

Title of Report:	Planning Committee Report – LA01/2021/0403/F
Committee Report Submitted To:	Planning Committee
Date of Meeting:	28th August 2024
For Decision or For Information	For Decision – Referred Item by Cllr McGlinchey
To be discussed In Committee YES/NO	NO

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	Senior Planning Officer

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

Legal Considerations	
Input of Legal Services Required	NO
Legal Opinion Obtained	NO

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:

App No: LA01/2021/0403/F **Ward:** Feeny

App Type: Full

Address: Lands approximately 30m South East of 328 Foreglen Road,
Ballymoney, Dungiven

Proposal: Full application for 1no. Dwelling

Con Area: N/A **Valid Date:** 31.03.2021

Listed Building Grade: N/A **Target Date:** 14.07.2021

Agent: Designonenineeight, 198 Muldonagh Road, Claudy

Applicant: John Bernard Duffy, 198 Muldonagh Road, Claudy, BT47 4EJ

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

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

Executive Summary

- Full Planning Permission is sought for a dwelling on a farm.
- The site is located within the rural area as defined in the Northern Area Plan 2016.
- It has not been demonstrated that the farm business has been active over the required six-year period.
- The application site lacks suitable boundary vegetation to provide screening or enclosure in order to allow proposed dwelling to satisfactorily integrate. The proposal is wholly reliant on new landscaping in order to achieve a satisfactory level of integration.
- The proposal will appear as a prominent feature in the landscape when viewed from Foreglen Rd.
- There will be no unacceptable impact on natural or built heritage features.
- Consultation has been carried out with DFI Roads, Environmental Health, DAERA, Shared Environmental Services, Historic Environment Division, DAERA(DARD) and NI Water. No objections have been raised.
- The proposal fails to comply with Paragraphs 6.70 and 6.73 of the SPPS and Policies CTY1 CTY10, CTY13 and CTY14 of PPS21
- Refusal is recommended.

Drawings and additional information are available to view on the Planning Portal-
<https://planningregister.planningssystemni.gov.uk/simple-search>

1 RECOMMENDATION

- 1.0 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 conditions set out in section 10.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located at lands approximately 30m South East of 328 Foreglen Road, Ballymoney, Dungiven. The application site is located in the northern portion of an existing agricultural field and is accessed via an existing laneway which serve the dwelling at No. 328 and associated sheds/outbuildings. The application site is set back approximately 100m from the Foreglen Rd in an elevated location, with the land rising steeply from the Foreglen Rd in a northern direction. The northern field boundary is defined by a post and wire fence with mature vegetation (12-15m) in height to the western half of the field, which screens views to the existing development to the north of the site. The northern boundary of the application site does not abut the northern field boundary and is undefined. The western site boundary abutting the existing laneway is defined by a post and wire fence, with one small tree evident. The southern and eastern site boundaries are undefined.
- 2.2 The application site is located within the rural area outside of any settlement limit as defined in the Northern Area Plan 2016, immediately north of the settlement of Foreglen, which is located on the southern side of the Foreglen Rd. The area outside of the settlement is predominantly agricultural with clustering's of development evident in the wider landscape comprising largely single dwellings and farm complexes.

3.0 RELEVANT HISTORY

LA01/2020/0769/O - Lands approx 30m S E of 328 Foreglen Road, Dungiven - Outline application for 1 no dwelling (2-storey) and detached garage – Application Withdrawn 26.10.2020

4.0 THE APPLICATION

- 4.1 Full planning permission is sought for the provision of a dwelling. The dwelling is a two-storey dwelling of contemporary design, and is sited within an agricultural field to the south of an existing group of buildings. The application site is sited in an elevated location with the site boundaries devoid of any vegetation or screening other than the northern boundary. Access to the site is via an existing laneway.

5.0 PUBLICITY & CONSULTATIONS

External

- 5.1 **Advertising:** 28.04.2021.

Neighbours: No letters of representation have been received to this proposal.

Internal

- 5.2 **DFI Roads** - No objections
Environmental Health - No objections
NI Water - No objections
Historic Environment Division - No objections
DAERA WMU - No objections
DAERA - No objections
Shared Environmental Services - No objections

6.0 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)
- 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

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage

Planning Policy Statement 21 – Sustainable Development in the Countryside –

Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside

8.0 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to, the Principle of development, Integration and Rural

Character, Habitat Regulations Assessment, Access and Archaeology.

Principle of development

8.2 Both the SPPS and Policy CTY1 of PPS21 outline the types of development which are considered acceptable in principle within the rural area. Proposals for a dwelling on a farm are acceptable in principle where the proposal is in accordance with the criteria outlined in Paragraph 6.73 and Policy CTY 10.

a) the farm business is currently active and has been established for at least 6 years;

8.3 Details relating to the farm business including their Business ID number have been provided as part of the application submission. DAERA (DARD) were consulted on the application and have confirmed that the Business ID number has been in existence since 15/09/2008 but has not claimed payment through Basic Payment Scheme or other Agri Environment Schemes in any of the last 6 years, and that prior to 2021 the proposed site was located on land associated with another farm business. DAERA have further advised that the Business ID Number is now dormant.

