Title of Report:	**Planning Committee Report – LA01/2021/0034/F**
Committee Report Submitted To:	**Planning Committee**
Date of Meeting:	**24th August 2022**
For Decision or For Information	**For Decision – Referred Application by Cllr Adrian McQuillan**

Linkage to Council Strategy (2021-25)	
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

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

Screening Requirements	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: LA01/2021/0034/F **Ward: Dundooan**

App Type: Full

Address: 15 Ballyrashane Road, Coleraine, BT52 2NL

Proposal: Retention of commercial vehicle sales yard and mobile sales office

Con Area: N/A **Valid Date: 06.01.2021**

Listed Building Grade: N/A

Agent: C Mc Ilvar Ltd, Unit 7 Cookstown Enterprise Centre, Cookstown, BT80 9LU

Applicant: Causeway Cars, 15 Ballyrashane Road, Coleraine, BT52 2NL

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

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

EXECUTIVE SUMMARY

- Full planning permission is sought for the retention of commercial vehicle sales yard and mobile sales office
- The site is located within open countryside and outside any Settlement Development Limit as designated within the Northern Area Plan 2016. Ballyrashane Road from which the proposal is accessed is a protected route.
- The use 'for the sale or display for sale of motor vehicles' is outlined as a sui generis use under Section 3(4)(h) of The Planning (Use Classes) Order (NI) 2015.
- Vehicle sales is a retailing use as established under planning appeals 2019/A0219, 2011/A0021 and 2016/A0087.
- Retailing policies are outlined within the SPPS which has the aim to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions.
- It has not been demonstrated through a detailed assessment that there are no town centre or other sequentially preferable sites within which to locate the business and that it would not harm the viability and viability of towns within the business catchment.
- There have been no exceptional reasons outlined or need demonstrated for the location of this business in this rural location.
- An extant enforcement notice on the site restricts the commercial usage of the site.
- The proposal is contrary to Paragraphs 6.273, 6.279, 6.280 and 6.281 of the SPPS and Policy CTY 1 of PPS 21. DFI Roads, NI

Water, DAERA (Water Management Unit) and Environmental Health were consulted on the application and raise no objection.

- There is one objection 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- http://epicpublic.planningni.gov.uk/publicaccess/

1 RECOMMENDATION

1.1 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.

2 SITE LOCATION & DESCRIPTION

2.1 The application site is located at 15 Ballyrashane Road, Coleraine. The application site is located within a linear pattern of development located to the east of Coleraine. The site consists of a dwellinghouse with front garden with car sales area located within the rear of the garden of the property. A vehicular access and laneway are located to the side of No. 15 Ballyrashane Road which provide access to development at the rear. An area for car washing is located to the south of the curtilage of No. 15 Ballyrashane Road and is encompassed within the application site. A building adjoins the application to the south which provides valeting services associated withis yard but is not located within the application site. This area is separated from the curtilage of the dwellinghouse by fencing which runs along western and southern boundaries.

2.2 The land to the west of the application site comprises a yard and buildings associated with a sawmills business. Land to the south beyond the valeting premises comprises a number of buildings associated with economic development uses including car repairs. This area was a former factory. To the east is a dwellinghouse with associated Motor Home sales located at the rear. To the north is a field with veterinary practice adjoining.

2.3 The application site is located outside any settlement limit of as defined in the Northern Area Plan 2016. The application site is not within any designated sites, but is located immediately adjacent to the Ballyrashane Road which a Protected Route.

3 RELEVANT HISTORY

Appeal reference: 2019/A0219
Location: Approximately 40m East of 204 Straid Road, Bushmills
Proposal: Proposed commercial vehicle sales yard and office with alterations to existing access and creation of new access onto Haw Road
Decision: Application Appeal Dismissed – 3rd December 2020

Appeal reference: 2016/A0087
Location: 111 Belfast Road, Whitehead, Carrickfergus, BT38 9SU
Proposal: Extension to existing car sales site - Extension area to be used for customer and staff car parking
Decision: Application Appeal Dismissed – 4th October 2017

Appeal reference: 2011/A0021
Location: Adjacent to 79 Coney Road, Culmore, Londonderry
Proposal: Retention of commercial vehicle sales use and shed
Decision: Application Appeal Dismissed – 5th March 2012

Appeal reference: 2003/A254
Location: No.15 Ballyrashane Road, Coleraine
Proposal: (Retrospective) Formalisation of Commercial Activity on Site and Change of Use from domestic vehicle store to store for vehicle storage, maintenance and vehicle sales
Decision: Application Appeal Dismissed – 1st June 2004

Planning reference: C/2001/1201/F
Location: No. 15 Ballyrashane Road, Coleraine
Proposal: (Retrospective) Formalisation of commercial activity on site and change of use from domestic vehicle store to store for vehicle storage, maintenance and vehicle sales
Decision: Permission Refused 16th October 2003

Planning reference: C/2001/0134/F
Location: 15 Ballyrashane Road, Coleraine
Proposal: Erection of vehicle store (domestic and classic cars)
Decision: Permission Granted 11th May 2001

Planning reference: C/2000/0484/F
Location: 15 Ballyrashane Road, Coleraine
Proposal: Change of use of section of Site to Car Sales/Diesel Fuel Sales and erection of single storey office
Decision: Permission Refused 28.07.2000

Planning reference: C/1997/0649
Location: 15 BALLYRASHANE ROAD BALLYCLABBER COLERAINE
Proposal: Erection of single-storey car maintenance workshop to rear of existing bungalow
Decision: Permission Refused 23rd April 1998

Planning reference: C/1991/0506
Location: 15 BALLYRASHANE ROAD BALLYCLABBER COLERAINE
Proposal: Change of use from disused scrap yard to ready use
Decision: Permission Granted 6th May 1992

Planning reference: C/1986/0044
Location: 17 BALLYRASHANE ROAD, COLERAINE
Proposal: CHANGE OF USE FROM DOMESTIC STORE TO VEHICLE REPAIR GARAGE
Decision: Approval 14th March 1986

Planning reference: C/1977/0001
Location: BALLYRASHANE, COLERAINE
Proposal: BOTTLING HALL, COLD STORES LAB AND CONVERSION OF EXISTING BUILDING
Decision: Approval 8th February 1977

4 THE APPLICATION

4.1 Full planning permission is sought for the retention of commercial vehicle sales yard & mobile sales office

5 PUBLICITY & CONSULTATIONS

5.1 **External**

Neighbours: There is one objection to the application. The following matters are raised:

- Planning permission was issued for the rear yard which is no longer occupied or owned by No. 15 Ballyrashane Road and now owned by No. 17 Ballyrashane Road. Planning permission was not issued for any other part of the property.
- Mr McGill & Associates erected a garage to the rear of the property.
- Mr McGill & Associates erected a wash & valeting bay at the property within the last 6 months.
- Mr McGill & Associates renovated No. 15 Ballyrashane Road to change the layout and design of the property adding additional rooms to make it into a trading B&B known as Ashlea B&B.
- Prior to this application they have already been refused planning to trade and operate a business from said property and is continuing and expanding rapidly with a number of business working out of 15 Ballyrashane Road.
- No. 15 is not suitable to trade and operate the type of business that Mr McGill & Associates want to operate eg car sales. The capacity of No 15 does not allow vast amount of traffic to enter and exit the property, no turning facility on site, therefore exiting the property has the potential of becoming extremely dangerous and hazardous on an incredibly busy road. There are limited sight lines for oncoming traffic and people have already succumbed to this hectic road, one ending in a fatality. Have witnessed people try to exit this property by reversing out onto the main road, putting not only themselves but other road users at risk

5.2 **Internal**

Environmental Health Department: No objection

NI Water: No objection

DFI Roads: No objection subject to condition

DAERA Water Management Unit: No objection

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:
Northern Area Plan 2016 (NAP)

The Regional Development Strategy (RDS) is a material consideration.

6.3 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.

6.4 Due weight should be given to the relevant policies in the development plan.

6.5 All material considerations and any policy conflicts are identified in the "Considerations and Assessment" section of the report.

7 RELEVANT POLICIES & GUIDANCE

Regional Development Strategy 2035.

