

<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2022/1118F</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>23<sup>rd</sup> October 2024</b>
<b>For Decision or For Information</b>	<b>For Decision – Referral Item – Ald. John McAuley</b>
<b>To be discussed In Committee YES/NO</b>	<b>NO</b>

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

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

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

<b>Legal Considerations</b>	
Input of Legal Services Required	<b>NO</b>

Legal Opinion Obtained	<b>NO</b>
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<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

<b><u>No:</u></b>	LA01//2022/1118/F <b><u>Ward:</u></b> DUNDOOAN		
<b><u>App Type:</u></b>	Full Planning		
<b><u>Address:</u></b>	Lands 25m West of 24 Creamery Road, Coleraine		
<b><u>Proposal:</u></b>	Proposed Single Storey Dwelling		
<b><u>Con Area:</u></b>	No	<b><u>Valid Date:</u></b>	24.10.2022
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	Manor Architects, Stable Buildings, 30a High Street, Moneymore, BT45 7PD		
<b><u>Applicant:</u></b>	Alan Carson, 24 Creamery Road, Coleraine, BT52 2LL		
<b><u>Objections:</u></b>	0	<b><u>Petitions of Objection:</u></b>	0
<b><u>Support:</u></b>	0	<b><u>Petitions of Support:</u></b>	0

## **Executive Summary**

- Full planning permission is sought for a single storey dwelling.
- The site is located outside the Settlement Development Limit for Ballyrashane. This is a fundamental and critical difference to planning application C/2010/0083/O. The site adjoins the settlement limit but is located in the rural area and is not subject to any specific zonings or designations as set out in the NAP 2016.
- The proposal seeks to cluster with development inside the Ballyrashane Settlement Development Limit. Appeal Decision 2012/A0225 provides interpretation of Policy CTY 2a outlining that reliance on development within the settlement development limit for the purposes of Policy CTY 2a is misplaced.
- There is planning history on the site. Greater weight is afforded to LA01/2021/1105/O which was withdrawn as it had been recommended for refusal.
- C/2010/0083/O was previously granted planning permission. However, this is an older history, and that site is different to the site currently under consideration. Furthermore, the application under consideration is assessed under a different local development plan context, legislative and policy context. Of note was that since the 2010 application was approved, Ballyrashane has now been designated as a settlement under NAP.
- This proposal does not fall within a type of development which may be considered acceptable as there is no overriding reason why this development is essential and could not be located in a settlement.
- The proposal creates a ribbon of development and urban sprawl, marring the distinction between open countryside and the settlement of Ballyrashane.
- The siting of the proposal does not integrate and is of detriment to rural character.
- No representations have been received and no concerns have been raised by any consultee.

- The proposal is contrary to the NAP, SPPS and Planning Policy Statement 21. The application is recommended for refusal.

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

## 1 RECOMMENDATION

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

## 2 SITE LOCATION & DESCRIPTION

- 2.1 The site comprises of an irregular shaped field measuring 0.2 hectares in size located on the northern side of Ballyrashane Creamery (LacPatrick Dairies NI) which is accessed off the main Creamery Road.
- 2.2 The site and surrounding area falls steeply towards the south east and falls steadily towards the north west. The site is accessed via a laneway which serves a number of properties, including outbuildings belonging to LacPatrick Dairies NI.
- 2.3 The north eastern boundary abuts an existing laneway and is defined by an existing stone wall some 800mm – 1m in height and hedging behind some 1.8 – 2m high. The south eastern boundary which abuts No.24 is defined by hedging and some trees. The western boundary is physically undefined. The southern boundary which abuts the dairy / creamery is defined by fencing and sporadic vegetation.
- 2.4 The application site is located within the rural area as identified within the Northern Area Plan 2016. The northeast, east and southern boundaries of the site adjoins the settlement development limit of Ballyrashane.

## 3.0 RELEVANT HISTORY

The following planning history is of relevance to the proposal:

Application Number: C/1974/0020      Decision: Permission Granted  
Proposal: SITE FOR BUNGALOW.

Application Number: C/1974/002001      Decision: Permission Granted  
Proposal: BUNGALOW

Application Number: C/2010/0083/O  
Decision: Permission Granted  
Decision Date: 14 January 2011  
Proposal: Site for dwelling

Application Number: C/2011/0131/F  
Decision: Permission Granted  
Decision Date: 10 August 2011  
Proposal: Proposed anaerobic digestion bio-gas facility including storage tanks & silage/maize clamps & associated CHP plant including underground medium pressure gas pipeline and effluent pipes to/from existing creamery

Application Number: LA01/2021/1105/O  
Decision: Withdrawal  
Decision Date: 27 April 2022  
Proposal: Proposed infill site for single storey dwelling and garage

## **4 THE APPLICATION**

4.1 Full permission is sought for a single storey dwelling.

### **Habitats Regulations Assessment**

4.2 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.