8.4 While the business has not claimed Payments through the Basic Payment Scheme or Agri Environment Schemes in the last 6 years this is not in itself fatal to the proposal. The primary requirement is whether the business has been active for the required period.

8.5 During the processing of the application a number of submissions have been made relating to demonstrating sufficient agricultural activity on the holding. These submissions include;

8.6 27 receipts and invoices dated 2010-2020 along with photos of drainage works dated 2009. Receipts and drainage photos dated prior to the previous 6 years of submission date (April 2015) are discounted/ given little weight as policy requires activity over the preceding six-year period (11 discounted).

8.7 The receipts/invoices relevant to the six-year period (2015-2021) included.

- Cash sales invoices (5) and invoices for vintage tractor parts (2) discounted as not able to verify in connection with applicant or for farming activity on farm lands.
- 2 invoices from Claudy DIY – non farming activity
- 1 invoice for digger work at farm in the name of JB Duffy – works carried out 12th May to 22nd May 2020
- Photos of drainage works May-July 2020
- Invoice from Kevin Ward Farm to JB Duffy for years 2015, 2016, 2017, 2018, 2019, 2020 – all invoices refer to cultivation, reseeding, fertilisation, baled silage – (Services Provided In Return For Winter Grazing Privileges)

8.8 Further submission dated 10.12.2021 included.

- Aerial images showing area of Japanese Knotweed treatment 2016, 2017, 2018, 2019, 2020, 2021
- Invoice from Don Laughlin – Forefront (herbicide) 28.04.2016
- Photos of Tree Cutting dates 2018 – these are sited below powerlines and not indicative of active farming.

8.9 Further submission 26.04.2022 included.

- Statement of fact from applicant outlining works carried out on farm

8.10 Further submission 11.06.2023 included.

- Statement of fact from applicant outlining works carried out
- Photos of machinery
- David Brown Parts not relevant 2015 + 2019 – discounted, parts for vintage machinery do not reflect active farm
- Don Laughlin Receipt showing Fertiliser, Fence posts and herbicide 2016

8.11 Further submission 07.09.2023

- Statement of fact from applicant outlining works carried out - updated
- Photos of machinery
- Invoices from T.P Hegarty Contractor and Plant Hire for digger works at Farm, hedge + tree trimming, pipe laying, weed spraying and dry-stone wall – 2015, 2016, 2017, 2018 and 2019
- Cash sale invoices
- Machinery parts

- Invoices for tyres
- Invoice from applicant to Peter Hasson for bales for years 2015, 2016, 2017, 2018, 2019, 2020

8.12A large portion of the submitted invoices are “cash sale” and have no reference to the business owner and in many instances relates to items such as weedkiller, paint, machinery parts etc. These invoices can be attributed little weight as they do not indicate that they are directly related to agricultural activity on the business owner’s holding/business. Likewise, ownership of machinery such as a tractor or forklift in itself does not prove agricultural activity and it is noted many of the parts invoices relate to vintage machinery, which would not be used in day-to-day agricultural use.

8.13 It is noted that these invoices relate to the critical period 2015-2020 which also related to the critical period for agricultural activity within the previous application LA01/2020/0769/O. This application was recommended for refusal on the grounds that agricultural activity had not been demonstrated, before being withdrawn prior to the application being determined.

8.14It is also noted that many of the invoices and receipts submitted with this current application were of the same nature (cash sales, machinery parts, paint etc.) to those submitted within LA01/2020/0769/O, which are insufficient to demonstrate agricultural activity.

8.15 However, within this current application there is also significant additional information submitted which covers this same period to demonstrate active farming. This information includes the invoices from Kevin Ward Farm (2015-2020), Invoices from T.P Hegarty Contractor and Plant Hire for digger works (2015-2019) and Invoice from the farm Business Owner to Peter Hasson for bales (2015-2020). These pieces of information have been submitted at various stages over the processing of the application following comment from the Planning Department regarding the suitability of evidence in terms of demonstrating activity over the required timeframe. It has not been possible to verify these invoices/receipts in order to demonstrate active farming.

8.16 At an office meeting 24/08/2023 the agent clarified a number of issues regarding the evidence presented on the application. With regard to the DAERAs (DARD) initial consultation response which advised the land had been previously farmed/claimed payments on by another business, the applicant advised that this was a misunderstanding but has not fully elaborated on what the nature of the misunderstanding was.

8.17 The agent also advised that the Kevin Ward receipts only relate to the field in which the application site is located, and that there is no formal arrangement regarding his use of the lands and that any money generated is rejigged into the farm. This information is at odds with the content of the invoices which outlines that the works were carried out on 8Ha/20acres and that works were in lieu of winter grazing. DAERA have confirmed that the farmlands identified on the farm map submitted were claimed by two separate businesses between the years 2018-2020 and from 2020-present no claims have been made on the lands. Neither of the businesses which claimed for the lands relate to Kevin Ward. The agent further asked if there were any tax returns for the farm business to which they advised that there are none.