Northern Area Plan 2016.

Strategic Planning Policy Statement.

PPS 3: Access, Movement and Parking.

PPS 21: Sustainable Development in the Countryside.

8 CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relates to: principle of development, access, drainage, amenity and integration and rural character.

Principle of Development

8.2 As the Northern Area Plan is not an up to date plan with regards to retail policy, the regional policies contained within the SPPS are the primary policy consideration in this application. The aim of the SPPS is to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions, consistent with the RDS.

8.3 Paragraph 6.273 of the SPPS outlines that Planning Authorities must adopt a town centre first approach for retail and main town centre uses. The application relates to the retention of a commercial vehicle sales yard and mobile sales office.

8.4 The use 'for the sale or display for sale of motor vehicles' is outlined as a sui generis use under Section 3(4)(h) of The Planning (Use Classes) Order (NI) 2015. The site is located outside any Settlement Development Limit as defined within the Northern Area Plan 2016 and is considered as rural development.

8.5 The proposal does not relate to an economic development use.

8.6 Economic development uses are considered under Planning Policy Statement 4: Planning and Economic Development. The preamble to PPS 4 states that:

For the purposes of this PPS, economic development uses comprise industrial, business and storage and distribution uses, as currently defined in Part B 'Industrial and Business Uses' of the Planning (Use Classes) Order (Northern Ireland) 2004

The Planning (Use Classes) Order (Northern Ireland) 2004 has been superseded by The Planning (Use Classes) Order (NI) 2015 as outlined above which outlines the proposal to be a sui generis use and not a Part B Industrial and Business Use.

8.7 Planning appeals 2019/A0219, 2011/A0021 and 2016/A0087 all establish vehicles sales as a retailing use and viewable within the appendices to this report. Appeal 2019/A0219 makes specific reference to the consideration of such uses under the Retailing and Town Centre policies of the SPPS.

8.8 The relevant policy provisions are that of the SPPS Retailing and Town Centre policies.

8.9 Policy CTY 1 of PPS 21 identifies certain non-residential development in the countryside where planning permission may be granted. It states that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.

8.10 Paragraph 6.279 reiterates the town centre first approach to retailing but continues to state that some retail facilities may be considered acceptable in the rural area as long as there is no unacceptable adverse impact on the vitality and viability of a town centre. The policy indicates that those retail facilities considered appropriate should be located within existing buildings. Appeal 2019/A0219 outlines that the use of the word 'should' implies that this requirement is recommended and not mandatory.

8.11 Planning history for the site indicates the approval for a vehicle store for domestic and classic cars under C/2001/0134/F. This permission does not include any conditions but includes an informative stating that the permission authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from. This approved vehicular store is located outside the current application site.

8.12 Planning history on site includes applications C/2000/0484/F and C/2001/1201/F/appeal 2003/A254 which relate to the establishment of car sales on the application site and were refused permission.

8.13 Dismissed Planning Appeal 2003/A254 relates to the formalisation of commercial activity on the site and change of use from existing store for vehicle storage and occasional maintenance and informal vehicle sales at No. 15 Ballyrashane Road. The determination under this appeal related to green belt which has now been superseded with the provisions of PPS 21.

8.14 However, there are comments made by the department at this time which are reflective of the current policy context including: '*There are other locations in Coleraine where this type of business could be located and the appellant has provided no evidence that it*

cannot be located in Coleraine.'

8.15 The context of the site is acknowledged in context of this application and by the Commissioner in their consideration of 2003/A254. Industrial activity is established at the rear/south of this site where there are currently car maintenance/repairs operating. Permission was granted under C/1991/0506 in this area for the change of use from disused scrapyard to ready use concrete batching plant and brick storage yard. The usage of this area has been long established for industrial uses. A sawmills premises is located to the west of the site which also constitutes an industrial use.

8.16 Adjoining the site to the east is a premises relating to mobile home sales. Planning history indicates the usage of this area historically as a bottling hall and cold stores lab under C/1977/0001 and later the change of use from domestic store to vehicle repair garage under C/1986/0044. There is no planning permission for the usage of No. 17 Ballyrashane Road for mobile home sales. However, comment is made under 2003/A254 in relation to this use: *The Mitchel Statement in 1982 did emphasise the importance of the development of businesses in the Northern Ireland economy and introduced a more relaxed policy towards commercial/industrial development in the countryside. The Department indicated that the vehicle repair business, which now appears to have also a substantial motorhomes sales element, benefited, in terms of gaining planning permission, from the provisions of that policy. The policy has now been superseded by PSRNI and so no longer applies to the appeal proposal*.

8.17 Further to the determination of this appeal the policy requirements of PSRNI have been superseded by the requirements of the SPPS and PPS 21 under which this proposal is to be determined.

In the case of this site, paragraph 5.2 of 2003/A254 outlines that *'In my view a critical point was reached in March 2001 when the Department served enforcement notices on the appellant in respect of both change of use and operational development on the appeal site. The notice in respect of the unauthorised change of use related to the storage sale and servicing of vehicles, essentially the same use as that which is the subject of this appeal. The notice took effect on 7th May 2001 as there was no appeal against the notice.*

8.18 Paragraph 5.5 of 2003/A254 concludes that:

In consequence I have concluded that any previous use, whether an established use of this site or not, has gone. When the enforcement notice took effect, the permitted use of the site was that for which the notice requires the land to be used. The notice in respect of the material change of use (PAC2) does not refer to the use for which the land should be used but the notice does not refer to the existing dwelling on the site and requires restoration of the land with top soiling and seeding with grass. Subsequently the Department granted planning permission for a vehicle store (domestic and classic cars) advising that the permission authorises only private domestic use and does not confer approval for the carrying out of a trade or business (C/2001/0134/F). As such it is reasonable in my view to infer that the notice related to a return of the site to residential use. The proposal which is the subject of this appeal thus relates to change of use from residential use to car maintenance and car sales.

8.19 The enforcement notice remains in perpetuity as it was not appealed. The usage of the application site for commercial purposes remains restricted under this enforcement notice including that currently proposed.

8.20 The determination under 2003/A254 related to a mixture of uses which included vehicle repair, an industrial use. That decision is made in context of that use. This proposal relates solely to car sales which is not an industrial use and not comparable to the surrounding uses with the exception of the mobile home sales use. However, that use is long standing as highlighted under 2003/A254.

8.21 No supporting information has been submitted by the agent to justify an exceptional reason for the location of the proposal under Policy CTY 1 of PPS 21 nor has there been the consideration of any land within town centres or settlement development limits as designated within the Northern Area Plan 2016 for its operation though the application of the sequential test outlined under paragraphs 6.280 and 6.281 of the SPPS.

8.22 There is no re-use of buildings as outlined under paragraph 6.279 of the SPPS which is the policy preference as a detached mobile

sales office is proposed at the rear of the dwellinghouse.

8.23 The provisions of Policy CTY 8 of PPS 21 are not relevant to the consideration of this proposal. The proposal is located predominately within the rear garden of a dwellinghouse with existing development located to the rear. For these reasons it does not constitute a gap site. Furthermore, the proposal does not relate to an economic development use which is a requirement of the policy test.

8.24 The sequential test has not been met, no argument on need has been made and no exceptional circumstances justified. The site has a live enforcement notice which restricts commercial use. It has not been demonstrated that the proposal would not have an unacceptable adverse effect on the vitality and viability of town centres within the sites catchment. The proposal fails to satisfy the requirements of the SPPS and PPS 21 and is recommended for refusal on the above grounds.

Access

8.25 Access to the application site is proposed onto Ballyrashane Road which is a protected route. DFI Roads were consulted and advised that they have no objections to the proposal as presented. An objection was received raising issues with traffic, vehicle movements and access. DFI Roads were re-consulted on this objection and advised they knowledge the objection received and have considered it with the previous consultation applying.

8.26 The P1 form 1 staff, 2 visitors/customers and 1 goods vehicle on average attending the premises. The location of the cars on the site plan are located to the rear of the dwellinghouse. Access is available to the dwellinghouse via its western side. The vehicular access to the dwellinghouse is existing as is the access and laneway to the west providing access to the rear where the general vehicle parking and wash area is located. The layout of the car parking within the sales yard indicates space for the manoeuvring of vehicles.

