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| Title of Report: | Planning Committee Report – LA01/2021/0987/O |
| Committee Report Submitted To: | Planning Committee |
| Date of Meeting: | 24th August 2022 |
| For Decision or For Information | For Decision – Referred Item by Cllr A McQuillan |

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

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

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|-------------------------------|--|-----|-------|
| 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: |

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|--|------------------------------|-----|-------|
| | RNA Required and Completed: | N/A | Date: |
| Data Protection Impact Assessment (DPIA) | Screening Completed: | N/A | Date: |
| | DPIA Required and Completed: | N/A | Date: |

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| <u>App No:</u> | LA01/2021/0987/O | <u>Ward:</u> | Macosquin |
| <u>App Type:</u> | Outline Planning | | |
| <u>Address:</u> | 60m South of 71 Sconce Road Coleraine | | |
| <u>Proposal:</u> | Retirement Bungalow | | |
| <u>Con Area:</u> | N/A | <u>Valid Date:</u> | 11/08/2021 |
| <u>Listed Building Grade:</u> | N/A | | |
| <u>Applicant:</u> | Mr. David Hutchinson. 71 Sconce Road, Coleraine | | |
| <u>Agent:</u> | Fleming and McKernan Associates. 1 Upper Abbey Street, Coleraine | | |
| <u>Objections:</u> | 0 | <u>Petitions of Objection:</u> | 0 |
| <u>Support:</u> | 0 | <u>Petitions of Support:</u> | 0 |

EXECUTIVE SUMMARY

- Outline planning permission is being sought for 1 no. dwelling on the site.
- The site is located within the open countryside and is within the Binevenagh Area of Outstanding Natural Beauty (AONB) as designated in the Northern Area Plan 2016.
- No letters of objection or support have been received.
- All consultees are content with the proposal subject to conditions and informatives.
- There were four applications surrounding the site submitted between 2003 and 2006, three from David Hutchinson and one from Naomi Hutchinson.
- The farm business has not been active and established in each of the last six years, and the applicant has been letting the land out to another farm business. The proposal fails criterion (a) of CTY10.
- The applicant has submitted information pertaining to personal circumstances. It has not been demonstrated that there are no other solutions such as an extension to the dwelling or a dwelling in a nearby settlement. The proposal fails CTY 6. There are no other appropriate policies within PPS 21 and therefore the proposal also fails CTY1.
- Refusal is recommended.
- Reasons for Referral by elected member are attached as an annex to this report.

Drawings and additional information are available to view on the Planning Portal- <http://epicpublic.planningni.gov.uk/publicaccess/>

1 RECOMMENDATION

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

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located within the open countryside, approx. 1.2 miles south west of Articlave, and it is situated within the Binevenagh AONB. The wider area is characterised by agricultural land to the along with a small number of dwellings and farm buildings along Sconce Road.
- 2.2 The application site sits some 220m from Sconce Road and is comprised of a portion of an agricultural field and is accessed via an existing farm lane leading to agricultural buildings to the NW of the site. As the site is part of a larger field its boundaries are largely undefined, with low hedgerow and post and wire fencing to both sides of the lane.

3 RELEVANT HISTORY

C/2003/0813/O- Sconce Road, Articlave Macosquin (150 metres north of 77 Sconce Road, Storey and half detached dwelling with double garage. Application withdrawn 5th March 2004.

C/2004/1226/O- Land South West, of No. 71 Sconce Road, Articlave, Coleraine, Site for a storey and half dwelling. Permission granted 30th March 2005.

C/2005/0517/O – Land West of No. 71 Sconce Road, Articlave, Site for dwelling. Application withdrawn 18th October 2005.

C/2006/0972/RM – Land South West of 71 Sconce Road, Sconce, Articlave, Proposed new dwelling and garage. Permission granted 20th February 2007.

4 THE APPLICATION

- 4.1 Outline planning permission is sought to construct a 'retirement dwelling.' The application was applied for under policy CTY 10 – Dwellings on Farms, and upon receipt of additional information CTY 6 – Personal and Domestic Circumstances is also a consideration. This is an outline planning application and therefore no additional details relating to siting or design have been submitted.