8.18 Officials find the information provided to be unverified and afford it little weight in the determining of the application. There is limited evidence of active farming on the holding other than photos of drainage carried out in 2020, a receipt from Don Laughlin Receipt showing Fertiliser, Fence posts and herbicide (2016), photographs and map identifying a small area of fencing dated 2021 and aerial images highlighting an area of Japanese Knotweed treatment 2016-2020, (no verifiable evidence of these works being done). The photo showing tree cutting directly beneath an overhead powerline in 2018 would not be regarded as comprising agricultural works. As a result of the contradictory evidence and lack of clarity around the issues of various farm businesses claiming subsidies on the lands over the required period, officials are unable to determine the level of activity carried out by the appellant's father's farm business.

8.19 These items although they may demonstrate some agricultural activities represent a small amount of work carried out on the holding, and do not reflect an amount of work on an annual basis over the required six-year period which would be regarded as

demonstrating an acceptable level of agricultural activity. While Policy does not specify a level of activity required to meet the policy it would be reasonable to expect a level of activity above that which has been presented under this application. This assessment is in keeping with the Planning Appeals Commission's interpretation on demonstrating agricultural activity over the required six-year period as set out in appeal 2023/A0016 (Appendix 1).

8.20 While the farm business has been established for at least the minimum required period of 6 years there is insufficient verifiable evidence to demonstrate that the applicant's farm business has been satisfactorily active for the required 6 years. Criteria A of Policy CTY10 has not been met.

(b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008;

8.21 The applicant has stated within the P1C form that no dwellings or development opportunities have been sold off from the holding since 25th November 2008. A planning history search of the lands identified as being part of the farm business has not identified any relevant planning history which would suggest an approved dwelling has been sold off from the holding. Criteria b has been met.

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- ***demonstrable health and safety reasons; or***
- ***verifiable plans to expand the farm business at the existing building group(s).***

8.22 The proposed dwelling is sited within an agricultural field to the south of the dwelling at No. 328 (vacant) and its associated outbuildings. The dwelling and outbuildings while to the immediate north of the application site are largely screened from

views by the dense mature vegetation along the northern boundary of the host field. When viewed from the Foreglen Rd and the Dungiven to Derry dual Carriageway there is limited views of the existing buildings.

8.23 Paragraph 5.41 of PPS21 outlines that dwellings should be sited sensitively with an established group of buildings with little appreciation of separation. Paragraph 5.41 goes on to state that if however, the existing building group is well landscaped planning permission can be granted for a new dwelling even though the degree of visual linkage between the two is either very limited or virtually non-existent.

8.24 During the processing of the application the curtilage of the proposed site has been reduced down and the dwelling relocated closer to the northwestern corner of the field. The revised siting reduces the perception of separation and while there remains limited visual linkage, it is considered that the proposed siting meets the requirements of this element of criteria (c).

8.25 Access to the proposed site is via an existing laneway. Both elements of criteria (c) have therefore been met.

Integration and Rural Character

8.26 The proposed dwelling proposes two stories of accommodation and is of a contemporary design. The dwelling comprises two linear blocks which are of similar proportions, with one block stepped back from the other. The western block has a footprint measuring 6m wide with a gable depth of 16.3m with a small step in middle of the gable, while the eastern block has a footprint measuring 6.35m wide with a gable depth of 17.2m again with a small step in middle of the gable. The dwelling has a ridge height of 6.8m above FFL.

8.27 The dwelling will be finished predominately in larch cladding to the walls and roof, with some use of ferro concrete to the piers on the side and southern elevations, which contain large expanses of full height glazing units. While the dwelling is not of a traditional form or proportion and is not reflective of the surrounding character the officials consider the scale and design to be acceptable.

- 8.28 The application site sits in the northern portion of the host field which is sited at an elevated position above the Foreglen Rd. The application site, as per the red line application boundary is devoid of any meaningful vegetation to any of the boundaries, offering little in the way of screening or enclosure to the proposed dwelling. As outlined above the proposed dwelling is sited a distance off the northern boundary and would appear as a detached entity within the middle of the field.
- 8.29 There are two critical viewpoints of the application site. The first is when travelling west along Foreglen Rd. In the immediate vicinity of the Foreglen Rd/ Altmover Rd junction there is a gap in the roadside vegetation for approximately 200m, which allows for direct views of the application site. From this viewpoint the dwelling will sit at an elevated position and clearly visible due to a lack of screening. The vegetation to the north of the site will provide a backdrop to the dwelling, however the dwelling will appear as a prominent feature in the landscape and will fail to satisfactorily integrate. When travelling east along Foreglen Rd the application site is largely screened from view by the roadside vegetation.
- 8.30 The second critical viewpoint is when travelling in both directions along the new dual carriageway to the south of Foreglen, where views are at a level which allows direct views into the site above the roadside vegetation. These more elevated views give rise to longer transient views of the application site, particularly when travelling east. From this viewpoint the dwelling would benefit from the rising land and mature trees to the immediate north to provide a backdrop which would ensure that the dwelling would not have the same prominence as when viewed from the Foreglen Rd, and will have a similar setting in the landscape to a number of the other dwellings in the vicinity. When viewed from this distance, it is considered that the visual impact of the dwelling when viewed from the by-pass would not be fatal to meeting the requirements of policies CTY13 and 14.
- 8.31 The proposal includes a substantial landscaping scheme in order to provide some screening and integration for the proposed dwelling. While additional landscaping is welcome it will take a significant time to become established and grow to a level which will provide any meaningful screening. Policy CTY13

of PPS21 outlines that proposals which rely primarily on landscaping for integration will be unacceptable which is indeed the case in this application.