8.27 As Ballyrashane Road is a protected route it falls under criterion (d) of Policy AMP 3 of PPS 21. The proposal utilises existing accesses.

8.28 Given the response from DFI Roads, the average number of vehicles attending the premises indicated and the existing accesses, the requirements of Policy AMP 2 of PPS 3 and Policy AMP 3 of PPS 21 are considered to satisfied.

Amenity

8.29 Environmental Health were consulted on the proposal and advised that they have no objection to the retention of the proposal. They advised the proposal appears to be adjacent to an industrial yard, auto repair yard and motor home sales business. They advise of no history of complaints about the premises and that the proposal appears to be a relatively small business carried out behind an existing dwelling.

8.30 They advise that planners may wish to consider the hours of operations of the site as no details have been provided. They state that deliveries of vehicles, if made by car transporters should take place during hours of operation.

8.31 Comments are provided in relation to septic tank provision and that lighting should not provide annoyance to neighbours living nearby with attention drawn to LP Guidance on the Reduction of Obtrusive Light (2020).

8.32 There is a dwelling at No. 17 Ballyrashane Road adjacent and conditions restricting the hours of usage would be appropriate to reduce any unacceptable impacts from the operations of the proposal. Having regard to the site context, the nature of the adjoining commercial uses and conditions there are no amenity concerns in relation to the proposal.

Integration and Rural Character

8.33 Paragraph 6.70 of the SPPS states that all development in the countryside must integrate into its setting and respect rural character. Policy CTY 1 of PPS 21 states that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings. Policies CTY 13 and 14 of PPS 21 relate to buildings. The mobile sales office is a small element of this proposal and Policies CTY 13 and 14 are not considered to apply.

8.34 The application site is located within a linear form of development and to the rear of an existing dwellinghouse as per the submitted site plan. The site is located in context of the sawmills premises to the west and dwelling to the east. As the proposal is located to the rear of the dwelling views are very limited. There are no concerns in relation to integration and impact on rural character in this respect.

8.35 Upon site visit, there were cars being displayed for sale at the front of the property. It is acknowledged that a domestic property could have cars parked to the front of the property. However, the number of cars and the nature of their display in a linear fashion is detrimental to rural character. A restriction on the usage of the front of the property for the display of vehicles for sale via condition would resolve this matter.

Drainage

8.36 A drainage plan was submitted for the proposal which indicates the surfacing, wash areas and septic tank. DAERA Water Management Unit were consulted on the proposal noting that the proposal is part retrospective and that their comments are on the basis that the development will be used for car sales and not vehicle repair/maintenance or end of life storage or activities and that refuelling facilities do not form a part of the application

8.37 DAERA Water Management Unit recommend the development be covered in hardstanding with any potentially contaminated run-off from the site directed via drainage channels to an appropriate interceptor and silt trap system before discharge. They advise that an appropriate consent to discharge would also be required from Water Management Unit in regards to this discharge.

8.38 The drainage plan was amended to indicate hardstanding and an oil separator has been indicated. This area of hardstanding does not require a drainage assessment under Policy FLD 3 of PPS 15 given the size of the area.

8.39 DAERA Water Management have considered the impacts of the proposal on the surface water environment and are content with the proposal subject to Conditions, the applicant noting the caveat/advice in the Explanatory Note, the applicant referring and

adhering to Standing Advice and any relevant statutory permissions being obtained.

Other Matters

8.40 Planning does not confer title. The certificate on completion of the application form relates to a statement of ownership not proof. There is planning history for an approved vehicle store for domestic and classic cars under C/2001/0134/F which is located to the rear of the current proposal. It is unclear if this land is within the ownership of No. 17 Ballyrashane Road as the building adjoining the application site to the south does not form a part of the site and the certificate does not cover it. It is unclear if this the approved store is the garage referred to. The approved plans for C/2001/0134/F indicate the approved store to be in the same location as the building adjoining the application site.

8.41 There is a wash area indicated on the site plan and drainage plan. It is noted that the aforementioned building was being used for valeting. This building is not within the application site and any use of this building is beyond the remit of this application to determine. The wash area is associated with the car sales use in this instance.

8.42 The usage of the dwellinghouse as a B&B does not fall under the remit of this application which relates to the retention of a commercial vehicle sales yard and mobile sales office.

8.43 Any other proposed business uses on this site does not fall within the remit of this application.

Habitats Regulation Assessment

8.44 The potential impact of 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.

9 CONCLUSION

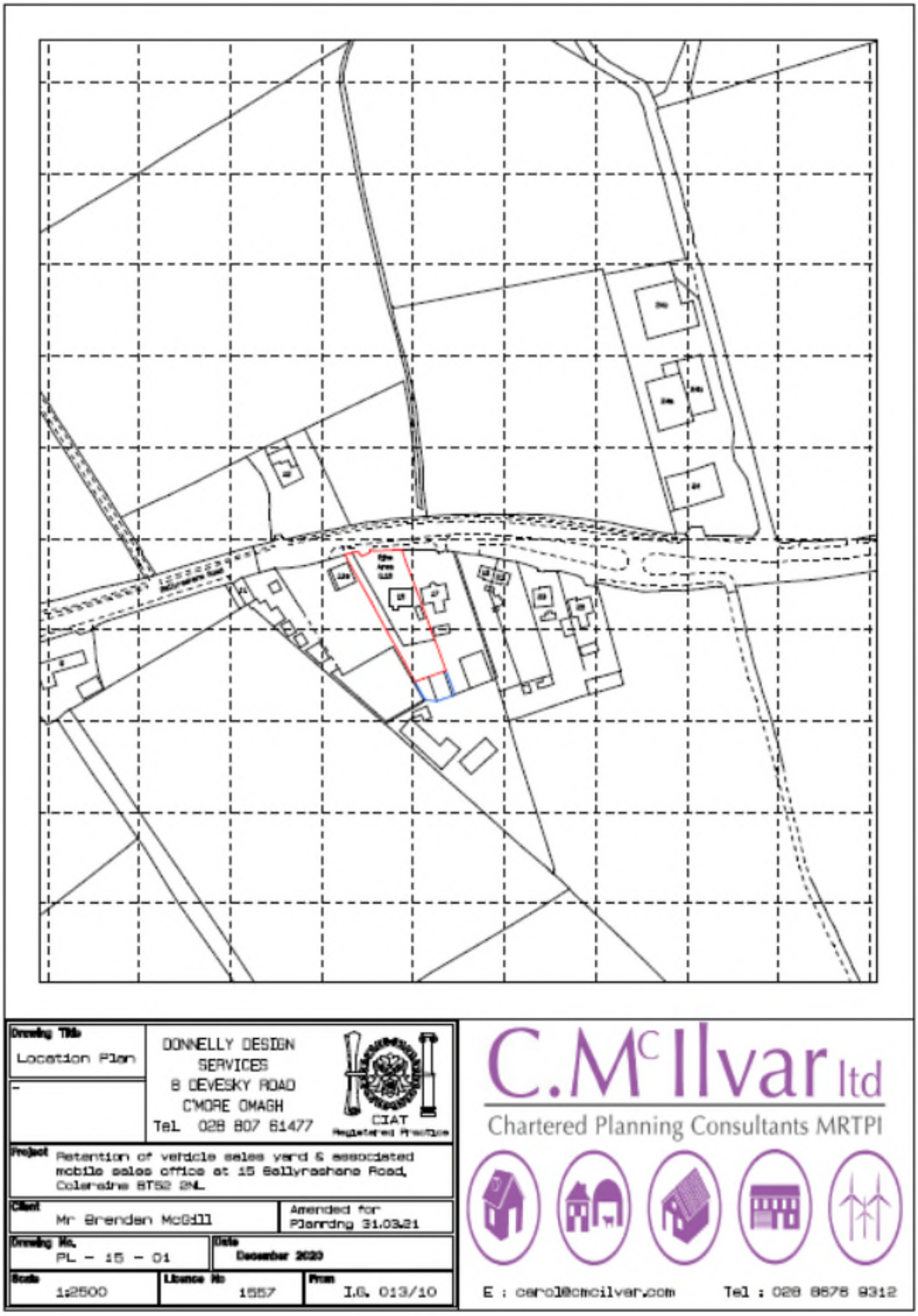
9.1 The proposal relates to the retention of a commercial vehicle sales yard and mobile sales office. It has not been demonstrated through a detailed assessment that there are no town centre or other sequentially preferable sites within which to locate the business and that it would not harm the viability and viability of towns within the business catchment. There have been no exceptional reasons outlined or need demonstrated for the location of this business in this rural location. An extant enforcement notice on the site restricts the commercial usage of the site. The proposal is contrary to Paragraphs 6.273, 6.279, 6.280 and 6.281 of the SPPS and Policy CTY 1 of PPS 21. Refusal is recommended.