DESIGN & ACCESS STATEMENT

- 4.2 A Design & Access Statement is required under Article 6 of the Planning (General Development Procedure) Order (NI) 2015 as the application is within an Area of Outstanding Natural Beauty.
- 4.3 A Design and Access Statement was received at the time of submission of the application and is considered acceptable.

5 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: 1 neighbouring property was notified in relation to the application, and no letters of objection or support were received.

5.2 Internal

DfI Roads - no objections

Environmental Health - no objections

DAERA Water Management Unit – no objections

DAERA Countryside Management Inspectorate Branch – Issues Raised

NI Water – 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)

PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

PPS 2: Natural Heritage

Supplementary Planning Guidance

Binevenagh AONB Design Guide

8 CONSIDERATIONS & ASSESSMENT

The main considerations in the determination of this application relate to the principle of development, access integration and rural character, access and natural heritage.

Planning Policy

- 8.1 The site is located 1.9 miles south west of the the Settlement Development Limits of Articlave and is within the Binevenagh AONB as set out in the Northern Area Plan 2016.
- 8.2 The proposal must be considered having regard to the NAP 2016, SPPS, PPS policy documents and supplementary planning guidance specified above.

Principle of Development

- 8.3 Policy CTY 1 outlines the types of development which are acceptable in principle in the countryside, including a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6, and a dwelling on a farm in accordance with Policy CTY 10.
- 8.4 Policy CTY 10 allows a dwelling on a farm where the development complies with all three of the criteria –

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

(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; and

(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.

- 8.5 Farm maps dated 2008 and 2015 were submitted along with the application, and up-to-date maps were requested. The agent confirmed that a recent map is unavailable as the land is let to another farmer due to the applicant's circumstances. The consultation response received from DAERA dated 31st January 2022 confirmed that the farm business ID has been in existence for more than 6 years, however payments have only been claimed through the payments through the Basic Payment Scheme or Agri Environment scheme in 2015, 2016 and 2017.
- 8.6 The agent was invited to submit any additional evidence that the farm business has been active in each of the last 6 years under the applicant's name. In response the Planning Department was advised

that the applicant confirmed that he claimed single farm payment up until 2018, after which he let the land out to another farmer. No other evidence of active farming was provided. Given this it has not been demonstrated that the existing farm business is active and established. The proposal therefore fails criteria (a) of Policy CTY 10 of PPS 21.

- 8.7 No dwellings or development opportunities out-with the settlement limits have been sold off from the farm holding, based on a search conducted on lands included in the most up to date farm maps provided, namely 2015. The application therefore complies to criteria (b) of Policy CTY 10.
- 8.8 The proposed site's proximity to existing farm buildings and the farmhouse at No. 71 would allow a new dwelling to visually link and cluster with the established group of buildings on the farm and is accessed by an existing farm lane. The application therefore complies with criteria (c) of Policy CTY 10.
- 8.9 Policy CTY 6 states that Planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:
- (a) the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and*
 - (b) there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.*
- 8.10 Information was submitted along with the application as well as additional information received throughout the processing of the application in the form of a letter from the applicant's doctor and a forwarded email. This letter and email contained details relating to the applicant's health and need for single storey accommodation, and the intention of passing the farm onto his daughter. The information contained in both sources is a material consideration and weight has been given to these.

- 8.11 However, no details have been provided to outline any specific level of care required by the applicant. Further to this no evidence has been presented in relation to the long terms needs of the applicant. Furthermore it has not been demonstrated that alternative solutions have been explored such as an extension or annex attached to the existing dwelling, the conversion or re-use of another building within the curtilage of the property, or the use of a temporary mobile home for a limited period to deal with the immediate short-term circumstances. Also no information has been submitted as to why the applicant could not buy a house in the immediate vicinity of the dwelling at 71 Sconce Road Coleraine. Furthermore, the site is in proximity to a number of settlements and is 1.8 miles from Articlave, 2.7 miles from Castlerock and 7.2 miles from Limavady. Overall, it has not been demonstrated that the proposal complies with criteria (a) and (b) of Policy CTY 6.
- 8.12 As the proposal fails to comply with Policy CTY 6 and CTY 10 of PPS 21, it is also considered that it does not comply with Policy CTY 1 of PPS 21.