## **5 PUBLICITY & CONSULTATIONS**

### **5.1 External:**

No letters of representation have been received in relation to this application.

### **5.2 Internal:**

- NIE: No objections.
- DFI Roads: No objections.

- Environmental Health: No objections.
- NI Water: No objections.
- Historic Environment Division: No objections
- NIEA: No objections

## **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)
- 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**

Regional Development Strategy 2035

Northern Area Plan 2016

Strategic Planning Policy Statement

PPS 3: Access, Movement and Parking

PPS 6: Planning, Archaeology and the Built Heritage

PPS 21: Sustainable Development in the Countryside

### Guidance

Building on Tradition: A Sustainable Design Guide for Northern Ireland.

## **8.0 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the principle of development, planning history, integration and rural character, setting of settlements, access, residential amenity, and archaeology.

### **Planning Policy**

8.2 The application site is located in the rural area and adjacent to the settlement limit of Ballyrashane as designated in the Northern Area Plan 2016.

8.3 The proposal must be considered having regard to the NAP 2016, SPPS, PPS policy documents and supplementary planning guidance specified above.

8.4 The Northern Area Plan 2016 has primacy when assessing planning applications. Therefore, when assessing a planning application, the proposal must be determined in accordance with NAP unless other material considerations indicate otherwise.

### **Principle of Development**

8.5 The proposal is located outside any settlement development and falls to be considered under the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside.

8.6 One of development types where a dwelling may be acceptable is “a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a”.

8.7 Policy CTY 2a requires that:

*The cluster of development lies outside of a farm and consists of four*



*or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;*

- 8.8 The proposal is located adjoining the settlement of Ballyrashane with the northeast, eastern and southern boundaries adjoining the settlement development limit. Ballyrashane is designated as a small settlement in NAP (Designation SET 1).
- 8.9 A number of dwellinghouses and LacPatrick Creamery are all within the settlement development limit. Therefore, this proposal is neither sited at or within a cluster; rather it is proposed development adjacent to a settlement limit and cannot be considered a cluster for the purposes of CTY2a. The policies of PPS 21 relate to development in the countryside. Urban development within a settlement development limit cannot form a part of a cluster. This matter is fully considered within a PAC decision reference 2012/A0225 (E/2011/0215/O) which at Para 10. states the following regarding proposals reliant upon development within a settlement limit for the purposes of a cluster:

*“The appeal site lies in the open countryside and the appellant’s reliance on features within the settlement of Bushmills to meet the criteria of Policy CTY2a is misplaced.”*

- 8.10 Consequently, the location of the application site cannot be considered a cluster for the purposes of Policy CTY 2a and use of development within the settlement development is misplaced.

### **Planning History**

- 8.11 The agent refers to a previous planning history from 2010. Application C/2010/0083/O relates to a site for a dwelling located beside No. 24 Creamery Road which was granted planning permission. The agent states that “Planning Policy has not changed since this approval.” (C/2010/0083/O). However, many matters have changed since that approval and it not the same legislative or policy context. The main change being the primary legislative change with the introduction of the 2011 Planning Act, and subsequently the publication and adoption of the draft Northern Area Plan (NAP) in 2015 replacing the North East Area Plan as the statutory plan. Section 45(1) of The Planning Act (NI) 2011 requires consideration of this application having regard to the Northern Area Plan 2016. Weight cannot be attributed to previously adopted development plans when an adopted plan is in place.

- 8.12 The publication of the Strategic Planning Policy Statement in 2015 is a further policy change from the 2010 application. The previous application was also proposed on a different site to the site under consideration, as only a very small portion of that site is included with the subject application. For these reasons, the previous approval is given little weight in the context of this consideration.
- 8.13 There is a more recent and relevant planning history, LA01/2021/1105/O. That application sought permission for an infill site for a dwelling on this site that was subsequently withdrawn on 27th April 2022 following a recommendation to refuse planning permission and should be afforded greater weight in the consideration of this application.
- 8.14 The proposal must satisfy the policy tests outlined under the SPPS in relation to development in the countryside and PPS 21 in relation to the principle of development. There is no policy basis under Policy CTY1 or the SPPS to allow this proposal. The principle of development is considered unacceptable.

