

Planning Committee Report – LA01/2015/0519/F	26th October 2016
Address: South of 74 Carhill Road, Garvagh	
PLANNING COMMITTEE	FOR DECISION

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

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

Drawings and additional information are available to view on the Planning Portal- 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 sandwiched 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 change of use application from auto repairs to storage, sales and repair of plant and machinery.

4.2 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) objects to the proposal as no environmental information has been provided in support of this application.

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, retail development in the countryside, hire and storage of plant and equipment, the repair of plant and machinery and; impact on the water environment.

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.

Retail development in the Countryside

- 8.6 The sale of plant and machinery is a retail activity. For the purposes of classification in terms of The Planning (Use Classes) Order (Northern Ireland) 2015, this is a sui-generis (or non-specified) retailing use. This use is distinguishable from Class A1 as a shop. When the SPPS was published in September 2015, it cancelled the provisions for retailing and town centres that had been provided by PPS 5 Retailing and Town Centres. The SPPS provides the main policy document for dealing with all applications that involve retailing. This is set out in pages 101-105 "Town Centres and Retailing".
- 8.7 The SPPS seeks to support and sustain vibrant town centres through the promotion of established town centres as the appropriate first choice for retailing. The Northern Area Plan 2016 identifies town centres, with a number of local centres also designated. However, given the specific nature of the proposal, this type of use may not be best accommodated in a town centre location. However, it could be reasonably accommodated within a settlement limit. This application site lies outside of a settlement limit in the open countryside.

- 8.8 The breakdown of floorspace on the submitted plans shows that sales are the predominant use within the building. While the ground floor plan shows this area as garage workshop / sales, this has not been differentiated, therefore all this area could be used for retailing uses. In addition, the outside area could be used for the display of plant or equipment for sale.
- 8.9 Paragraph 6.279 of the SPPS says that retailing uses and inappropriate retail facilities in the countryside must be resisted. However, the policy does exceptionally allow for some retail facilities outside of settlement limits, such as farm shops, craft shops and shops serving tourist or recreational facilities. The sale of plant and machinery does not accord with the type of retailing that planning policy allows outside settlement limits. Therefore this is a retail activity that should be located within a settlement limit.
- 8.10 Policy PED 2 of PPS 4 Planning and Economic Development provides policy options for economic development uses in the countryside. In this case Policy PED 4 is relevant as this refers to the redevelopment of an established economic development use in the countryside. However, this policy states that redevelopment proposals involving retailing will not be permitted in the countryside. The retailing element of this proposal is contrary to PED 4 of PPS 4. It should also be noted that in allowing a change of use to this type of 'sui generis' retailing, retailing of this nature could intensify without the need for a further planning application. This would further exacerbate the impact on the rural area.
- 8.11 Plant (or motor vehicle sales) are particularly injurious to the amenity of the countryside by reason of the external display of plant (or motor vehicles) for sale. 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.
- 8.12 Although Paragraph 6.279 of the SPPS states that retailing will be directed to town centres and explains circumstances when retail development may be acceptable in the countryside, it goes on to say that all proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment, and meet policy

requirements elsewhere. This has not been demonstrated in this case.

8.13 Furthermore Paragraph 6.282 of the SPPS requires applicants to prepare an assessment of need which is proportionate to support their application. Again, this has not been submitted in this case.

8.14 The principle of this retailing proposal in this countryside location in contrary to Policy CTY 1 of PPS 21 Sustainable Development in the Countryside.

Hire and Storage of Plant and Equipment

8.15 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 PPS 4 is of relevance and policy PED 4 in particular.

8.16 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 purchasing, 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.

8.17 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 large items of plant, often painted in bright colours, and openly visible from the Carhill Road, intensifies the harm.

8.18 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.

8.19 Having regard to paragraphs 8.6-8.15 the proposal fails to comply with Paragraph 6.73 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

8.20 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.

Impact on the Water Environment

8.21 NIEA advise that the former use of the site as an auto repairs facility may have caused the site to be affected by contamination which could pose an unacceptable risks to the water environment.

8.22 No environmental information has been provided in support of this application. As this is a retrospective application, risks due to potential or actual contamination may not have been adequately managed during development. Therefore in the absence of such information, the applicant has failed to demonstrate that this development will not pose an unacceptable risk to the water environment. This is contrary to Policy PED 9 of PPS 4 which requires development to not adversely affect features of natural heritage (criterion c) and to be capable of dealing satisfactorily with any emission or effluent (criterion f).

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 uses proposed, including sales, and storage and hire, are 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. There is also a potential impact on the water environment which has not been addressed. Refusal is recommended.

10 Refusal Reasons

10.1 The hire and storage element of this proposal is contrary to paragraphs 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 retailing element of this proposal is contrary to paragraphs 6.279 and 6.282 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 unacceptable retailing in the countryside, the nature and scale of which harms the rural character and appearance of the local

area. The applicant has also failed to submit an assessment of need.

- 10.3 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.
- 10.4 The proposal is contrary to paragraph 3.8 of the Strategic Planning Policy Statement for NI and Policy PED9 of PPS4 (Planning and Economic Development), as the applicant has failed to demonstrate that the development, if permitted, would not pose an unacceptable risk to the water environment.