



<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2020/0752/F</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>23<sup>rd</sup> February 2022</b>
<b>For Decision or For Information</b>	<b>For Decision</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	Senior Planning Officer

<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>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>	LA01/2020/0752/F	<b><u>Ward:</u></b>	Macosquin
<b><u>App Type:</u></b>	Full		
<b><u>Address:</u></b>	Land immediately south of 8 Ballyhackett Lane, Castlerock		
<b><u>Proposal:</u></b>	Retention of buildings & yard used in association with vehicle sales business		
<b><u>Con Area:</u></b>	N/A	<b><u>Valid Date:</u></b>	
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	Les Ross Planning		
<b><u>Applicant:</u></b>	Victor Pollock, 8 Ballyhackett Lane, Castlerock		
<b><u>Objections:</u></b>	0	<b><u>Petitions of Objection:</u></b>	0
<b><u>Support:</u></b>	46	<b><u>Petitions of Support:</u></b>	0

## **EXECUTIVE SUMMARY**

- The proposal is not considered acceptable at this location having regard to the Northern Area Plan 2016 and other material considerations.
- The site is located within the countryside outside the settlement limit of Castlerock.
- There have been no objections received in relation to this application and no statutory consultees have raised any concerns. Forty six (46) letters of support have been received in relation to the application.
- It has not been demonstrated why the proposal could not be located in a settlement or that the proposal is an acceptable use in the countryside.
- The proposal is contrary to paragraphs 6.73, 6.74, 6.273 & 6.279 of the SPPS and Policy CTY 1 of PPS 21.
- In planning terms there was no established vehicle sales business at this location to allow for potential expansion or redevelopment.
- Refusal is recommended.

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 the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **REFUSE** full planning permission subject to the reasons set out in section 10.

## 2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located on lands immediately south of 8 Ballyhackett Lane, Castlerock.
- 2.2 The application site comprises an existing gravel yard on which vehicles are currently being displayed for sale. There is an existing shed with 2 bays which appears to be used for valeting of vehicles in relation to the sales business. There is also a small office building adjacent to the shed. The ground level of the site falls slightly towards the south-west boundary. The site is accessed by an existing lane which serves a number of residential dwellings and a farm yard.
- 2.3 The site is located in the countryside outside any settlement development limit as defined within the Northern Area Plan 2016. The site is not subject to any environmental designations.

## 3 RELEVANT HISTORY

EN/2020/0074 – Unauthorised erection of shed and operation of vehicle sales business without planning permission. Date Issued 17/12/2020.

Enforcement Appeal in Progress (PAC Appeal Reference 2021/E0021).

## **4 THE APPLICATION**

- 4.1 This is a full application for "Retention of buildings and yard used in association with vehicle sales business".

## **5 PUBLICITY & CONSULTATIONS**

### **5.1 External**

No letters of objection were received on this application. 46 letters of support have been submitted.

- 5.2 A summary of the letters of support are provided below;

- Vehicles have been purchased over 25 years for use in farming business
- Personal service and flexible hours is very useful for farmers
- Vehicle sourcing business meets requirements of busy farmers when there is no time to attend car showrooms and dealerships
- Feel comfortable transacting our business at Ballyhackett to include the purchase of vehicles and also the related servicing and maintenance as has been the case for at least the past 20 years
- It is important that this business rooted in the farming community is supported as part of ongoing rural diversification
- It is important for the local economy that businesses such as Pollock Car Sales are encouraged to trade locally as this promotes rural diversification
- We have been customers of the Pollock Family trading as Pollock Car Sales for many years and believe it is crucial to support such business diversification in the local rural community
- We have been purchasing vehicles from Victor Pollock since early 1980's
- It is important to support business diversification in such localities as same provides both employment and support for those living locally
- Victor has been involved in the motor trade for a very long time and has built up a rapport with his local community, particularly the farming community.
- The business has always operated in some capacity from its present location at Ballyhackett Lane

- The present infrastructure was built in around 1996 and the company has remained unchanged until the present day with “Pollock Car Sales” used as a logo since 2018.
- Rural business/farm diversification type projects are a vital part of the local economy and essential to sustaining our rural communities
- The vehicle sales business that is mainly aimed towards the agricultural sector provides vital services to local rural communities
- Although these premises have been erected in a rural location they are extremely well situated and not at all visible from anywhere public
- This is not an attempt to import into the countryside a new business or start up such a business in this rural setting, but rather an adaptation on an adjacent site to continue what has been operating for years.