### **Ribbon Development**

- 8.15 Policy CTY 8 states that planning permission will be refused for a building, which creates or adds to a ribbon of development.
- 8.16 The proposal is located in the rural area, adjoining the settlement development limit with dwellings located within the limit to the northwest, north and through to the east. The proposal creates a ribbon of development extending out from the dwelling to the east. The proposal is contrary to Policy CTY 8 of PPS 21 in this respect.

### **Integration and Rural Character**

- 8.18 Planning Policy Statement 21 – Sustainable development in the Countryside CTY 13 notes that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design and Policy CTY 14 notes that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.
- 8.19 The proposed site slopes heavily in a north westerly and south westerly direction, with little in the way of boundary treatments. The north eastern (laneside) and eastern boundary are defined as stated with hedging with a stone wall along the laneway and post and wire fencing defining the curtilage of property No. 24 Creamery Road. The

western boundary is undefined. The lane-side boundary is to remain in situ, with the existing agricultural access to be used as the access point. The western boundary is to be defined by post and wire fencing.

- 8.20 Overall the existing site is open with little vegetation to aid in its integration. The site does not offer a suitable degree of enclosure for the development to integrate within the landscape and the use of new landscaping would be necessary for integration.
- 8.21 The design of the proposed dwelling is a single storey with two linear forms co-joined with a narrow linking hallway. The total size of the dwelling is 211sqm The proposed finishes are random stone with profiled zinc sheeting in the form of an agricultural barn, sides and roof. The overall frontage length is 16.6 metres. The two linear forms are stepped off each other with the link joining the two areas. Due to the topography of the site the dwelling will sit some 1.5 m lower from finished ground level in relation to the neighbouring property (No.24) and there will be cut and fill on site to accommodate the proposed dwelling. The design concept is a contemporary building with materials that are fairly traditional in its use and form. The design is acceptable on its own merits.
- 8.22 A dwelling on this site would not integrate into the surrounding area and would be a prominent feature in the landscape therefore does not comply with CTY 13 of PPS 21. As the proposal will result in a ribbon of development and result in a suburban style build up of development when viewed in context of development within the settlement development limit, the proposal fails to comply with Policy CTY 14 of PPS 21.

### **Setting of Settlements**

- 8.23 Policy CTY 15 states that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl.
- 8.24 The principle of drawing a settlement limit is to promote and contain new development within that limit and so maintain a clear distinction between the built up area and surrounding countryside. The siting of a proposed dwelling would mar the distinction between the settlement of Ballyrashane and open countryside creating urban sprawl and is considered to fail to meet the requirements of Policy CTY 15 of PPS 21 in this respect.

## **Access**

8.25 Policy AMP 2 of PPS3 states that Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

*-Such access will not prejudice road safety or significantly inconvenience the flow of traffic; and*

*-The proposal does not conflict with Policy AMP 3 Access to Protected Routes.*

8.26 DFI Roads was consulted as the competent authority on traffic matters and has no objections. The proposal is considered to be compliant with the requirements of PPS 3.

## **Residential Amenity**

8.27 DAERA Industrial Pollution & Radiochemical Inspectorate advised that the application site is in proximity to Lacpatrick Ballyrashrane which is regulated under The Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013.

8.28 DAERA IPRI advised that due to the proximity to this installation there is the potential for the development to suffer of amenity due to dust, noise, odour etc. An informative advising this was recommended.

8.29 Environmental Health were consulted on the proposal and provided informatives. Similarly, they advised that the proximity of the proposed development site to such a facility with operations likely to extend into sensitive night-time hours, there is potential for the amenity of future occupants of the newly proposed dwelling to be adversely impacted by noise. In addition, due to the type of operations at the creamery, odour emissions from this facility may also be prevalent.

8.30 There is potential for a negative residential environment to be created given the location in proximity to the creamery use. However, given that no concerns are raised by consultees and the prevalence of residential uses within the settlement development also in proximity to the creamery there are no concerns in relation to this relationship.

## **Archaeology**

8.31 The site is located in proximity to a number of unscheduled monuments. Historic Environment Division: Historic Monuments were consulted on the proposal and advised they have no concerns. The proposal is considered to meet with the archaeological requirements of the SPPS and PPS 6 in this respect.

## **9.0 CONCLUSION**

9.1 The proposal relates to the development of a single dwelling. There is no policy test within the SPPS or PPS 21 under which the principle of development for a dwellinghouse is acceptable in this location. The proposal creates a ribbon of development and mars the distinction between the settlement of Ballyrashane and the open countryside. The proposal does not integrate and results in a detrimental impact to rural character. The planning history was decided under a different plan context with the fundamental change relating to Ballyrashane which is now a settlement. The proposal is contrary to the requirements of SPPS and Policies CTY 1, 2A, 8, 13, 14 and 15 of PPS 21 and is recommended for refusal.