8.32 The proposal is contrary to Paragraph 6.70 of the SPPS and Policies CTY13 and CTY14 of PPS21 in that it would result in the dwelling being a prominent feature in the landscape, lacks long established boundaries or enclosure in order to integrate the building and would be reliant on new landscaping to achieve integration.

Habitat Regulations Assessment

8.33 This planning application was considered in light of the assessment requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Causeway Coast and Glens Borough Council which is the competent authority responsible for authorising the project. Having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site.

Access

8.34 Access to the site is proposed via the existing laneway onto the Foreglen Rd. DFI Roads have been consulted on the application and offer no objections. The proposal therefore meets with the requirements of Policy AMP2 and AMP3 of PPS3.

Archaeology

8.35 Historic Environment Division were consulted due to the application site falling within the consultation zone of an identified archaeological site/monument. HED in considering the proposal have raised no objection with regard to the archaeological policies within the SPPS and PPS6.

9.0 CONCLUSION

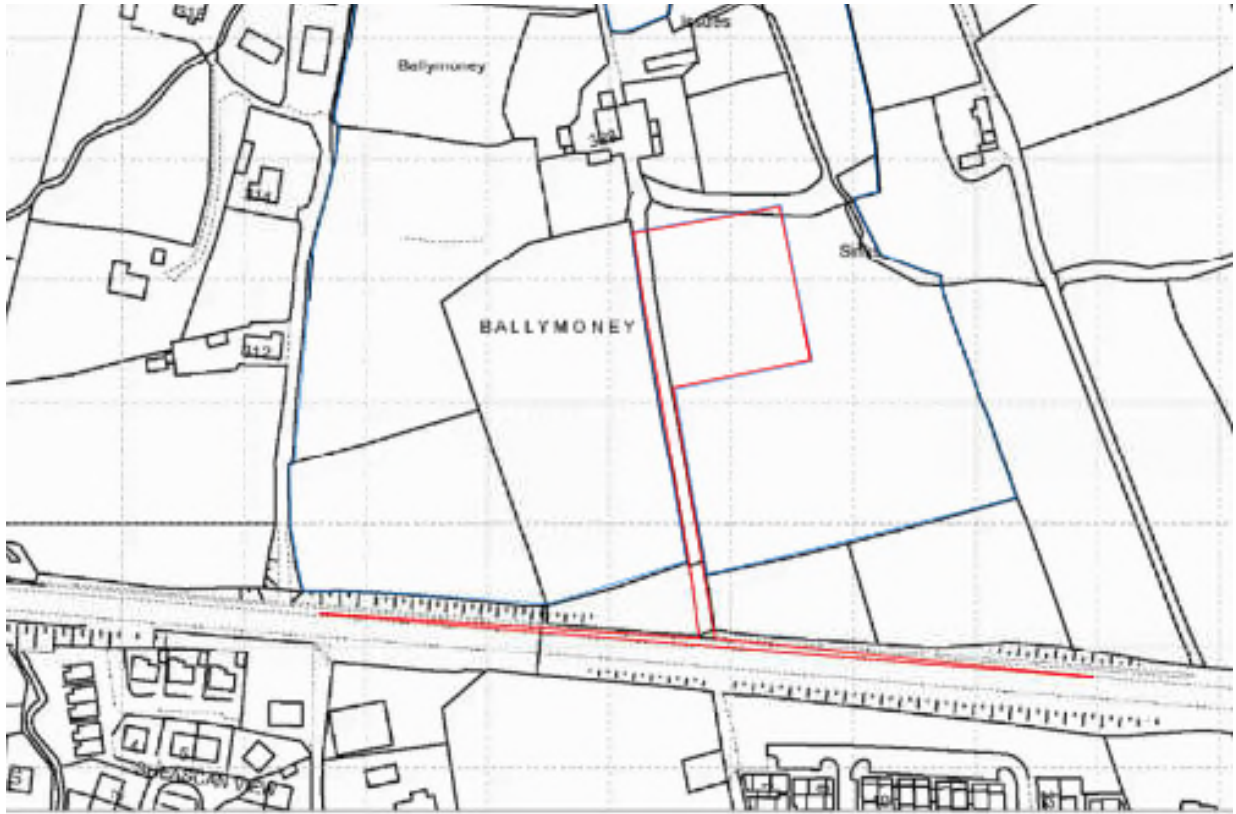
9.1 The proposal is considered acceptable in this location having regard to the Northern Area Plan 2016 and other material considerations. It has not been satisfactorily demonstrated that

the agricultural business has been active over the required six-year period. Additionally, the proposed dwelling is located on a site which fails to provide satisfactory integration for the proposed dwelling and is reliant on new landscaping to provide screening and integration. The proposal is contrary to Paragraphs 6.70 and 6.73 of the SPPS and Policies CTY10, CTY 13 and CTY14 of PPS 21. As there are no other over-riding reasons as to why the development is essential in this rural location the proposal is also contrary to Paragraphs 6.73 of the SPPS and Policy CTY1 of PPS 21. Refusal is recommended.