5.3 In response to these points Officials note the following;

- The letters of support indicate that the vehicle sales business has been established at this location for a number of years. This has been considered under the “Other Matters” section of this report at paragraph 8.28.
- The letters state that the business is mainly aimed towards the agricultural sector and that rural diversification should be supported. Farm business details have not been provided to allow assessment as a farm diversification project under Policy CTY 11 of PPS 21. In any case, commercial vehicle sales is not considered to be appropriate in terms of character to a rural location and therefore does not comply with the criteria for farm diversification set out in Policy CTY 11. The business is open to the general public as advertised on the company’s website which indicates their location and opening hours. The business offers a wide range of vehicles for sale which is demonstrated on their website and which was evident at time of site inspection. Many of these vehicles go beyond serving a farming/rural community and would be considered to be of a general domestic use.
- The integration of the development and impact on rural character has been considered under Policies CTY 13 & 14 of PPS 21. It is

considered that the visual impact will be limited due to the location of the site and surrounding topography.

#### **5.4 Internal**

Environmental Health: No objections

DFI Roads: No objections

NI Water: No objections

NIEA Water Management Unit: No objections

NIEA Natural Environment Division: No objections

DfI Rivers: No objections

Shared Environmental Services: 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:
- The 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 RELEVANT POLICIES & GUIDANCE**

The Northern Area Plan 2016

The Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2 (PPS 2) – Natural Heritage

Planning Policy Statement 3 (PPS 3) – Access, Movement and Parking

Planning Policy Statement 6 (PPS 6) – Planning, Archaeology & Built Heritage

Planning Policy Statement 15 – Planning & Flood Risk

Planning Policy Statement 21 – Sustainable Development in the Countryside

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The proposal must be considered having regard to the NAP 2016, SPPS, and PPS policy documents specified above. The main considerations in the determination of this application relate to principle of development; integration & rural character; impact on natural & built heritage; flood risk; impact on residential amenity; road safety; Habitats Regulation Assessment (HRA).

### **Principle of Development**

- 8.2 The proposal comprises the retention of a gravel yard which is currently being used for the display of vehicles for sale. There is also a building used for valeting of vehicles in association with the vehicle sales and a small office building. The yard measures 1389 square metres in total. The main building measures 18m x 7.8m and has a ridge height of 6m. The office building measures 3.7m x 3.5m and has a ridge height of 3m.



- 8.3 The submitted Design and Access Statement has considered the principle of this proposal under Policy PED 3 (Expansion of an Established Economic Development Use in the Countryside) of PPS 4 (Planning and Economic Development). The proposal involves the provision of a vehicle sales yard. The sale or display for sale of motor vehicles is a sui generis use which falls outside the uses specified in the Planning (Use Classes) Order (NI) 2015. The preamble of PPS 4 outlines that this PPS does not provide policy for retail uses, financial, professional and other services, leisure or tourism, agriculture, waste disposal or waste management facilities, or mineral extraction, which are dealt with in other PPS. Given that the primary use of the site is for vehicle sales, which is a form of retail activity, PPS 4 is not considered to be the relevant policy context in the assessment of this proposal.
- 8.4 The Design and Access Statement also states that the applicant laid down the yard and built the shed to store items associated with the farm business and miscellaneous domestic items and that the applicant did not seek planning permission on the assumption this was not required on the farm. It also states that the business is focused on vehicle sales to the agricultural market, mainly trading pick-ups. No information relating to the farm business has been submitted with the application and it has not been demonstrated that the proposal is associated with an active and established farm business. In any case, as set out above, commercial vehicle sales is not considered to be appropriate in terms of character to a rural location and therefore does not comply with the criteria for farm diversification set out in Policy CTY 11 of PPS 21. The business has a website as well as vehicles displayed on the site for sale. The business offers a wide range of vehicles for sale, many of which go beyond serving a farming/rural community and would be considered to be of a general domestic use.
- 8.5 The proposal is considered as a retail use and does not meet with any of the exceptions listed under Policy CTY 1. The principle of development falls to be considered under the Retailing and Town Centres policies within the SPPS. The assessment of vehicle sales under this policy is in keeping with previous appeal decisions under 2011/A0021, 2016/A0087 and 2019/A0219.