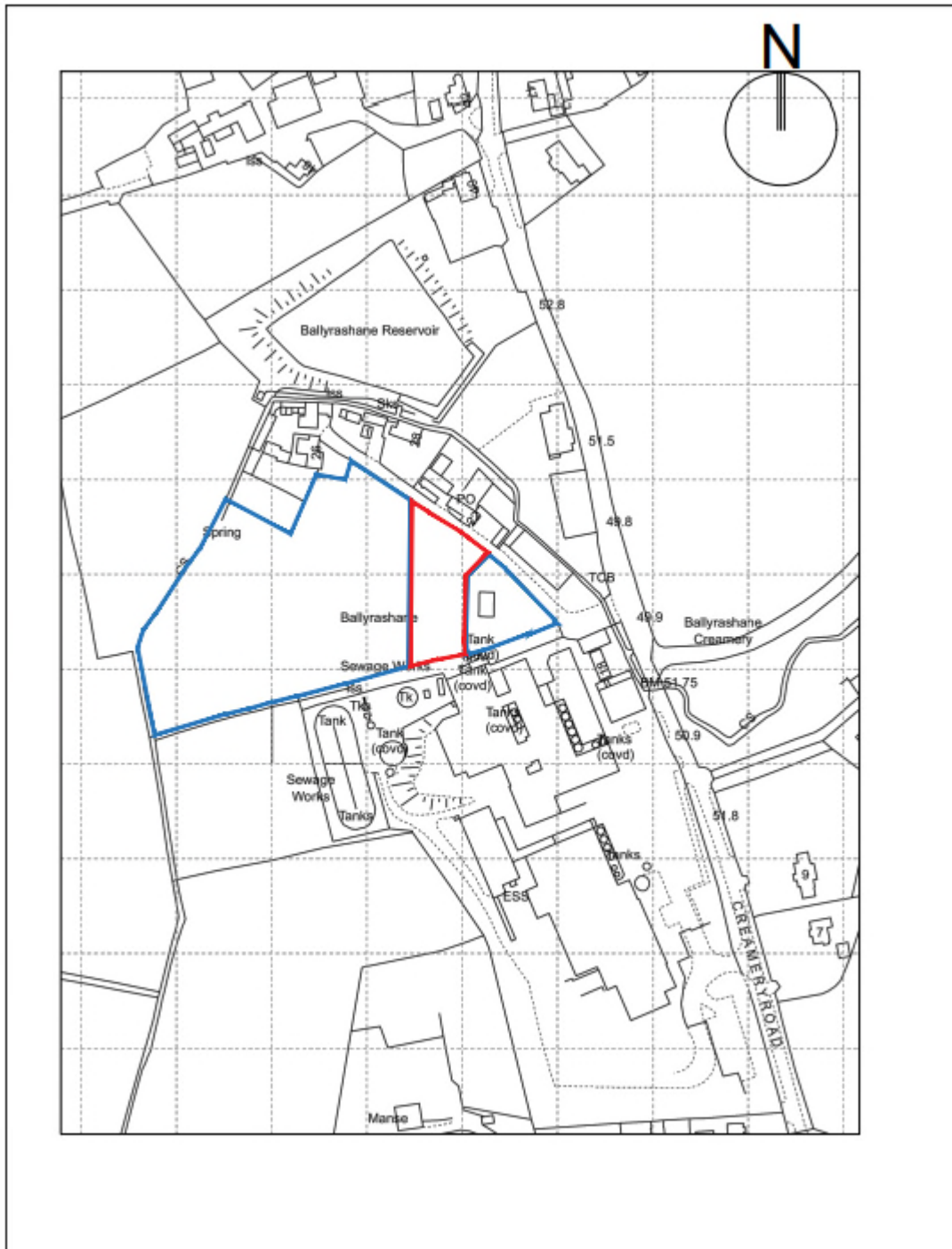
## **10 Refusal Reason**

1. The proposal is contrary to SPPS Paragraph 6.73 and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not in the range of types of development which in principle are considered to be acceptable in the countryside.
2. The proposal is contrary to the Policy provisions of the Strategic Planning Policy Statement and Policy CTY1 and CTY 2A of Planning Policy 21, in that the development relied upon for the purposes of a cluster, is land within the settlement limit of Ballyrashane and cannot be considered as a cluster.
3. The proposal is contrary to the provisions contained in the Strategic Planning Policy Statement and Policy CTY 8 and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that if the dwelling was to be approved it would be detrimental to the rural character of the area by adding to the linear form of ribbon development along this road resulting in a suburban style build up of development when viewed

with existing buildings.

4. The proposal is contrary to the Policy provisions of the Strategic Planning Policy Statement and Policy CTY 13 of Planning Policy Statement 21, in that it fails to provide a suitable degree of enclosure for the building to integrate into the landscape and fails to blend with existing buildings; and would rely primarily on the use of additional landscaping to aid the integration of a dwelling on this site.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), paragraph 6.71 and Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted, mar the distinction between the defined settlement limit of Ballyrashane and the surrounding countryside through urban sprawl.

# Site Location Plan:



# Site Plan





# Appendix 1 – Referral Reasons



**Annex 1**

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



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

<b>Planning Reference</b>	LA01/ 2022/1118/F
<b>Elected Member Name</b>	Alderman John McAuley
<b>Contact Details</b>	Tel: 07736474848 <a href="mailto:john.mcauley.dup@gmail.com">Email:john.mcauley.dup@gmail.com</a>
<b>Refusal Reasons</b>	
<p>1 &amp; 2 The proposal is contrary to SPPS Paragraph 6.73 and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not in the range of types of development which in principle <u>are considered to be</u> acceptable in the countryside and there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>3. The proposal is contrary to the provisions contained in the Strategic Planning Policy Statement and Policy CTY 8 and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that if the dwelling was to be approved it would be detrimental to the rural character of the area by adding to the linear form of ribbon development along this road resulting in a suburban style <u>build up</u> of development when viewed with existing buildings.</p> <p>4. The proposal is contrary to the Policy provisions of the Strategic Planning Policy Statement and Policy CTY 13 of Planning Policy Statement 21, in that it fails to provide a suitable degree of enclosure for the building to integrate into the landscape and fails to blend with existing buildings; and would rely primarily on the use of additional landscaping to aid the integration of a dwelling on this site.</p> <p>5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), paragraph 6.71 and Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would, if permitted, mar the distinction between the defined settlement limit of <u>Ballyrashane</u> and the surrounding countryside through urban sprawl.</p> <p>6. The proposal is contrary to the Policy provisions of the Strategic Planning Policy Statement and Policy CTY1 and CTY 2A of Planning Policy 21, in that the development relied upon for the purposes of a cluster, is land within the settlement limit of <u>Ballyrashane</u> and cannot be considered as a cluster.</p>	

**Additional Supporting Information:**

We consider that the planning history of the application site is a material consideration and carries significant weight in the consideration of this application.

There was a previous approval on this site for a dwelling which was approved on 14th January 2011. The application was made valid on the 15th of February 2010, prior to the release of PPS21 which came into effect in June 2010.

In a Statement to the Assembly on 1 June 2010, the Minister of the Environment indicated that the policies in this final version of PPS 21 should be accorded substantial weight in the determination of any planning application received after 16 March 2006. As such planning history approval C/2010/0083/O would have been subject to the policy framework set out in PPS 21.

Whilst there is no record on the Planning Portal of the planning report there is a decision notice granting planning permission for a dwelling at the location of the proposed site. The decision notice is a key material consideration. It is a legal document and the description and address of the proposal clearly demonstrate that a dwelling was granted by the Planning Authority.

Planning Officers have somewhat surprisingly commented in their report for LA01/2021/1105/O that *"The history file did not have any evidence to show what Policy the application was assessed under."* This commentary from officers is irrelevant. The decision notice trumps any wording in a planning report. In essence, the history file *did not show any evidence to suggest that the proposal was contrary to PPS 21*. If it were contrary to PPS 21, then officers would have used their professional judgement to refuse the application based on prevailing planning policy. It is also noted that the planning permission was never revoked by the planning authority.

To conclude, the principle of a residential use was previously considered acceptable under planning history C/2010/0083/O for a rural dwelling in January 2011 when PPS 21 was an active planning policy. Whilst this permission expired, the planning authority assessed the proposal against prevailing policy at the time. The authority deemed that the residential use was acceptable at this location. There has been no radical change in rural planning policy since the decision for C/2010/0083/O. This proposal should be assessed under the same planning policy context as the historic approval and should result in the same outcome. The principle of a residential use on this site has been previously established and significant weight should be attached accordingly.

The proposal is in keeping with the requirements of Policy CTY13 of PPS21. The overall scale, massing and siting of the proposed dwelling will integrate without adverse visual impact. The design of the dwelling is of high quality that is appropriate to the rural setting and that due regard has been given to the local distinctiveness of this part of the countryside. The case officer notes that the design of the proposed dwelling is acceptable on this site.

There are no consultee objections.