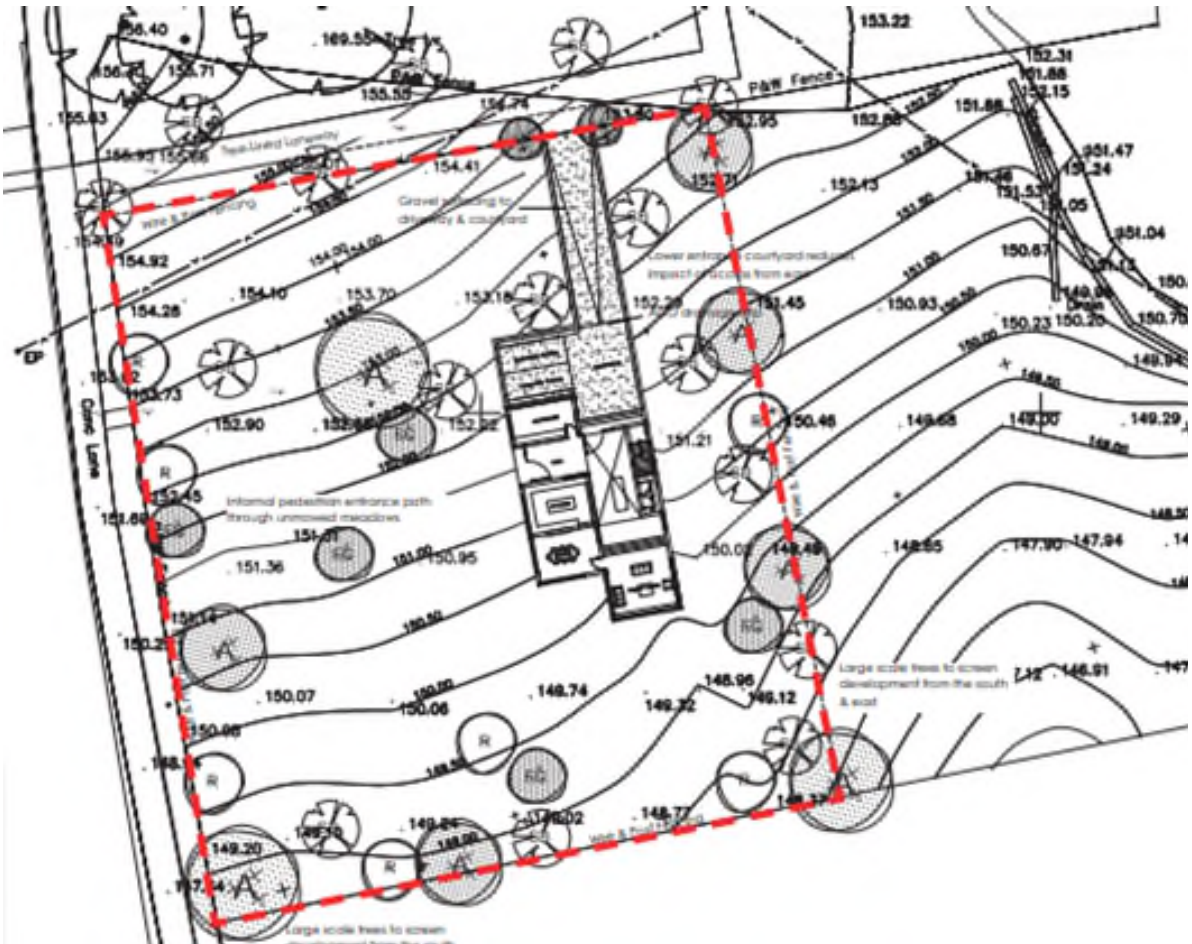
10.0 Reasons for Refusal

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.73, and Planning Policy Statement 21, Policy CTY 1 in that there are no overriding reasons why the development is essential and could not be located in a settlement.
2. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.73, and Planning Policy Statement 21, Policy CTY 10 in that it has not been demonstrated that the farm business has been active for the required 6 years.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.70 and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal is a prominent feature in the landscape; the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration.
4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.70 and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would be unduly prominent in the landscape.

