery, with ancillary customer service/display area.

- 4.2 This description was revised from a previous description which included a sales element. The applicant no longer wishes to pursue the sales element.
- 4.3 The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation 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 or conservation objectives of any European site.

## **5.0 PUBLICITY & CONSULTATIONS**

### **5.1 External**

**Neighbours:** There are no objections to the proposal.

### **5.2 Internal**

**NIEA:** Land Soil and Air Team advise Waste Management (WM) (Land and Groundwater Team) has no objection to the proposal. (email 19.01.17)

**Transport NI:** has no objection to the proposal.

**NI Water:** has no objection to the proposal.

**Environmental Health:** has no objection to the proposal.

## **MATERIAL CONSIDERATIONS**

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local development 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:
- 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.

## **7.0 RELEVANT POLICIES & GUIDANCE**

Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 3 (PPS3) Access Movement and Parking

Planning Policy Statement 4: Planning and Economic Development

Planning Policy Statement 21 (PPS 21) Sustainable Development in the Countryside

## **8.0 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the planning history, reuse of existing building, hire and storage of plant and equipment, the repair of plant and machinery, administrative fairness, landscaping and; fall-back position.

### **Planning Policy**

- 8.2 The principle of the type and scale of development proposed must be considered having regard to the SPPS and PPS policy documents specified above.

- 8.3 The site is located within the rural area of the Northern Area Plan. The site is located adjacent to a Protected Route (Carhill Road A29 to the west of the site).

### **Planning History**

- 8.4 A modest customer services / display area (@1/3 of building) was approved within the kitchen / bedroom manufacturing building via C/2009/0747/F. However, this was an area of sales ancillary to the overall use of manufacturing with reasonable small footfall. The number of people visiting the site was limited to mainly any employees, and the number of vehicles would be relatively small. The application form stated that the number of vehicles attending the site would be limited to 2 vehicles for employees and 1 vehicle for sales per day.
- 8.5 A retrospective application was then granted in 2012 (C/2011/0533/F) for an auto electrics garage/workshop. Again, the number of people and cars visiting the site was relatively small. The application form stated 2 employees and 2 vehicles daily, 5 others attending with 5 vehicles daily. This application also stated that there was to be no sales on site.

### **Reuse of existing building**

- 8.6 Paragraph 6.69 of the SPPS sets out the policy approach to development in the countryside, including promoting the re-use of existing buildings. It goes on to explain why such an approach is considered sustainable.
- 8.7 Paragraph 6.73 then sets out the strategic policy for residential and non-residential development. The final bullet point (12<sup>th</sup>) under Paragraph 6.73 relates to the conversion and re-use of existing buildings for non-residential use and therefore applies to this proposal. This policy allows for the conversion and reuse of suitable locally important buildings of special character or interest where this secures their upkeep and retention. As this building is not a locally important building of special character or interest, and the nature and scale of the proposal is not appropriate to this countryside location, the proposal fails to meet this policy test.

## Hire and Storage of Plant and Equipment

- 8.8 The proposal includes the hire of plant and machinery including diggers, dumpers and cranes. For the purposes of classification in terms of The Planning (Use Classes) Order (Northern Ireland) 2015, this is a sui-generis (or non-specified) use. Notwithstanding this, the hire and storage elements are clearly a business use and therefore paragraph 6.87 of the SPPS and PPS 4 is of relevance and policy PED 4 in particular.
- 8.9 Although paragraph 6.87 of the SPPS promotes the re-use of existing buildings, regard must be had to paragraph 6.73 of the SPPS as explained in Paragraphs 8.6 & 8.7 above.
- 8.10 PED 4 sets out 4 main criteria which all proposals must comply with. Criterion (a) states that:

*“the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is only a proportionate increase in the site area;”*

While the applicant has stated there is to be no increase in traffic as a result of this proposal from that previously approved, it is unclear to see how a business involving sales, hire, and repairs, could operate with only 4 customers per day. Therefore, the level of activity of patrons visiting the site on multiple occasions to view an item before hiring, or to collect and return equipment, or to get a damaged piece of machinery repaired, would significantly change the scale of visitors to the premises.

- 8.11 Given the scale and nature of the equipment to be stored and available to hire, and the level of custom attracted to the site, this is contrary to PED4 (a) as this will harm the rural character and appearance of the local area due to the level of external storage of diggers, cranes, dumpers compared to any previous use on site. The collective appearance of such large items of plant, often painted in bright colours, and openly visible from the Carhill Road, intensifies the harm. Should planning permission be granted, there is nothing to restrict the scale of operation that could lawfully operate within the permission, and therefore visual harm could be intensified even further.



8.12 Plant are particularly injurious to the amenity of the countryside by reason of the external display of plant which is stored and displayed for hire. This is due to the conspicuous commercial nature of the use, often heightened by the use of prolific advertisements, the majority of which do not require specific advertisement consent.

8.13 Criterion (b) of Policy PED 4 states that:

*“there would be environmental benefits as a result of the redevelopment”*

Given the foregoing, there would fail to be environmental benefits. The proposal otherwise meets criteria (c) and (d) of Policy PED 4.

8.14 Having regard to paragraphs 8.6-8.13 the proposal fails to comply with Paragraph 6.73 and 6.87 of the SPPS and CTY 4 of PPS 21 as the proposal to re-use an existing building to a proposal of this nature and scale (for a non-residential use), would not be appropriate to its countryside location. In addition, the proposal is not considered to be a sympathetic conversion and re-use of a suitable locally important building of special character or interest. As such, the proposal is also contrary to Policy CTY 1 of PPS 21.

### **Repair of Plant and Machinery**

8.15 Policy states that planning permission will be granted for industry and business uses in the countryside in accordance with PPS4. Having regard to the previous use of the site for manufacturing and garage/workshops, these are uses that fall within Class B3 of The Planning (Use Classes) Order (Northern Ireland) 2015. The element of this proposal for the repair of plant and machinery is also a Class B3 use and is therefore acceptable as it accords with PED 2 and PED 4 of PPS4. As this proposal is acceptable within this context, there is no policy objection to the repair of plant and machinery at this site.

### **Administrative Fairness**

8.16 The applicant's agent has raised an argument that EJB Car Sales and Carhill Car sales operate close to this site along the

A29, and are also in the countryside, and that in considering the proposed application differently is adopting an inconsistent approach and there is administrative fairness point. The land that EJB car sales is located was subject to a planning application for change of use to car sales in 1999, planning reference C/1999/0068, which was approved in 1999. The land on which Carhill Car Sales is located was subject to a planning application for a change if use to car sales in 1981 and was approved under the planning reference C/1981/0405.

8.17 These 2 permission were approved over 18 and 36 years respectively. In the intervening time the legislation and policy context has changed, and there is a different planning authority in place. Analysis of the rationale for approving these applications is no longer possible as the application files have been destroyed in accordance with Council's (formerly DoE) disposal and retention schedule. Having regard to these factors and that these 2 permissions are clearly distinguishable, there is no precedent and no need to give weight to the administrative fairness issue. Furthermore, these 2 permissions could be argued as examples of why such uses are inappropriate in a countryside location given their high visual impact and why the countryside needs to be protected from such uses.

### **Landscaping**

8.18 The applicant's agent has suggested that the planning authority should be seeking mitigation, in the form of landscaping, to limit the visual impact that currently exists. However, given the nature of the proposal sought, the very purpose is for these products to be visible and to display what is available for hire. Therefore, to allow a planting scheme to integrate such a proposal is not considered appropriate in this case.

### **Fall-back position**

8.19 Of relevance is the previous permission or the valid fall-back position that allows for the building and site to be used for electrics storage and workshop, with a car wash facility. The nature of this means the building has the primary use (as an electrics storage and workshop) with the land outside being used as ancillary to this use i.e car parking/deliveries. There was also permission to wash cars on site but again the use of the land

would be short term with cars leaving the site once they have been washed. What this proposal now seeks is to allow the land outside of the building to become the 'primary' use, with the land being used to not only display plant and machinery for hire, but also to store this on a permanent basis. Therefore this fall-back position should not be given determining weight and not a reason to set planning policy aside. The harm in this case, as set out above, is the conspicuous, high profile nature of the external use.

## **9.0 CONCLUSION**

9.1 This proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016, and other material considerations, including the SPPS. Although the repair of plant and machinery complies with policy and would be acceptable, the additional use for storage and hire is unacceptable in this countryside location. Furthermore, the re-use of a building to a non-residential use where the scale and nature would harm its countryside location is unacceptable. Consideration has been had to the matters of administrative fairness, landscaping, and the fall-back position. However, these matters are not given determining weight. Refusal is recommended.

## **10 Refusal Reasons**

10.1 The hire and storage element of this proposal is contrary to paragraphs 6.73 and 6.87 of the Strategic Planning Policy Statement for Northern Ireland, Policy CTY1 of PPS21 (Sustainable Development in the Countryside) and Policy PED4 of PPS4 (Planning and Economic Development), by reason of the scale and nature of which harms the rural character and appearance of the local area.

10.2 The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for NI and Policies CTY1 and CTY4 of Planning Policy Statement 21 (Sustainable Development in the Countryside) in that the proposal is not considered to be a sympathetic conversion and re-use of a suitable locally important building of special character or interest and the nature and scale of the proposed non-residential use would not be appropriate to its countryside location.