## **Retailing & Town Centres**

- 8.6 The SPPS requires a town centre first approach for retailing with the development of inappropriate retail facilities in the countryside resisted. Paragraph 6.280 of the SPPS states that a sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date LDP.
- 8.7 The order of preference for main town centre uses is primary retail core, town centres, edge of centre and out of centre locations, only where sites are accessible by a choice of good public transport modes. As an exception, paragraph 6.279 states that some retail facilities may be considered appropriate outside settlement limits including farm shops, craft shops and shops serving tourist or recreational facilities. Paragraph 6.279 goes on to state that such exceptional retail facilities should be required to be located within existing buildings. The sale of vehicles is not considered an exception to this policy.
- 8.8 With respect to the sequential test, the site is located in the countryside outside the settlement limit of Castlerock. It is located approximately 2 miles from the village of Castlerock and approximately 8 miles from Coleraine, which is the nearest town. There are no public transport routes located on Ballyhackett Lane, therefore the application site is not considered to be an out of centre location. The development involves the change of use of an agricultural field to a gravel yard used for the display of vehicles for sale, a shed for valeting and a small office building. The proposal seeks the retention of this development.
- 8.9 The agent was advised of the requirements of the SPPS, including the need for a sequential test. A letter was submitted by the agent in which they advised that vehicle sales are not commonly found in town centres and that the vast majority of agricultural vehicle sales businesses are found in rural areas beyond settlement limits. The letter states that a conventional sequential test is irrelevant in this case because the urban site is automatically ruled out by the search criteria. The letter goes on to state that the only suitable site is the application site and the fact that the business is long established at this site serving the needs of the local rural community for agricultural vehicles is the overriding consideration in planning policy terms. No other sites within the settlement limit have been considered. While

vehicle sales may rely on different customers to that of high street retail shops in town centres and have a different business set up, there is nothing in policy to suggest that the sequential test favouring a town centre location does not apply to proposals for vehicle sales. This was acknowledged in appeal 2019/A0219. The sequential test for retail use makes no provision for sites outside settlement development limits as is the case here.

- 8.10 The proposal is contrary to the provisions of the SPPS: Retailing and Town Centres policies.

### **Integration & Rural Character**

- 8.11 Paragraph 6.70 of the SPPS states that ‘all development in the countryside must integrate into its setting, respect rural character, and be appropriately designed.’
- 8.12 This is similarly outlined within Planning Policy Statement 21: Sustainable Development in the Countryside. Policy CTY 1 states that ‘all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety.’
- 8.13 The proposal comprises the retention of a gravel yard on which vehicles are currently being displayed for sale. It also includes the retention of a building measuring 6m in height with a floorspace of 140 square metres. There is a separate small office building measuring 11.15 square metres with a ridge height of 3m. The site is located at the end of an existing laneway which serves a number of dwellings and is adjacent to the applicant’s dwelling at No. 8 Ballyhackett Lane.
- 8.14 The site is located within a hollow and is set back from the public road. There is mature vegetation to the south-west boundary which provides a backdrop to the development. There are limited views of the site due to the topography of land surrounding the site and intervening vegetation. The development is considered to visually integrate in this location. Notwithstanding this, the development is unacceptable in principle.
- 8.15 The development is not considered to be unduly prominent in this location given it is well screened from the public road and has a

suitable degree of enclosure. There are a number of existing buildings along this part of Ballyhackett Lane which already contributes to a built-up appearance. Given that there are limited views of the new building and it is considered to integrate as stated in the assessment under Policy CTY 13, it is considered that the new building will not cause a detrimental change to, or further erode the rural character of the area. Notwithstanding this, the development is unacceptable in principle.

### **Access**

- 8.16 Policy AMP 2 of Planning Policy Statement 3 states that planning permission will only be granted provided the proposal does not prejudice road safety or significantly inconvenience the flow of traffic.
- 8.17 The proposed development involves the use of an existing shared laneway with access onto the public road. The shared laneway serves a number of residential dwellings and a farm complex. The proposal does not involve access to a Protected Route and therefore does not conflict with Policy AMP 3. DfI Roads was consulted and have no objections to the proposal.

### **Impact on Archaeology**

- 8.18 The application site is in proximity to archaeological monuments. Historic Environment Division (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

### **Impact on Natural Heritage**

- 8.19 The application site is located within Binevenagh Area of Outstanding Natural Beauty. Policy NH 6 of PPS 2 Natural Heritage is a consideration.
- 8.20 The proposal involves the retention of a gravel yard and buildings associated with Pollock Car Sales. The site is located at the end of a private laneway serving a number of dwellings and farm buildings. The

site is located adjacent an existing dwelling and farm buildings. The site is set back from the public road and is largely screened by existing development along the laneway. The development only becomes apparent when approaching the site entrance. The site is located in a hollow and has a backdrop of mature vegetation. Given the location of the site, degree of enclosure and limited public views, the development would not be considered to have a significant adverse impact on the AONB and therefore complies with Policy NH 6 of PPS 2.

### **Flood Risk**

- 8.21 The Strategic Flood Map (NI) indicates that the development lies just outside the 1 in 100 year fluvial flood plain. The south-east boundary of the site is adjacent to a watercourse that is undesignated in accordance with the Drainage (NI) Order 1973. DfI Rivers advise that a working strip with minimum width of 5m should be retained to allow maintenance of the watercourse.
- 8.22 The area of the application site measures 1,389sqm, which exceeds the threshold outlined under Policy FLD 3 of PPS 15 for which a Drainage Assessment would be required. The majority of the site comprises a yard finished in black 15mm gravel, which is indicated as a permeable surface finish on the submitted block plan. The buildings and hard surfaced areas measure less than 1000 square metres. Therefore, as the site comprises a permeable gravel surface, a Drainage Assessment is not required in this case.
- 8.23 DfI Rivers was consulted in relation to the application and state that, although a Drainage Assessment is not required by the policy, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.

### **Impact on residential amenity**

- 8.24 The application site is in close proximity to residential dwellings which are located on the shared laneway. The applicant's dwelling is located on adjoining land to the north of the site. There are 2 further dwellings to the north-east of the site at No. 6 and 6A.

- 8.25 The Environmental Health department was consulted and have no issues of concern regarding the proposal. It is recommended that it is conditioned that the proposal is solely for vehicle sales and that hours of operation are limited to prevent loss of amenity due to noise. No objections have been received in relation to the application.
- 8.26 It is not considered that the development would have an adverse impact on residential amenity.

### **Habitats Regulation Assessment**

- 8.27 The potential impact 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.

### **Other Matters**

- 8.28 Information has been submitted with the application stating that the business is established at this location for some time. This includes a letter which states that since 1978, the applicant used the sheds in the farmyard for the vehicle business. Firstly, servicing tractors and cars for family and neighbours in the evenings and weekends. The sales business operated from the applicant's dwelling at No. 8 Ballyhackett Lane until the transition to the new yard. Vehicles for sale were parked in the yard and garage to the rear of the dwelling. The letter also states that, since around 2010, vehicles were occasionally parked in the field to the rear of No. 8, which is the application site.
- 8.29 Assessment by the Planning Department included review of satellite images. These images do not show a significant number of vehicles parked in these locations at any time. While the Planning Department does not dispute that a business was being run from this location, the level of activity associated with this would not be considered to constitute development requiring planning permission i.e. a material change in the use of the property from Class C1 dwelling house. The number of vehicles sold and present on the site at any one time would have been limited. The scale and extent of the business that was

previously taking place would be considered to have been ancillary to the use of the residential dwelling (confirmed by the agent in an email dated 13/12/21) and does not demonstrate that there was a material change of use of the land or any building to constitute “development” as defined in Section 23 of the NI Planning Act 2011. As the previous level of use was not “development” it does not accrue immunity over 5 years as referred to under Section 132 of the Planning Act 2011. The yard and sheds constitute a new material change in the use of the land for the purpose of displaying vehicles for sale. An enforcement notice has been served in relation to the unauthorised use of the application site prior to the immunity date. This enforcement notice is currently subject to appeal. Therefore, in planning terms, there was no established vehicle sales business at this location to allow for potential expansion or redevelopment.

## **9 CONCLUSION**

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations including the SPPS and PPS 21. The proposal is considered to be contrary to Policy CTY 1 of PPS 21 and the provisions of the SPPS as there are no overriding reasons why this development is essential in this rural location and could not be located in a settlement. The proposal is not an exceptional use in the countryside and would be an inappropriate retail use in the countryside. Refusal is recommended.

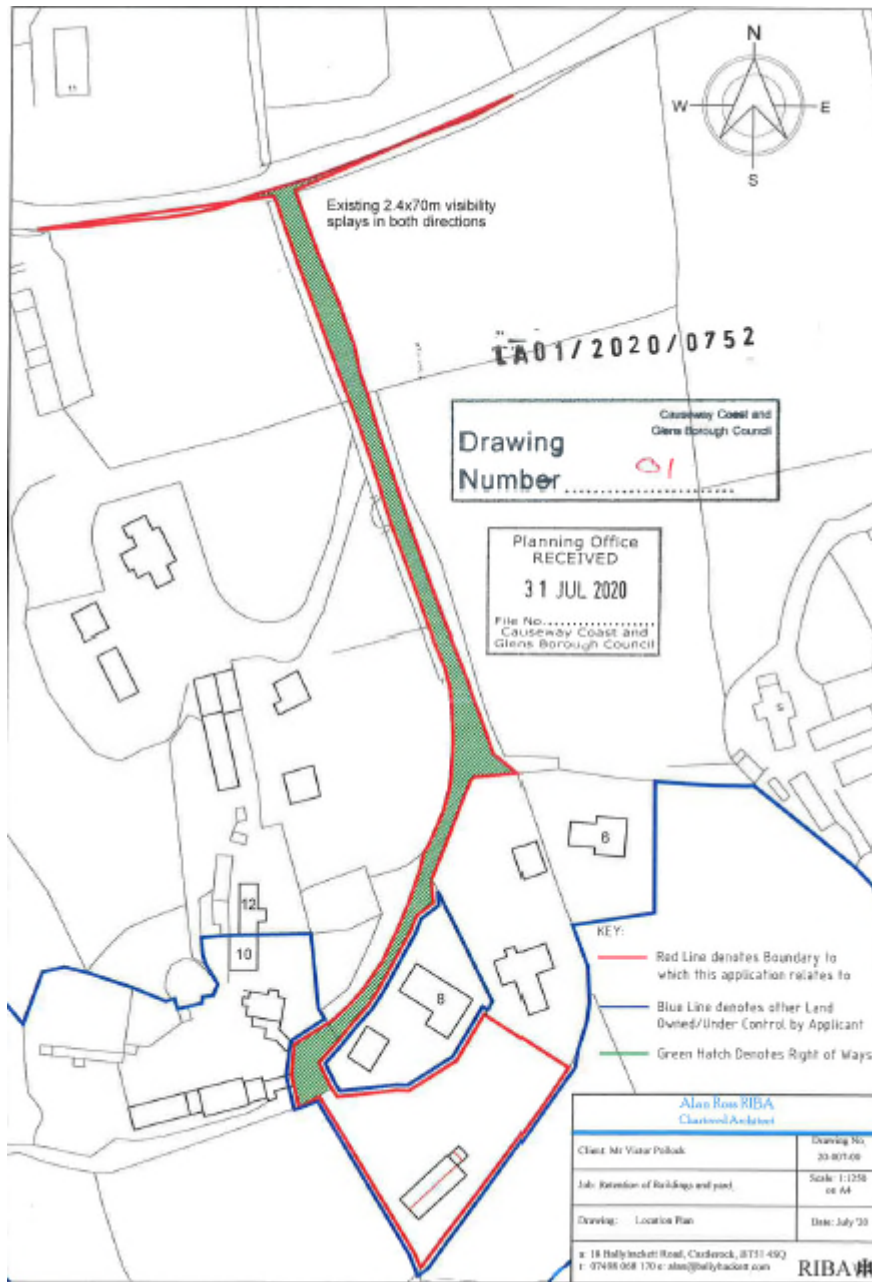
## 10 Refusal Reasons

1. The proposal is contrary to paragraph 6.73 and 6.74 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 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 in a settlement.

2. The proposal is contrary to paragraphs 6.273 and 6.279 of the Strategic Planning Policy Statement for Northern Ireland in that it is not considered an exceptional use in the countryside and would be an inappropriate retail use in the countryside.



# Site Location Map



# Site Block Plan