Site Location Map



Site Layout Plan



Appendix 1



Appeal Decision

4th Floor
92 Ann Street
BELFAST
BT1 3HH
T: 028 9024 4710

E: info@pacni.gov.uk

Appeal Reference: [2023/A0016](#)
Appeal by: Adriane Lewis
Appeal against: The refusal of outline planning permission
Proposed Development: Proposed dwelling on a farm including alteration of existing access
Location: Approximately 90m West of 26 Lany Road, Moira
Planning Authority: Lisburn and Castlereagh City Council
Application Reference: LA05/2021/0387/O
Procedure: Informal hearing on 14th December 2023.
Decision by: Commissioner Cathy McKeary, dated 7th June 2024

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The third party has raised concerns that the proposal was not correctly advertised. The application was advertised three times using the location '90m west of 26 Lany Road, Moira', the first time as a 'dwelling on a farm', the second time as a 'dwelling on a farm (amended address)' and the third time as a 'dwelling on a farm including alteration of an amended access onto Lany Road (amended description)' to reflect a change in the red line and ownership certificate. I am satisfied that the information within the initial advertisement was adequate to alert any interested party to the proposal and its location. In the two subsequent advertisements it was also adequately clear that the application had been amended, offering any interested party the opportunity to seek further information, and to comment. No prejudice has arisen.
3. At the hearing the Council introduced an additional refusal reason relating to Policy COU8 'Infill/Ribbon Development'. The concerns regarding adding to a ribbon of development were already raised in both the decision notice and the statement of case provided by the Council. All parties had submitted a statement of case, were represented at the hearing, and had the opportunity to comment. No prejudice has arisen.
4. Information relating to the farm business was circulated post hearing and the third party had raised concerns that this constituted new information under S59 of the Planning Act NI (2011) 'the Act'. These matters were before the Council when considering the planning application and therefore additional information pertaining to them can be considered as part of this appeal. The additional

1

2023/A0016

information provided by the appellant was circulated to the other parties who then had the opportunity to comment. No prejudice has arisen.

Reasons

5. The main issues in this appeal are whether the proposal is acceptable in principle and whether it would have an adverse impact on rural character.
6. The appeal site is a cut out of a larger roadside field approximately 4 Km west of Hillsborough. It is sited adjacent to a shared laneway which accesses onto Laney Road. The appeal site is located across the laneway and approximately 90m west of the dwelling at 26 Laney Road. The laneway also leads to a number of other dwellings and farm buildings at nos. 28, 30, 32 and 34 Laney Road. The appeal site is bounded to the east by a vegetated earth bund which is approximately 2m high. The western and northern boundaries are defined by mature vegetation with some post and wire fencing. The southern boundary is defined by ranch fencing. The immediate area is rural with dispersed single dwellings and associated outbuildings.
7. On 26th September 2023, the Council adopted the Lisburn and Castlereagh City Council Local Development Plan 2032 - Plan Strategy (PS). In line with the transitional arrangements as set out in the Schedule to the Local Development Plan Regulations 2015 (as amended) the Local Development Plan now becomes a combination of the Departmental Development Plan (DDP) and the Plan Strategy (PS) read together. In this appeal the Lisburn Area Plan 2001 is the relevant DDP. Again, in accordance with the subject legislation any conflict between a policy contained in the DDP and those of the Plan Strategy must be resolved in favour of the Plan Strategy.
8. In accordance with paragraph 1.9 of the Strategic Planning Policy Statement (SPPS), as the Council has now adopted the Plan Strategy the previously retained policies such as the Planning Policy Statements have now ceased to have effect within this Council District.
9. In the DDP, the appeal site is located in the countryside and within the Greenbelt. The site is also within the Greenbelt in draft Belfast Metropolitan Area Plan 2004 (dBMAP). Greenbelt policies were overtaken by a succession of regional policies which, in this Council area, have now been superseded by those policies within the PS. There is no conflict between the DDP and the PS insofar as they relate to the proposal. I now turn to consider the policies in the PS.
10. Policy COU1 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and will contribute to the aims of sustainable development. The acceptable residential development proposals are then set out in Policies COU2 to COU10. It also requires that any proposal for development in the countryside will also be required to meet all of the general criteria set out in Policies COU15 and COU16. A type of acceptable development in the countryside is laid out in Policy COU10 which relates to a dwelling on a farm such as this proposal. One area of dispute is that the third party does not accept that the farm business is currently active and that it has been established for at least 6 years in accordance with criterion (a) of the policy.