Access

- 8.13 Access will be provided from the existing farm lane onto Sconce Road. DFI Roads was consulted on the scheme and have no objections to the proposal. It is in compliance with Policy AMP 2 of PPS 3.

Integration and Rural Character

- 8.14 In terms of integration, the site is a sufficient distance from the public road and a new dwelling would successfully group with the buildings to the rear. The site would not wholly depend on new planting in order to integrate and the dwelling will not appear as a prominent feature in the landscape. The proposed site would not result in suburban style development, create or add to a ribbon of development.
- 8.15 Given the topography and nature of the site, a bungalow is considered to be an acceptable form of development on the condition that it would be of an appropriate design, scale and finishes. The proposed site is considered to comply with Policies CTY 13 and 14 of PPS 21.

Natural Heritage

- 8.16 NH6 states that Planning permission within an AONB will only be granted where it is of an appropriate design, size and scale for the locality.

As above, the design of the dwelling has not been provided as it is an outline application. The proposed site is at an acceptable location and appropriate backdrop of existing buildings, however design proposals would also have to comply with Policy NH6.

Habitats Regulations Assessment

- 8.17 The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

9 Conclusion

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan, SPPS, other planning policies and material considerations. The proposal is contrary to CTY 10 of PPS 21 in that the farm business is not currently active and established and has not been active since 2018. The proposal is also contrary to Policy CTY 6 of PPS 21 in that the applicant has not provided satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused, and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