10 Refusal reasons

10.1 The proposal is contrary to Paragraphs 6.273, 6.279, 6.280 and 6.281 of the SPPS in that the proposal relates to a retail use and it has not been demonstrated through the submission of a sequential test that there are no suitable town centre or other sequentially preferably sites available within the catchment.

10.2 The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland 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.

Site Location Plan



Appendix 1

Appeal Decision

Park House
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BELFAST
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Appeal Reference:	2011/A0021
Appeal by:	John Doherty against the refusal of full planning permission
Development:	Retention of commercial vehicle sales use and shed
Location:	Adjacent to 79 Coney Road, Culmore, Londonderry
Application Reference:	A/2008/0938/F
Procedure:	Informal Hearing on 22 February 2012.
Decision by:	Commissioner Brigid McGlinchey, dated 5 March 2012.

Decision

1. The appeal is dismissed and full planning permission is refused.

Preliminary Matters

2. The appellant submitted for consideration an additional site layout plan with his statement of case and an amended site location plan at the hearing. The amendments related to the provision of visibility splays at the access with Coney Road. It was confirmed at a follow up site visit that the provision of the visibility splays required no alterations to third party land. I am therefore satisfied that the amended plans represent minor adjustments to the proposed development and that there would be no prejudice to third parties if I was to consider the amended plans.

3. The Department initially advanced seven reasons for refusal. However, the Department having considered information submitted by the appellant with his statement of case and discussions at the post hearing site visit withdrew reason 6 relating to Policy AMP6 (Transport Assessment) and reason 7 relating to Policy AMP7 (Car Parking and Servicing Arrangements) both set out in Planning Policy Statement 3: Access, Movement and Parking (PPS3).

Reasoning

4. The remaining main issues in this appeal are:
   - the appropriate policy context for consideration of the proposal;
   - whether the proposal would satisfactorily integrate into the landscape;
   - impact of the proposal on the character of the area;
   - whether a safe access can be achieved without prejudice to road users.

5. The appellant stated that the sale of commercial vehicles was the primary activity on the site and that this use was confined to the forecourt of the shed. He stated

that the shed was used for associated ancillary uses namely the servicing and valeting of the vehicles for sale and offices. The Department offered no evidence to dispute this. Both parties were in agreement that vehicle sales is a *sui generis* use which falls outside the uses specified in the Planning (Use Classes) Order (Northern Ireland) 2004.

6. Policy CTY1 of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) permits non-residential development in the countryside in certain cases. The appellant advanced a case under industry and business uses in accordance with PPS4 (Planning Policy Statement 4: Planning and Economic Development). He referred to the preamble in PPS4 which states that the document may be useful in assessing proposals for 'other *sui generis* employment uses'. However, I consider that the primary use of the site for the sale of commercial vehicles is clearly a form of retail activity. The preamble of PPS4 clearly states that the document does not provide policy for retail uses. I therefore do not accept the appellant's argument that PPS4 is the relevant policy context.

7. Irrespective of the historical uses of the site, it is my view that a critical point was reached in November 1998 when the Department served two enforcement notices on the appellant in respect of operational development and a change of use. The operational development notice was in relation to the shed, hard-cored area, the chain linked fence and gates and infilling of land. The change of use notice related to the use of the land and building for the sale of vehicle parts and for depositing and breaking of vehicles, scrap vehicles and associated parts. The notices took effect on 7 December 1998 and there was no appeal against the notices. The development remains subject to the notices. In consequence, any previous use of this site is unauthorised. It is not for the Commission to reconsider these enforcement notices.

8. The appellant's argument under Policy PED4 (Redevelopment of an Established Economic Development Use in the Countryside) of PPS4 in respect of the previous use of the building and the site is misplaced. In any case, Policy PED4 states that redevelopment proposals involving retailing will not be permitted. I therefore find that there is no policy support for the development under PPS4. No arguments were advanced that the proposal fell within any of the other exceptional development categories set out under Policy CTY1. The appellant presented no overriding reason why the development is essential. Consequently, I consider that the development on the appeal site is contrary to Policy CTY1 of PPS21. Accordingly, the Department has sustained its first reason for refusal.

9. Planning Policy Statement 5: Retailing and Town Centres (PPS5) is the regional policy document for retailing and despite 'town centres' being in its title, the introduction of the document states that it sets out the Department's policy for retail developments for all of Northern Ireland. PPS5 therefore provides policy for developments situated in the rural area. Whilst PPS5 makes no specific reference to vehicle sales, I consider that it is the policy statement that is most applicable to proposals for such a use. This concurs with the Commission's stance in the previous appeal decisions (2006/A1614, 2007/A1352 and 2008/E022) referred to by the Department.

10. Paragraph 54 of PPS5 deals with rural shops and provides the relevant policy guidance for the development. However, no part of the appellant's statement case was founded on PPS5 and he advanced no arguments at the hearing. Paragraph 54 states that retailing will generally be directed to existing settlements and indicates that such a use in the rural area will only be acceptable in a number of instances. The list set out in paragraph 54 is not exhaustive and suggests that retail uses in rural areas should be tied to a rural activity and be small in scale. Whilst I consider that the appellant's business which employs three people is small in scale, there is no evidence that it is tied to any rural business. The development is therefore contrary to paragraph 54 of PPS5. The Department has therefore sustained its fourth reason for refusal.

11. The shed on the appeal site is a large industrial type building with a footprint of approximately 30m x 15m and a ridge height of approximately 7m. The site is devoid of any vegetation along its narrow roadside frontage to Coney Road and along the disused cross border road bounding the site to the west. Though the appellant referred to hedgerows and trees defining the other two boundaries, the only vegetation of substance on the site is that along the SE boundary. I therefore agree with the Department that the site lacks long established natural boundaries to provide a suitable degree of enclosure for the development. Though there is an awareness of the building when viewed from No 81 to the west of the appeal site, the distant views of it are intermittent due to the curvature of the road and intervening vegetation. However, the building becomes readily visible approximately 75m from the appeal site. From the southern approach, the building is readily viewed over an extended distance of approximately 150m from No 71. When viewed from both perspectives, the building is not screened by the boundary vegetation and lacks any backdrop. It appears as a prominent feature which dominates this relatively flat landscape. I agree with the Department that the open air storage associated with the use on the site adds to the visual impact of the development.

12. Even if the building was painted a moss green as suggested by the appellant, I consider that this would not appreciably reduce the visual impact of the building. The block plan submitted with the application indicated the retention of existing boundary vegetation and new planting to be undertaken along the other boundaries. However, this new planting will take some time to establish to provide any meaningful screening or enclosure. In the interim, it will not mitigate the impact of the development. I consider that the development does not blend with the landform and fails to satisfactorily integrate into the surrounding landscape contrary to Policy CTY 13 of PPS21. The Department has therefore sustained its second reason for refusal.

13. The appeal site is located close to the border with the Republic of Ireland and the village of Muff. Though a large industrial shed within the settlement limit of Muff extends to the rear of No 79 and is visible from Coney Road, it is set back behind a mature hedgerow and is on lower ground than the appeal site. The predominant character of the area along this part of Coney Road is defined by a dispersed residential settlement pattern. The building on the appeal site is unduly prominent and detracts from the established rural character of the area contrary to Policy CTY14 of PPS21. The Department has therefore sustained its third reason for refusal.

14. Coney Road is a narrow rural road and the traffic speeds on the road past the site would be approximately 40mph. I am satisfied that the development would not prejudice the safety and convenience of road users on this part of the Coney Road if the access to the site was satisfactory. The appellant in the amended site location plan and site layout plan indicated the provision of the necessary visibility splays of 2.4m x 70m. It was confirmed at the site visit that these can be provided by facing the roadside hedge to the SE and realigning the hedgerow to the west in front of No 79 which belongs to the appellant. Consequently, I am satisfied that the appellant has demonstrated that a safe access can be provided onto Coney Road. The Department has therefore not sustained its fifth reason for refusal.

15. However, the provision of a safe access would not outweigh the other policy objections to the development. The other four reasons for refusal are determining in this appeal.

This decision relates to the following drawings submitted with the application:

- 1:500 site layout plan;
- 1:200 floor plan and elevations;

and the following drawings submitted with the appeal:

- 1:2500 scale site location plan;
- 1:500 scale site layout plan.

COMMISSIONER BRIGID McGLINCHEY

Appendix 2

Planning Appeals Commission

Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
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T: 028 9024 4710
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Appeal Reference:	2016/A0087
Appeal by:	Jack Reid Cars Ltd
Appeal against:	The refusal of full planning permission
Proposed Development:	Extension to existing car sales site (Extension area to be used for customer and staff parking)
Location:	Land to west of 111 Belfast Road Whitehead
Planning Authority:	Mid and East Antrim Borough Council
Application Reference:	LA02/2016/0174/F
Procedure:	Informal Hearing on 7 December 2016.
Decision by:	Commissioner Pauline Boomer, dated 4 October 2017.

Decision

1. The appeal is dismissed.

Claim for Costs

2. A claim for costs has been made by the appellant against Mid & East Antrim Borough Council. This claim is the subject of a separate decision.

Preliminary Issues:-

3. All parties acknowledge that a car sales business has been established on this site for over 30 years. Outline planning permission was originally granted for a car showroom/ repair shop in October 1979 under V/140/79. Full planning permission was granted retrospectively under V/2014/0990/F for the retention of the car sales area currently in place. At the time of the submission of that planning application, the area of hardcore had been extended to increase the sales area with its frontage extending to 94.5m which was reflected on the accompanying site location plan. The Local Planning Authority (LPA) considered that this scale of development was unacceptable in the open countryside and they requested that in the most westerly section of the application site (the area the subject of this appeal) the hardcore be removed and the area grassed over. Whilst I acknowledge that the site location plan was not amended to reflect this change, the block plan stamped approved clearly shows a reduction in the site area to exclude the current site. It also identifies that in total the reduced site would accommodate up to 80 cars. Condition 05 of that approval stated that the "The development hereby permitted shall not come into effect until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No. 03 Rev 2 bearing date stamp 16 June 2015 to provide adequate facilities for parking, servicing, and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the

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parking and movement of vehicles." The reason given for such a condition was to ensure that adequate provision has been made for parking, servicing and traffic circulation within the site. Whilst no maximum number of vehicles were referred to in this condition, the appellant has not fully complied with the requirement to construct the hard surfaced area with spaces permanently marked out in accordance with the approved Block Plan. Instead a site visit in December 2016 has revealed that up to 132 cars are parked within the site in a cramped and tightly packed arrangement which in no way reflects the orderly layout approved in 2014.

4. The appellant argues that as the site location plan stamped approved under V/2014/0090/F included the appeal site within the red line, this dictates the lawful extent of that application site and that the site location plan has primacy. He refers me to Appeal 2007/LDC005 which relies on conclusions reached in Barnett v Secretary of State for Communities, Local government, East Hampshire District Council (2008). The Barnett case explained that "where there is a full planning application, it is required not only to identify the land to which it relates but also must be accompanied by such other plans and drawings as are necessary to describe the development which is the subject of the application". Appeal 2007/LDC005 states that for planning purposes, the lawful curtilage of a dwelling built is defined by the planning permission which sanctioned its erection. If nothing is said in the permission about the extent of the curtilage, the reasonable influence in the absence of any contrary indication, is that the red line on the location map approved as part of the application defines the curtilage of the approved dwelling. In the 2014 approval, there is a contrary indication given with the extent of the development clearly identified in the approved block plan whereas the current appeal site is distinguishable as other land in the appellant's ownership. If the appellant had considered that the appeal site formed part of the previously approved site, he could have applied for a Lawful Development Certificate.

5. The LPA acknowledge that, in error, the site location plan was not amended when processing the 2014 application to reflect the reduction in site area shown on the revised block plan. However I agree with the LPA that in these circumstances this site location plan only identifies the application site and that the block plan has determining weight as it clarifies the extent of development approved within that plot. Whilst the anomaly in the 2014 drawings is unhelpful, I am satisfied that all parties involved were fully aware that the approval purposely excluded the current appeal site, especially as the LPA delayed issuing the decision notice until after the grassing over of the area, now under consideration. I do not agree with the LPA that this in itself justified not attaching a condition requiring its retention as a grassed area. In reaching that conclusion, I do not accept the appellant's argument that the planning history makes the appeal proposal "impossible to refuse" and that the principle of development of the appeal site has already been established.

6. The original plans submitted with the planning application showed a significant discrepancy in the size of plot with the site location plan indicating a total plot width of 94.5m whilst the 1:200 original site plan showing a total frontage of 90.7m. In order to address these anomalies, the appellant submitted revised plans with his Statement of Case. However the revised site location plan (annotated as PAC Drawing 1) shows a revised plot width of 87m whilst the revised block plan (annotated as PAC Drawing 2) indicated a total frontage of 88.8m (excluding the area of planting proposed along the western site boundary). At the hearing the

appellant submitted a further site location plan (annotated as PAC Drawing 3) which allows for additional space to accommodate the proposed planting. The LPA was satisfied that PAC Drawings 3 and 2 accurately reflect the dimensions on the site. I do not consider that prejudice would result if the appeal were based on these revisions (annotated as PAC Drawings 2 and 3). My assessment shall therefore be based on these drawings.

Reasons

7. The main issues in this appeal are:
   - the appropriate policy context for consideration of the proposal;
   - whether the proposal would satisfactorily integrate into the landscape; and
   - the impact of the proposal on the character of the area.

8. The Planning Act (Northern Ireland) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. The Council made reference to the Belfast Metropolitan Area Plan 2015 (BMAP) as the operational LDP for the area where the appeal site is located. However, the adoption of BMAP was declared unlawful by the Court of Appeal on 18 May 2017. A consequence of this is that the Carrickfergus Area Plan (CAP) currently operates as the LDP for the area. The CAP places the appeal site outside any settlement limit and within the countryside and contains no material policies for the type of development proposed.

9. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area and it retains certain existing Planning Policy Statements including Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21), Planning Policy Statement 4: Planning and Economic Development (PPS4) and Planning Policy Statement 3: Access Movement and Parking (PPS3). Policy CTY1 of PPS21 permits non-residential development in the countryside in certain cases. All parties agreed car sales are classified as a sui generis use under the Planning (Use Classes) Order (NI) 2015 and does not fall neatly into any of the categories listed in CTY 1, straddling different categories. The LPA advanced a case under industry and business uses in accordance with PPS4 and retail development in accordance with the SPPS. The appellant argued that LPA's reliance on these policies was misplaced as he considered the appropriate policy context to be Policy AMP7 of PPS3. I shall consider each in turn, starting with PPS3.

10. Policy AMP7 of PPS3 deals with the provision of adequate parking and servicing for all development proposals. The appellant's business primarily involves the storage and display of vehicles for sale along with the additional requirement for parking spaces for customers, including those using the repair workshop as well as staff. The appellant argues that the appeal proposal is for a car park only and therefore should only be assessed against Policy AMP7. However, unlike the Hyde case involving a freestanding commercial car park which was referred to me by the appellant, the appeal proposal is an ancillary car park incidental to the established car sales business, tied to the existing retail business of which it is a component. The payment of a Category 10 fee for car parking at application stage does not convince me otherwise. The 2014 planning application indicated that the

extended business would attract two extra staff and ten extra customers per day and Transport NI (TNI) were satisfied that the curtilage as approved had the capacity to provide adequate car parking for all staff and customers within the 80 spaces allocated. Whilst the appellant argues that the area of external and internal sales area plus office/workshop space justifies an additional 28 spaces in line with the parking standards guidance, there is no change to the current staff or customer numbers attracted to the site as indicated on the P1 form. The 2014 approval took account of the additional vehicles being serviced and the customer parking associated with that. The appellant failed to provide any details to confirm if or why there is insufficient provision at present or why there is now an increased demand for customer or staff parking to justify this extension. The TNI in their assessment of the appeal proposal only considered the proposed layout rather than the principle of an additional car park. In this evidential context, I am not persuaded that any betterment or general tidying up of the site as suggested by the appellant justifies the extension now proposed.

11. The car sales business expanded two fold between 2010 and 2014, and with the approved scheme under V/2014/0990/F showing an increase is the number of cars parked for use by customers/staff and for sale from 40 to 80. However, up to 130 cars are displayed for sale within the existing curtilage and it is a direct result of the Department's failure to control parking under the 2014 approval that the current over intensified use of the existing site necessitates additional land to accommodate ancillary parking. The LPA acknowledged that their consideration of the 2014 application had concentrated on the increase in the plot size and improving access arrangements to the public road and insufficient attention had been given to the layout within the site and arrangement and number of vehicles to be parked within the site. This is particularly concerning as a photograph taken by the Department (the then Planning Authority) in May 2015 provides evidence that they were aware, prior to the issue of the 2014 decision notice, that many more than the 80 cars shown were being displayed within the plot. This should certainly have alerted them to the need to condition the maximum number of vehicles to be displayed and allocate specific spaces for customer and staff parking. However a site visit has indicated that many more than the 80 cars approved are crammed tightly into the site in such close proximity to make it difficult to access some vehicles independently. In so doing, it fails to fully comply with Condition 05 by not providing adequate facilities for parking, servicing and circulating within the site in accordance with the approved layout.

12. It is my assessment that the intensification of use of the existing site has resulted in the loss of staff and customer parking, hence the need to extend the curtilage and make further provision. This all lies within the control of the appellant who has the power to properly lay out his sales area in a manner which provides adequate facilities for parking, servicing and circulating within the existing plot.. I agree with the LPA that there is adequate room within the existing site to carry out all functions and activities if properly controlled and managed. As the appeal proposal involves ancillary car parking associated with an established retail use, I am not persuaded by the appellant's argument that Policy AMP7 provides the correct policy context against which to consider the principle of this type of development.

13. The third reason for refusal states that the appeal proposal conflicts with Policy PED3 of PPS4. In relying on PPS4, the LPA referred to its preamble which states that the document may be useful in assessing proposals for 'other *sui generis*

employment uses'. However these refer to other sui generis uses not excluded in the list provided which includes retailing. I am satisfied that the primary use of the site for the sale of commercial vehicles is clearly a form of retail activity. Policy PED3 relates to extensions to buildings within an established rural business without extending the site area which is not therefore applicable here. The LPA's arguments in relation to Policy PED3 concentrates largely on visual impact and character which is discussed below. Furthermore, the preamble of PPS4 clearly states that the document does not provide policy for retail uses. I therefore agree with the appellant that the LPA's reliance on PPS4 is misplaced. As there is no policy support for the development under PPS4, the third reason for refusal is not sustained.

14 The Strategic Planning Policy Statement provides the regional policy for retailing and states that it sets out the Department's policy for retail developments for all of Northern Ireland including the rural area. Whilst it makes no specific reference to vehicle sales, I consider that it is the policy statement that is most applicable to proposals for such a use. This concurs with the Commission's stance in the previous appeal decision 2011/A0021 referred to me by the LPA .

15. Paragraph 6.279 of the SPPS deals primarily with retailing in the countryside. It states that retailing will be directed to town centres and the development of inappropriate retail facilities in the countryside must be resisted. It goes on to say that, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities. Whilst this list is not exhaustive, it indicates that those retail facilities considered acceptable in rural areas should be located within existing buildings and makes no reference to ancillary carparking associated with a retail use.

16. I note that V/2014/0990/F was assessed against Planning Policy Statement 5: Retailing and Town Centres (PPS5) when the LPA explained that favourable consideration was given to the original proposal having weighed up the economic and road safety considerations and taken account of the policy gap in PPS5 in relation to retail uses in the countryside. The SPPS however places greater emphasis on the need to direct retailing to town centres and Paragraph 6.270 states that it seeks to promote established town centres as the appropriate first choice location for retailing and other complementary functions. The LPA considers that the appellant has outgrown his existing site, hence the need to expand and it would therefore be appropriate to move the business to one of the nearest settlements. Whilst the appellant presented arguments that he has a well established business where its location on the Protected Route was important, the ownership of additional land does not warrant an extension contrary to policy. The appellant offered no further evidence to justify a further expansion of this business or explain why a split site could not operate efficiently if further expansion was required. No evidence has been presented to demonstrate that the appeal proposal would not adversely impact on the vitality and viability of nearby settlements which, I agree with the LPA, can be incrementally affected by even a small scale development proposal as now being considered. I therefore conclude that the appeal proposal does not find support in the SPPS and the second reason for refusal is sustained.

17. No arguments were advanced that the proposal fell within any of the other exceptional development categories set out under Policy CTY1. I am satisfied that the appeal proposal has been assessed against all planning policies and other material considerations that are relevant to it, in line with the case law referred to me by the appellant. As the appellant presented no overriding reason why the development is essential at this location, i find that the development on the appeal site is contrary to Policy CTY1 of PPS21. Accordingly, the LPA has sustained its first reason for refusal.

18. The appeal proposal involves an extension of the hardcored area, increasing the frontage by 14.5m along Belfast Road. With 5 extra customer parking spaces being provided alongside the existing office/workshop buildings, this area is to be used to provide 23 additional spaces, resulting in a nett increase in 26 (excluding those two spaces lost to provide access through from the existing car sales area). Whilst the existing car sales area is enclosed to the north and west by a close boarded fence with a palisade fence to the public road, it is now proposed to introduce similar screen fencing on two sides of the appeal site with the existing roadside hedge retained. Additional tree planting is proposed along the western boundary planting at 3m centres.

19. The 4th Reason for refusal requires consideration of the visual impact of the extended area of hardstanding and its impact on rural character, referring specifically to conflict with Policies CTY13 and 14. The appellant argues that the LPA's reliance on Policies CTY 13 and 14 is misplaced. Whilst I agree with the appellant that these policies are not relevant in this appeal as they relate solely to buildings in the countryside, the issues of integration and impact on rural character still fall to be considered, in accordance with Policy CTY 1 which requires that all proposals for development must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations (my emphasis).

20. The appeal site forms part of an agricultural field which is relatively flat and is defined by a post and wire fence to the north and west. Whilst the roadside hedge, which is to be retained, offers some screening, views into the site are available through gaps in the hedge on the approach from Carrickfergus. The mature vegetation enclosing the 4 adjoining residential properties to the east and the existing office and workshop building within the existing curtilage do restrict views on the approach from Whitehead but the large number of cars parked on the forecourt are clearly visible through the existing palisade fence when travelling across the extensive frontage. I acknowledge that the retained roadside hedge would restrict views into the site when travelling east, the existing cars for sale are clearly visible above the existing screen fence and through the gaps in that hedge. Likewise the additional cars proposed to be parked on the extended area of hardstanding would be readily apparent along with the new screen fencing when travelling in both directions along the frontage. I note that the appellant proposes to introduce planting along the western boundary which may soften the visual impact of the development on the western approach and aid integration but this would take time to mature.

21. Whilst I acknowledge that the existing business represents a dominant feature in this rural landscape, this in itself does not justify a further encroachment into the open countryside. I do not agree with the appellant's assessment that the

additional area of 656 square metres to be hardcored represents "such a minor increase", nor do I consider that it would be barely discernible when travelling in either direction along the Protected Route, given the average traffic speeds of 50mph. I am satisfied that the introduction of this sizeable area of hardstanding with additional screen fencing will increase its overall visual impact when read in conjunction with the existing business. It sits at the outer edge of an existing ribbon of development incorporating the 4 adjoining roadside properties which along with a footpath and street lights has already altered the character of this area. However the proposed area of hardstanding and screen fencing will extend that linear form further west into the open countryside, thus having a detrimental impact on that rural character. Whilst I have noted that Policies CTY13 and 14 are not the relevant planning policies against which to assess the appeal proposal, I conclude that the issues of integration and impact on rural character are determining in this appeal and to that extent, the substance of the 4th reason for refusal is sustained.

22. As I have found that the first and second reasons for refusal have been sustained and the arguments in relation to integration and rural character are determining, this appeal must fail.

This decision relates to the 1:1250 site location plan annotated as PAC Drawing 3 and the 1:200 block plan annotated as PAC Drawing 2.

COMMISSIONER PAULINE BOOMER

Appendix 3

Planning Appeals Commission

Appeal Decision

Park House
87/91 Great Victoria Street
BELFAST
BT2 7AG
T: 028 9024 4710
F: 028 9031 2536
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Appeal Reference:	2019/A0219
Appeal by:	Mr Lexi Halliday
Appeal against:	The refusal of full planning permission
Proposed Development:	Commercial vehicle sales yard and office with alteration to an existing access & creation of a new access onto Haw Road
Location:	Approximately 40m east of No.204 Straid Road, Bushmills
Planning Authority:	Causeway Coast & Glens Borough Council
Application Reference:	LA01/2019/0039/F
Procedure:	Informal Hearing on 28 September 2020
Decision by:	Commissioner Brigid McGlinchey dated 2 December 2020

Decision

1. The appeal is dismissed.

Reasons

2. The main issue in this appeal is whether the appeal proposal is acceptable in principle in the countryside.

3. Section 45(1) of the Planning Act (Northern Ireland) 2011 requires the decision maker to have regard to the development plan, in so far as material to the application, and to any other material considerations. The Northern Area Plan 2016 (NAP) operates as the statutory local development plan for the proposal. The NAP places the appeal site within the countryside. The plan is silent on development of the nature proposed and defers to regional policies for development in the countryside.

4. The provisions of the Strategic Planning Policy Statement for Northern Ireland 2015 (SSPS) are material to all decisions on individual planning applications and appeals. Commercial vehicle sales is a sui generis use which falls outside the uses specified in the Planning (Use Classes) Order (Northern Ireland) 2015. Nonetheless, the use of the word 'sales' clearly points to the use being a form of retail activity, and this forms the basis of the evidence before me. Whilst the NAP states that the current regional policy for retailing is contained in Planning Policy Statement 5: Retailing and Town Centres (PPS5), paragraph 1.16 of the SPPS cancelled the PPS5. At the hearing, the parties agreed that the SPPS provides the prevailing regional policy for retailing proposals. The SPPS sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area. It retains certain other existing Planning Policy Statements including Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) which is material to consideration of the appeal proposal.

5. Paragraph 6.73 of the SPPS lists the strategic policy for types of residential and non-residential development in the countryside. Whilst none of these relate to retail development, paragraph 6.74 thereafter provides for consideration of other types of development in the countryside in line with other policies set out within the SPPS. In this case, the relevant policies are found in its Town Centres and Retailing section. Paragraph 6.273 thereof states that planning authorities must adopt a town centre first approach for retail and main town centre uses. Whilst vehicle sales may rely on different customers to that of high street retail shops in town centres and have a different business set up as argued by the appellant, there is nothing in the policy to suggest that the sequential test favouring a town centre location does not apply to proposals for vehicle sales.

6. Paragraph 6.279 of the SPPS deals with retailing in the countryside. It states that retailing will be directed to town centres and the development of inappropriate retail facilities in the countryside must be resisted. It goes on to state that as a general exception to this policy approach, some retail facilities may be considered appropriate outside settlement limits including farm shops, craft shops and shops serving tourist or recreational facilities. I agree with the appellant that this list is not exhaustive and the use of the word 'including' infers that other typologies of retail facilities may be acceptable. The policy goes on to indicate that those retail facilities considered appropriate should be located within existing buildings. The use of the word 'should' implies that this requirement is recommended and not mandatory. The policy states that all proposals must ensure that there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment.

7. The appeal site extends to 0.36ha and adjoins an existing vehicle sales business, known as Hallidays. Part of the appeal site currently serves as an access laneway to the existing business. The residual part of the appeal site where the new development is proposed extends to approximately 0.28ha. The dug-out footings of a dwelling (approved under E/2008/0003/RM) are evident in the northern corner of this part of the appeal site. A gap which presently gives access to this residual part of the appeal site from the laneway is to be closed off and an alternative access point is to be taken from Haw Road which runs along the northeast boundary of the subject site.

8. The appellant stated that the adjoining business has been in existence for 53 years and has operated a Citroen franchise since 1972 and secured a Peugeot dealership since 2017. He indicated that the business complex, which includes a building which houses a showroom and workshop, covers an area of 2.1 acres (0.8ha). Nevertheless, I note that there is a pending planning application for staff and servicing parking on part of the site which is shown as being accessed via the accessway within the appeal site. He stated that the existing business is involved in the sale of cars and commercial vehicles both new and used and that there are up to 120 used vehicles for sale at any time. The appeal proposal entails the expansion of the vehicle sales area onto the appeal site with indicative parking/display for approximately 45 commercial vehicles, 6 customer parking spaces plus a sales office building. Though the appellant stated that the appeal proposal is a modest extension to the existing complex, I note that both the size (0.28ha) of the proposed commercial sales yard and the indicated number of vehicles that can be accommodated thereon represents an expansion of circa

35% of the indicated capacity of the existing business. I therefore do not consider that this represents a modest extension to the existing business.

9. The appellant made reference to two appeal decisions which related to the retention of a commercial vehicles sales use outside Londonderry (2011/A0021) and an extension to an existing car sales site outside Whitehead (2016/A0087). The former appeal was considered under a different policy context (PPS5) and therefore does not assist the appellant's case. Whilst the latter was considered under the auspices of the SPPS, I find the issues arising in that appeal are not directly comparable with the appeal proposal. Each appeal must be assessed within its own evidential context.

10. The SPPS places emphasis on the need to direct retailing to town centres and paragraph 6.270 states that it seeks to promote established town centres as the appropriate first choice location for retailing and other complementary functions. Paragraph 6.280 states that a sequential test should be applied to planning applications for main town centres uses whilst paragraph 6.281 details that such uses will be considered in the following order of preference – primary retail core, town centres, edge of centres and out of centre locations. Whilst a commercial vehicle sales may not be suited to the town centre as argued by the appellant and his supporter, this does preclude consideration of the other options within the sequential test.

11. The appellant presented evidence from a Registered Valuer that there is no available commercial sites for sale within the development limits of Bushmills. This was not disputed by the Council. The appellant however referred to the existing vehicles sales business as being a 'destination' dealership which is not dependent on passing trade with the supporter indicating that clients are spread across NI which clearly indicates that the catchment for vehicle sales extends beyond Bushmills. I therefore consider that it is reasonable for the Council to suggest that the catchment for the proposed commercial vehicle sales yard would extend beyond Bushmills and would include the towns of Coleraine and Ballymoney which are respectively 8.5 miles and 11.4 miles from the appeal site. The appellant stated that the appeal proposal is to consolidate both commercial sales off the adjacent site and to accommodate a new recently acquired Isuzu dealership. Even if existing Isuzu dealerships already operate in Londonderry and Antrim, I have not been provided with any persuasive evidence that this would preclude operation of such a franchise in either Coleraine or Balymoney given the significant separation of these towns from the other larger settlements.

12. The appellant stated that checks of all commercial land and property for sale in Coleraine and Ballymoney were carried out. At the hearing the appellant clarified that these checks identified only three premises – a former Jolleys foodstore and Beresford Place in Coleraine and a former drill factory outside Ballymoney. These checks however were premised on sites that extended to at least 2.7 acres (1.08ha) that would accommodate both the appeal proposal and the existing Halliday car sales business. The rationale as presented by the appellant was that the proposed commercial sales yard cannot operate in isolation from the ancillary services currently offered within the building located on the adjacent business complex. The listed services were pre-inspection delivery, servicing and aftercare, and customer areas. Though the appellant at the hearing made reference to the terms of dealership contracts and stated that aftercare and maintenance warranty must be carried out by a dealership, I was presented with no persuasive evidence as to why these support ancillary services for the proposed sales yard could not be

carried out elsewhere if it was part of the business. The proposed sales yard would be part of the Hallidays business and I am not persuaded that a split site solution could not operate efficiently nor that it would stifle the existing business. Notwithstanding the retail history of the adjacent Hallidays site and the ancillary services offered there, I am not persuaded that there is a need for the proposed development on the appeal site. Whilst the proposal presents an opportunity to consolidate the commercial sales area of the existing business on a site that has formerly had permission for a dwelling, which may or may not be extant, the two developments are not comparable by nature, scale and by extension, visual impact.

13. Even if the three sites identified in the checks carried out would not be suitable because of their size, I am not persuaded that a smaller scale site circa 0.28ha site could not be found within Coleraine or Ballymoney given that this is more likely to be found than something that is almost four times larger. Though the Council referred to the Development Opportunity Sites that have been designated in both towns under the NAP, the appellant only provided verbal evidence at the hearing that none of the land within these designations is presently on the market for sale. This does not necessarily rule out these sites or demonstrate that there are no other suitable sites available in either town to accommodate the proposal. Overall, I have not been persuaded that there are no alternative sequentially preferable sites in these towns in the catchment area to accommodate the proposal.

14. Whilst not fatal to the proposal, the appeal development is not located inside existing buildings which is the policy preference. Furthermore, the sequential test is not met and the argument on need is not persuasive. In the evidential context before me, I am not persuaded that the appeal proposal which involves a significant extension to an existing business, represents an exceptional use in the countryside or that it would not have an unacceptable adverse impact on the vitality and viability of the existing towns in the catchment. It therefore does not meet the requirements of the SPPS. The Council has sustained its second reason for refusal.

15. PPS21 provides policy for development in the countryside. Policy CTY1 thereof identifies certain non-residential development in the countryside where planning permission may be granted. It states that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. Vehicle sales does not fall into any of the categories listed in CTY1. The policy however states that there are a range of other types of non-residential development that may be acceptable in the countryside and these will considered in accordance with existing published planning policies. Having regard to the published retailing policy set out in the SPPS and its sequentially preferred sites approach, it has not been demonstrated that there are no available sites to accommodate the appeal proposal in nearby urban centres in the catchment. Nor have I been given any persuasive reason why the proposal is essential in its present location. The ownership of land in proximity to an existing business even does not warrant an expansion proposal that is contrary to policy. There is therefore no overriding reason why the development is essential in this countryside location and could not be located within a settlement. I find that the development does not comply with the retailing policy in the SPPS nor Policy CTY1 of PPS21. The Council has sustained its first reason for refusal.

16. Paragraph 6.70 of the SPPS states that all development in the countryside must integrate into its setting and respect rural character. Policy CTY1 of PPS21 states that all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings. The roadside boundary of the appeal site along Straid Road is defined by a mature hedgerow whilst that along Haw Road is a post and wire mesh fence. Part of the boundary between the site for development and the access way to the Hallidays business is defined by a mature hedgerow. Presently there are available views into the site from Straid Road via the significant gap between the mature planting with uninterrupted views from Haw Road.

17. The appeal proposes an extensive scheme of planting to supplement the existing boundary vegetation which is to be retained and would provide new planting around the other boundaries as well as additional planting within the site. Whilst this new vegetation would soften the impact of the proposal, it would take some time to mature. In the interim the spatial extent of the proposal with vehicles parked across the site in combination with a new office building would be discernible from the existing viewpoints and would be prominent in the landscape. It would not respect rural character. I do not consider that the impact when viewed from one direction on Haw's Road would be lessened by the view of industrial sheds of the Bushmills Distillery in the background. Though the dwelling approved within part of the northern portion of the appeal site would be an obvious feature in the landscape from the critical viewpoints along Straid Road and Haw Road, I am not persuaded that the impact of it would be directly comparable as the appeal proposal would entail commercial vehicles parked across much of the site and consequently would have a greater visual prominence. The Council has sustained its third reason for refusal.

18. As all three reasons for refusal are sustained, the appeal must fail.

This decision is based on the following drawings:-

- 01D - 1:2500 scale site location plan, 1:500 scale Block plan & and 1:100 scale Elevations and floor plan of office date stamped 24/6/19;
- 02 - 1:20 scale Roads detail date stamped 24/6/19;
- 03 - 1:250 scale Landscape plan & schedule date stamped 4/9/19.

COMMISSIONER BRIGID McGLINCHEY

From: Adrian McQuillan < >

Sent: 20 May 2022 13:17
To: Planning <Planning@causewaycoastandglens.gov.uk>
Subject: Re: LA01/2021/0034F

Hi Laura,

LA01/2021/0034/F

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From: Laura Crawford < > on behalf of Planning <Planning@causewaycoastandglens.gov.uk>
Sent: Friday, May 20, 2022 12:13:09 PM
To: Adrian McQuillan(internet) < **Cc:** 'Carol McILvar' >
Subject: FW: LA01/2021/0034F

Cllr McQuillan

I refer to my e-mail below of 18 May. Can you confirm the correct reference number of the application your referral request relates to?

Thanks Laura

Laura Crawford

Business Support Officer
Tel. 02870347100

Causeway Coast & Glens Borough Council

www.causewaycoastandglens.gov.uk

From: Laura Crawford **On Behalf Of** Planning
Sent: 18 May 2022 15:31
To: 'Carol McILvar' < **Subject:** RE: LA01/2021/0034F

Carol

The confirmation must come from Cllr McQuillan in order for this request to be considered.

Thank you

Laura

Laura Crawford

Business Support Officer
Tel. 02870347100

www.causewaycoastandglens.gov.uk

From: Carol McILvar < >
Sent: 18 May 2022 15:18
To: Planning <Planning@causewaycoastandglens.gov.uk>; Adrian McQuillan(internet) <
Subject: RE: LA01/2021/0034F

Apologies Laura my mistake. Yes the correct reference number is LA01/2021/0034/F which is placed on this weeks contentious list.

Kind regards, Carol

From: Laura Crawford < > **On Behalf Of** Planning
Sent: 18 May 2022 14:42
To: Adrian McQuillan(internet) < **Cc:** Carol McILvar < >
Subject: RE: LA01/2021/0034F

Cllr McQuillan

I refer to your request below. Planning reference number LA01/2021/1134/F relates to a planning application at 34 Lisheeghan Road, Ballymoney for which permission was granted on 10 January 2022.

Can I confirm that your referral request below relates to planning application LA01/2021/0034/F for 'Retention of commercial vehicle sales yard and mobile sales office' at 15 Ballyrashane Road, Coleraine which was placed on the contentious delegated decisions ready to issue w/c 23 May 2022?

I would be grateful if you would please confirm the reference number and I will forward to the Head of Planning for consideration.

Regards, Laura

Laura Crawford

Business Support Officer
Tel. 02870347100

www.causewaycoastandglens.gov.uk

From: Adrian McQuillan < >
Sent: 18 May 2022 14:29
To: Planning <Planning@causewaycoastandglens.gov.uk>
Cc: Carol McILvar < >
Subject: Fwd: LA01/2021/1134F

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Hi,

Could I have the above application deferred to the committee please.

Application ref: LA01/2021/1134/F Retention of vehicle sales yard & mobile sales office. Reason for call in as follows:

Decision makers haven't considered application against Policy CTY 8 of PPS 21 which allows for the development of a small gap with an appropriate economic use where this is in keeping with adjoining development and would not impact amenity of neighbouring residents. Application site (particularly the roadside vacant portion of the site) is a gap site within a continuous and built up frontage. Site is surrounded with industrial uses so car sales on application site is in keeping with adjoining development and will not have any adverse impact on neighbouring residents. Furthermore given current economic climate allowances should be made of the fact that the applicant is attempting to make a living from selling a few cars from his home. The small scale commercial use which has existed on site for a decade has absolutely no impact on the vitality and viability of Coleraine town centre.

Many thanks,

Adrian.