11. The third party considers that the policy test in Policy COU10 is stricter than that within Policy CTY10 of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21) in that it specifies that active and established must be demonstrated, with sufficient evidence, such as independent, professionally verifiable business accounts. The Council accepts that the proposal meets the requirements of criterion (a) of Policy COU10 in terms of the farm being both active and established. The farm business is accepted by DAERA as having been in existence for more than 6 years.
12. The third party considers that the evidence pertaining to farming activity supplied by the appellant does not cover the requisite 6 year period. The evidence supplied by the appellant relates to vet receipts, feed invoices and herd information. The information from the vet provides a summary of treatments from 2019 to 2022 for John Lewis of 26 Lany Road (the appellant's husband). This is limited to a three year time period and does not relate to the appellant who is the person associated with the farm business. The bovine, poultry and equine feed invoices provided are made out to John Lewis with no address provided. They cover the period 2018 to 2022 and do not state where the feed was sent. Within these invoices, there is limited detail that would allow the information to be linked to the appellant, their holding or the farm business. John Lewis is not the appellant, nor has it been demonstrated that he is part of the farm business. Moreover, this evidence provided only covers a four year period. It is of limited benefit to the appellant's case.
13. The DAERA herd information supplied by the appellant provides an ID, registration date of 2013 and relates to the appellant at 26 Lany Road, however, it only refers to three animals. The detailed herd record shows that multiple animals have been moved off a holding or died between 2016 and 2021, however, the records do not demonstrate how they relate to the appellant, the holding or the farm business. Notwithstanding any concerns the third party has that this is unstamped or handwritten, the herd information as a whole only demonstrates limited farming activity over the required period.
14. Despite DAERA having confirmed that the business ID has been in existence for over six years, limited and patchy evidence of farming activity has been provided to demonstrate that the farm business is currently active and has been established for six years. The evidence comprises snapshots over part of the required period between 2016 and 2022, with some of it not specific to the farm business under which the proposal was made. Taken as a whole, I am not persuaded that it constitutes sufficient evidence to demonstrate that criterion (a) of Policy COU10 is met when read as a whole. The third party's concerns in this regard are well founded.
15. With regards to the farm holding, the third party considers that the appeal site is not on the holding. The PS does not provide any definition of holding and the parties were not in agreement on what constitutes the holding. The farm map provided by the appellant is not a DAERA authenticated farm map. The farm map shows four parcels of land, one of which is the appeal site, clustered around the dwelling at 26 Lany Road. There are two parcels of land on each side of and immediately adjacent to the shared laneway. The appellant stated that Category 3 farms such as this are not provided with farm maps by DAERA. The map provided

merely shows the lands that the appellant considers to be their holding. I have no reason to doubt this and in any event it would not be to their benefit to show fewer fields than those that constitute the holding.

16. The appellant has a farm Business ID and I accept that it relates to a farm holding. Within the planning application the appellant has signed Certificate A to indicate full ownership of the appeal site and adjacent lands were shown outlined in blue over which the appellant has control. While the certificate was disputed in other regards, it was not disputed that the appellant was the owner of the appeal site or had control over the blue outlined lands. I acknowledge that the farm business and farm holding may not necessarily always be one and the same, however, from the evidence before me I am satisfied that they are the same in this instance. For the reasons given above I accept that all lands shown by the appellant on the supplied map constitutes their farm holding for the purposes of Policy COU10.
17. The Council and third party both consider that it has not been demonstrated that development opportunities outwith settlement limits have not been sold off from the farm holding within 10 years of the date of the application, contrary to criterion (b) of Policy COU10. The dwelling at 26 Lany Road, identified by the appellant as part of the holding in their application, was transferred to Stephen Lewis (the son of John Lewis and the appellant) on 23rd December 2020. This falls within 10 years of the date of the application. The justification and amplification of Policy COU10 states that, for the purposes of this policy, 'sold off will mean any development opportunity disposed of from the farm holding to any other person, including a family member. The policy does not make exceptions for family members who are not part of the holding or farm business but who work on the farm. Nor does it make any exception for cases such as this, where the appellant continues to live in the transferred dwelling. At the time of the transfer, the new owners of the site at 26 Lany Road (Stephen and Amanda Lewis) were not part of the farm business and therefore must be considered to be outside the holding for the purposes of Policy CTY10 of PPS21 and the subsequent Policy COU10 of the PS.
18. It was also argued that the appellant's husband John Lewis was the sole owner of the site at 26 Lany Road, and therefore that it had not been transferred off the holding when transferred to Stephen Lewis. If I were to accept this line of argument and conclude that John Lewis and his land did not form part of the farm holding, this would be contradictory to other evidence given. It would further contradict the farming evidence supplied, most of which relates to John Lewis. This particular line of argument does not further the appellant's case and in any event I will consider the evidence in its totality.
19. The appellant advised that both her husband and son were part of the farm business at the time of the application but no evidence was supplied to support this. Information supplied by DAERA via the Council shows that Stephen Lewis joined the farm business on 1st December 2022. This is both after the transfer of the dwelling at 26 Lany Road on 23rd December 2020 and after the submission of the application, now subject of this appeal, on 9th April 2021. Even though Stephen Lewis subsequently became part of the farm business after the dwelling was signed over to him, this does not negate the fact that a site had been transferred off the holding within 10 years of the application. The proposal,

4

2023/A0016

therefore, is contrary to criterion (b) of Policy COU10. The Council's second refusal is sustained.