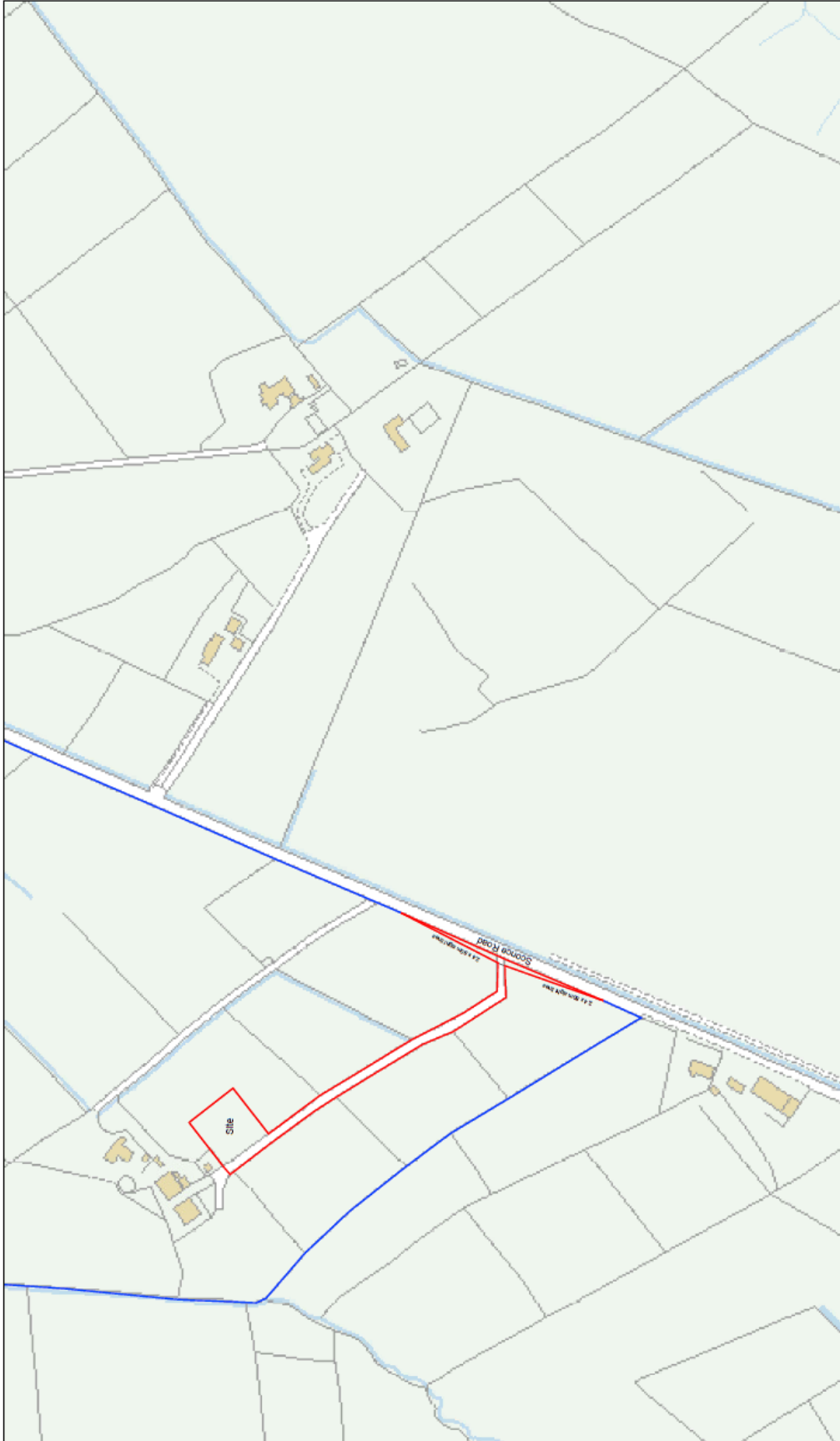
10 Reasons for Refusal

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

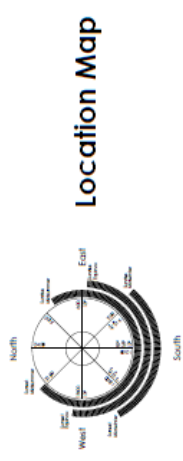
CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that the farm business is currently active and established for at least six years, and there are no overriding reasons as to why the development is essential and could not be located in a settlement.

2. The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the applicant has not provided satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

Site Location Map



| | | | |
|---|--|--|--|
| 1 Upper abbey street 1052 1st 028 753 5678 fleemingckernan.com | | fleming mckernan associates | |
| project: Proposed Retirement Bungalow client: Mr David Hutchinson | | drawing file: Location Map drawing no.: | |
| drawn by: C. McK scale: 1:2500 @ A3 date: Aug. 21 | | project no.: drawing no.: | |



Location Map

Referral Request

From: Adrian McQuillan < >
Sent: 15 February 2022 20:48
To: Planning <Planning@causewaycoastandglens.gov.uk>
Subject: LA01/2021/0987/0

Hutchinson

Further to our telephone conversation ref planning for a Disabled bungalow on my farm I would like to furnish you with background info as you kindly agreed to speak on our behalf at the relevant council meeting

Due to I'll health([REDACTED])I was forced to inform Defra in 2018 that I was letting my land to a neighbour due to I'll health(Defra can confirm)

I have farmed continuously since 1982-

From 1982 to 1999 in Formoyle(nearby)

And on moving to new farm at Sconce from 1999 to 2018

Doctors letter supporting and confirming my medical conditions and needs have been submitted to Planning with my application

As I can no longer manage stairs - I need a suitable disabled friendly and purpose built dwelling- I also need care and support

My daughter and partner intended to take over the farm and farm house and care for me and my wife thus allowing us to remain on the farm

I wish also to point out that the bungalow would have been grouped with the adjacent farm buildings

The onset of my I'll health was sudden unpredicted ,unscheduled and life changing

I am struggling to understand why "exceptional " health circumstances and needs are not empathetically and sympathetically considered with regard to Disability- given that I was only attempting to provide for my own housing needs and care in my old age - while passing on the farm to the next generation

Those are the facts and can all be verified

Regards

David Hutchinson

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Could the above application be deferred to the planning Committee.

Many thanks,

Adrian

Addendum

LA01/2021/0987/O

1.0 Update

- 1.1 On further investigation of the site history and aerial photography it is noted that the foundations for a dwelling under application reference C/2006/0972/RM appear to be in place. Please see aerial photography below. Although this is subject to a Certificate of Lawful Development to demonstrate that a material start has been made within the correct timeframes this is another option that could be explored to provide accommodation for the applicant. This would be considered an alternative solution to meet the particular circumstances of this case. This reinforces that the proposal fails to meet criteria (b) of Policy CTY 6.



2.0 Recommendation

- 2.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse the application in accordance with Paragraph 1.1 of the Planning Committee report.

Addendum 2

LA01/2021/0987/0

1.0 Update

- 1.1 This application was deferred by the Planning Committee on 25th May 2022 so that additional information to demonstrate active farming on the site for at least 6 years could be submitted. It was also deferred so that information relating to Policy CTY 6 of PPS 21 could be provided. This additional information was received from the agent on 13th June 2022. This included a range of receipts for farm machinery and equipment, and included receipts for red diesel, laneway materials, fencing, screws, wire and 50 doses of immunisation for sheep. The information provided also included a letter from DAERA confirming transfer of payment to the lessee, letters confirming renewal of farm select insurance for farm vehicles and a letter to confirm public and product liability insurance. The information was also accompanied with a letter from Samuel Calvin who stated that he has cut hedges and completed verge maintenance at the site for approximately 6 years. The submitted information can be viewed if required in the Planning Office.
- 1.2 DAERA's consultation response received 13th January 2022 confirmed that the farm business claimed payments through the Basic Payment Scheme or Agri Environment Scheme in 2015, 2016 and 2017. The information provided attempts to demonstrate that there has been a level of active farming and maintenance in each year from 2017.

2.0 Consideration

- 2.1 Within paragraph 5.39 of Policy CTY 10 of PPS 21 it is stated for the purposes of this policy 'agricultural activity' refers to the rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or

maintaining the land in good agricultural and environmental condition. The evidence provided attempts to demonstrate that the applicant has been maintaining the land in good agricultural and environmental condition.

- 2.2 Routinely, only information with the applicant's name and/or address can be considered as evidence, resulting in a number of the items received being dismissed. An email was later received by the applicant outlining that they would not be in possession of the items had they not obtained them through purchasing goods.
- 2.3 While some of the information received relates to potential agricultural activity to include receipts for fencing, posts and wire and a supply of vaccinations in one of the years and laneway maintenance it is not clear if this activity was completed on the farm in question. The remainder of evidence is not specifically related to maintenance work. Receipts for parts and farm machinery and equipment do not constitute evidence of agricultural activity on the lands owned by the applicant. Further to this the purchase of red diesel and the submission of insurance policies on the farm do not constitute evidence of agricultural activity on the lands owned by the applicant. A letter was submitted alongside the information from Samuel Calvin who has stated that he has cut hedges and completed verge maintenance at the site for approximately 6 years. Although this establishes that the land owner is responsible for cutting hedges and verge maintenance it does not demonstrate a level of agricultural activity. Further to this no receipts of this work has been provided. It is considered that the farm business is not currently active and has not been established for at least 6 years, therefore failing criterion (a) of CTY 10.
- 2.4 An additional letter dated 8th June 2022 from the applicant's GP outlines the health and needs and highlights the benefits of single storey living for the applicant. The letter states that the GP 'believes strongly that the applicant would be much safer in a single-storey dwelling and is keen to build one so that he might maintain some independence for as long as possible as well as facilitating his care needs as his condition deteriorates.' The letter has been considered however as required in CTY 6, it hasn't been demonstrated that genuine hardship would be caused if planning permission were refused, nor has it been demonstrated that

alternative solutions such as an extension or annex attached to the existing dwelling or the conversion or reuse of another building are unavailable.

- 2.5 The information has been duly considered and is not sufficient to demonstrate farming activity in each of the past six years, nor is it sufficient in demonstrating overriding personal or domestic circumstances which necessitate a dwelling at this site.

3.0 Recommendation

- 3.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse the application in accordance with Paragraph 1.1 of the Planning Committee report.