20. The third party considers that criterion (c) of Policy COU10 is not met in that the proposal is physically and functionally separated from "the alleged farm group". The policy requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Notwithstanding the lack of certificates of lawfulness for these buildings, the Council accepts that they are agricultural permitted development and cited S169(2) of the Act relating to lawfulness. They had no concerns regarding visual linkage. The proposal would be sited on the opposite side of the shared lane from the appellant's buildings and therefore would not cluster with them. However, it would still be visually linked with the existing buildings even with the presence of the intervening lane when viewed from both the laneway and Laney Road travelling east. Criterion (c) would be satisfied.
21. Policy COU8, 'Infill/Ribbon Development', of the PS states that planning permission will be refused for a building which creates or adds to a ribbon of development. The justification and amplification of this policy indicates that if there are two buildings fronting a road and beside one another, there could be a tendency to ribboning. The dwelling at no. 28 and one of the adjacent farm buildings are sited gable onto the shared laneway, and therefore do not front onto the road as required for a ribbon. The only building which fronts onto the shared laneway is an agricultural building to the north of the dwelling at no. 28. Therefore, there is no existing ribbon along the shared laneway for the purposes of the policy. For the reasons given, the proposal is not contrary to Policy COU8. The Council's fourth refusal reason is not sustained.
22. Policy COU16, states that a new development proposal will be unacceptable where it fails to meet any of the nine criteria laid out which would cause a detrimental change to, or further erode the rural character of an area. Criteria (a), (b), (c), (d) and (e) are in dispute. The third party considers that the proposal would be read in isolation from other buildings. The proposal would be unduly prominent when viewed from Laney Road directly in front of the appeal site due to the flat land and limited vegetation on the southern boundary of the appeal site which would fail to provide adequate integration for the site. Given the lack of enclosure, the flat landform and proximity of the site to the road, the proposal would be a prominent feature in the landscape, irrespective of the design of any dwelling and therefore would be contrary to criterion (a) of the policy. Even though the proposal would have some visual linkage with the buildings across the lane, it fails to satisfy criterion (b) in that it would not be sited to cluster with an established group of buildings for the reasons given above.
23. The Council also considers the proposal to be out of keeping with the established pattern of development found within the local area which is that of dispersed rural dwellings with associated outbuildings/agricultural buildings contrary to criterion (c) of the policy. The pattern of development in the immediate area for the most part is of single dwellings with only their associated outbuildings nearby. The proposal would read with the other existing buildings at no. 28 to the north of the appeal site

which would not respect the pattern of settlement exhibited. Criterion (c) is not met.

24. With regards to criterion (d) the Council considers that the proposal will add to a ribbon of development which will result in urban sprawl and have an adverse impact on the rural character of the area. For the reasons given above I consider that the proposal would not add to an existing ribbon. Furthermore, I do not accept that this constitutes urban sprawl. When criterion (d) and the policy is read as a whole, it is clear that it relates to the extension of settlements into the countryside and does not relate to the potential build up caused by single dwellings in the countryside. This argument is misplaced and this criterion is not offended.
25. The Council and third party both consider that the proposal would result in a build-up of development when viewed with existing and approved buildings to the east and north of the site. Due to the mature vegetation along the shared laneway and around no. 26, the roadside vegetation and the disposition of the agricultural buildings, the proposal would not be read with the dwelling to the east at no. 26 Laney Road when viewed from Laney Road or from the laneway. However, I concur that the proposal would contribute to a suburban style build up in this area when read with the existing buildings along the laneway to the north at no. 28 when viewed from the laneway and when travelling east along Laney Road in front of the site. It therefore would further erode rural character, contrary to criterion (e). Not all the criteria would be satisfied and Policy COU16 would not be met when read as a whole. The Council's third refusal reason is sustained insofar as concluded above.
26. The proposal fails to constitute any of the acceptable types of residential development in the countryside laid out under Policies COU8 and COU10. It also fails to meet the requirements of Policy COU16. Overall, it will not contribute to the aim of sustainable development and fails to meet the requirements of Policy COU1. The Council's first refusal reason is sustained.
27. The Council's fourth reason for refusal is not sustained. However, for the reasons given above, the Council's first, second and third refusal reasons along with the third party concerns, are sustained to the extent specified above and are determining. The appeal must fail.

This decision is based on the following drawings stamped received by Lisburn and Castlereagh City Council:-

Drawing No.	Title	Scale	Date
01C	Location Plan	1:2500	8 th February 2023
02	Business Owned Map	1:10,000	9 th April 2021
03	Site Plan	1:500	8 th February 2023

COMMISSIONER CATHY MCKEARY

List of Appearances

Planning Authority:-	Brenda Ferguson (Lisburn and Castlereagh City Council) Mark Burns (Lisburn and Castlereagh City Council)
Appellant:-	Tom Wilson (Tom Wilson Planning) Jeffrey Morrow (JEM Architectural Services Ltd.)
Third Party:-	Andy Stephens (Matrix Planning Consultancy)

List of Documents

Planning Authority:-	Statement of Case by Lisburn and Castlereagh City Council Amended refusal reasons based on the PS Comments on post hearing evidence
Appellant:-	Statement of Case by Tom Wilson DAERA information (submitted post hearing)
Third Parties:-	Statement of Case by Matrix Planning Consultancy on behalf of Mr Morgan Crone Comments on the amended refusal reasons Comments on post hearing evidence

Appendix 2

Referral Request;

From: Caroline White

Sent: Friday, March 1, 2024 4:27 PM

To: Planning <Planning@causewaycoastandglens.gov.uk>

Subject: LA01/2021/0403/F

Good afternoon,

Can you please provide a referral for planning reference LA01/2021/0403/F? Councillor Sean McGlinchey

has provided reasons which are attached.

Caroline

Caroline White

Caoimhe Archibald MLA

Office Manager

Contact

email: