

Causeway Coast and Glens Borough Council

To: Planning Committee

Date: 22nd April 2015

Transitional Arrangements for Planning Appeals

For Information

1.0 Introduction

- 1.1 The Planning (2011 Act) (Commencement No.3) and (Transitional Provisions) Order (Northern Ireland) 2015 sets out the transitional provisions for a number of the planning functions carried out by the Department prior to the transfer of the majority of planning powers to local government on 1 April 2015.
- 1.2 Article 3 of the Transitional Provisions relate to planning appeals against a decision or determination of the Department under the Planning (Northern Ireland) Order 1991 (or any order or regulations made under the 1991 Order) which was made before the transfer date.
- 1.3 The transitional provisions state that where an appeal on the decision or determination made by the Department was made to the Planning Appeals Commission (PAC) before the transfer date (1st April 2015) and has not been decided by that date by the PAC then for the purposes of the appeal the relevant decision shall be treated as if it has been made by the appropriate council. It goes on to state that if an appeal has not been made to the PAC by 1st April 2015 but the time limit prescribed in the 1991 order for making such an appeal has not expired before the transfer date, again the relevant decision shall be treated as if it had been made by the appropriate council.

2.0 Details

- 2.1 Members are advised that there are a number of live planning appeals cases in the system which relate to decisions made by the Department prior to 1st April 2015. These cases are all at different stages in the appeal system. The responsibility for such appeal cases transferred to the Causeway coast and Glens Borough Council as part of the transfer of the majority of the planning functions on 1st April 2015.
- 2.2 The planning committee's approval is therefore sought for the council to defend those cases where the department's decision to refuse is appealed. A list of appeals that are at an advanced stage are detailed at Appendix 1 for information but there are others where the appeal may not yet be lodged.

3.0 Recommendation

- 3.1 **IT IS RECOMMENDED** that the Planning Committee agree that those transitional cases where there is an appeal lodged against a decision taken by the department on a planning or other related application is defended by the Council.

APPENDIX 1 PLANNING APPEALS AT AN ADVANCED STAGE

Ref: C/2013/0248/F PAC Ref: 2014/A0062

Location: Lands at Windy Hill Co Londonderry in the townlands of Gortmore, Avish, Ballyhacket, and Altikeeragh approximately 2km west of Ballyhackett Lane, Castlerock, Co Londonderry

Description: Erection of wind farm and associated infrastructure comprising: 21 no. three-bladed, horizontal axis wind turbines each with a maximum tip height of 125m, associated transformers and foundations, crane hardstandings; internal site access tracks: spoil and peat deposition areas; control building and temporary construction compound; and all ancillary works

This application was appealed under the legislation that permits applicants to lodge an appeal if a decision is not made within a determined period. In this instance the draft refusal reasons were prepared by SPD and provided to PAC on 18th August 2014. The refusal reasons broadly cover the following:

1. Unacceptable adverse impact on Binevenagh AONB due to number, scale, size and siting of turbines
2. Unacceptable adverse impact on the residential amenity due to proximity, shadow flicker, height, number scale, size and siting of the turbines
3. Adverse impact on the residential amenity due to noise sensitive receptors
4. Unacceptable impact on public road network
5. Unacceptable adverse impact on public safety of road users as several turbines are within the fall clearance distance from the public road boundary
6. Unacceptable adverse impact on the integrity of the Magilligan Special Area of conservation (SAC)
7. Likely to cause harm to bats which are a protected species
8. Unacceptable adverse impact on blanket bog and wet heath which are NI priority habitat
9. Unacceptable adverse impact on biodiversity, watercourses, and nature conservation interests
10. Unacceptable adverse impact on peatland
11. Would be harmful to the visual appeal, amenity value, and would not be sympathetic to the special character of Binevenagh AONB
12. Would be harmful to the visual appeal and amenity value of local tourism assets located within Binevenagh AONB and would significantly impact upon its tourism value.

This appeal was lodged before the Department had the opportunity to consider all matters and seek further information upon which to make a full determination. Please note that due to this refusal reasons, 3, 4, 6, 7, 8, and 9 are based on the fact that the applicant has not demonstrated to the contrary. It is possible that if the required information was submitted and assessed that these refusal reasons may not be applicable.

Ref: C/2014/0109/O PAC Ref: 2014/A0141

Location: Lands adjacent to Dunluce House, 87 Dunluce Road, Bushmills

Description: Demolition of existing agricultural, storage and café/ dining/ retail buildings, erection of tourist/ recreational/ educational/ hot food/ retail/ conference and office facilities to include a visitor centre building incorporating tourism, recreational, educational, hot food, retail conference and office uses and the creation of a new and amendment of an existing access onto Dunluce Road and any ancillary development related to the proposal.

This outline application is located at and immediately adjacent to the farm yard beside Dunluce Castle within the Causeway Coast AONB. The proposal involves demolishing the existing café building and some of the farm buildings to make way for a new visitor centre with associated facilities. Given that this is an outline application, full details have not been provided. However, the submitted concept shows a two storey visitor centre building in a courtyard form. Proposed car parking is shown to be located in the field immediately north of the existing buildings next Dunluce Road. The site is located in a prominent and sensitive coastal location adjacent one of the Region's iconic tourism assets. The dominant nature of the development would be compounded by the prominent car park area which would detract from the setting of the castle. This would further serve to detract from the scenic quality of this well trafficked, key coastal part of the AONB. Notwithstanding the requirements of policy, a tourism benefit statement has not been provided. It has not been demonstrated that the proposal would not have an adverse impact on archaeological remains within the site. Furthermore, it has not been demonstrated that the buildings to be demolished are not a roosting place for bats as a protected species. The proposal fails to meet a variety of policy requirements including PPS 2 Natural Heritage, PPS 6 Planning, Archaeology and the Built Heritage, PPS 16 Tourism and PPS 21 Sustainable Development in the Countryside. This appeal was submitted on a non-determination basis. Accordingly, the Committee is asked to support defence of this appeal.

Ref: C/2013/0440/A PAC Ref: 2014/A0143

Location: Spar Supermarket, 3-9 Coleraine Road, Portstewart

Description: Flat electronic sign fixed to gable wall

This application for advertisement consent relates to a proposed advertisement panel at a convenience shop near the Diamond in Portstewart. The proposed sign measures 1.8m wide and 2.4m high. It is to be positioned prominently on the gable of the shop building at first floor level where it can be readily seen from Coleraine Road. This electronic sign by reason of its design, would project from the wall and look bulky and obtrusive. Furthermore, its illuminated nature with capability for scrolling and changing messages would be highly conspicuous. The sign would be detrimental to visual amenity in the area. The proposal fails to meet the policy requirements of PPS 17 AD1 Control of Outdoor Advertisements. The application was refused on 30 May 2014. Accordingly, the Committee is asked to support defence of this appeal.

Ref: C/2014/0308/A PAC Ref: 2014/A0164

Location: 39 Eglinton Street, Portrush

Description: Electronic sign and window vinyls

This application is located at a convenience shop within Portrush. It seeks retention of an electronic sign, positioned at first floor level on the front elevation together with retention of first floor window vinyls. The electronic sign measures 5m wide and 1m high. It is positioned prominently on the front elevation where it can be readily seen from Eglinton Street, Station

Square and other surrounding vantage points. The sign is particularly dominant in this setting by reason the size of the large red lettering and the distracting, changing nature of the messages. The sign detracts from the setting of listed buildings including the Town Hall and the former railway station. The first floor window vinyls add to visual clutter and detract from the fenestration of the street scene. The proposal fails to meet the policy requirements of PPS 17 AD1 Control of Outdoor Advertisements. The application was refused on 29 October 2014. Accordingly, the Committee is asked to support defence of this appeal.

Ref: B/2013/0120/F PAC Ref: 2014/A0169

Location: Lands 600 metres south of 175 Gelvin Road and east of the American Road in the townlands of Evishagaran and Cruckanim approximately 5.5 kilometres east of Dungiven

Description: Construction of a windfarm comprising 14 no. wind turbines (tip height not exceeding 125 metres), an electrical substation and control building, construction of internal access tracks, spoil deposition areas, temporary construction compound, formation of passing bays on Gelvin Road and Peter's Road, junction improvements at Gelvin Road/American Road and Peter's Road/ Legavallon Road, and all associated ancillary works

This application seeks permission for a commercial wind farm comprising 14 wind turbines in the Sperrins near Dungiven. The site is located within the Sperrins AONB. The development would be seen from a wide area including from the A6 Glenshane Pass. It would have an adverse effect on visual amenity and landscape character of the Sperrins AONB and the distinctive Benbradagh Mountain. Views of the dramatic steep slope skyline of Benbradagh Mountain would be disrupted by the turbines. The wildness and tranquillity of the Sperrins AONB would be adversely affected by the proposal. Given this, the proposal would have a significant negative effect on the Sperrins AONB as a tourism asset. The proposal would be within 10 times the rotor diameter (900m) of an occupied dwelling and as such would have an adverse impact by reason of visual dominance. These issues outweigh other considerations in this case. The proposal fails to meet the policy requirements of PPS 18 Renewable Energy. The application was refused on 24 September 2014. Accordingly, the Committee is asked to support defence of this appeal.

Ref: C/2013/0461/F PAC Ref: 2014/A0195

Location: 261 Windyhill Road, Coleraine

Description: Retrospective application for domestic garage/ fence and concrete yard

The application sought retention of garage building in the curtilage of a semi-detached dwelling in the countryside. The garage measures 12.3m x 9.5m and is finished in green metal profile cladding with a shallow pitched roof. Given these materials and the open nature of the siting in a concrete yard with views from Windyhill Road, the building has an incongruous commercial/ industrial appearance. Therefore the building is not sympathetic to the built form and appearance of either the host property or the surrounding area. The negative effect on visual amenity is compounded by a 1.8m high paladin fence of commercial/ industrial appearance which runs for an extended length of almost 30m along the road edge. The proposal fails to meet the policy requirements of PPS 7 EXT 1 Residential Extensions and Alterations. The application was refused on 17 October 2014. Accordingly, the Committee is asked to support defence of this appeal.

Ref: E/2014/0134/F PAC Ref: 2014/A0205

Location: 837m NW of 59 Moyarget Road, Carnealty, Ballycastle

Description: Erection of a single wind turbine with 37m hub height (50.5m to blade tip) and construction of a new access track together with associated electricity switch room

This application seeks to erect a commercial scale wind turbine in the countryside near the Carnealty Civic Amenity Site. There is an approved wind turbine immediately adjacent this site and it would in the immediate locality visually read with 4 turbines. This extends to 7 turbines in the wider locality. The proposed site has strong visual linkage with those in the immediate locality and would serve to extend the negative visual impact of both the approved and proposed developments across this area of open landscape. The application site is located adjacent one of the main tourist routes to Ballycastle and is within an area of countryside which forms the setting of Ballycastle. Cumulatively, the proposal would have a detrimental visual impact which outweighs other considerations in this case. The proposal fails to meet the policy requirements of PPS 18 Renewable Energy. The application was refused on 05 January 2015. Accordingly, the Committee is asked to support defence of this appeal.

Ref: D/2013/0092/F PAC Ref: 2014/A0207

Location: Between nos 99 and 101 Garryduff Road, Ballymoney

Description: Proposed 2 no infill dwellings and garages

This application seeks to erect 2 detached dwellings in the countryside. The argument presented with the application is that the site is an infill opportunity for 2 dwellings within a continuous and substantially built up frontage. There is other development in the immediate locality. However, given the location, specific siting and separation distances of this other existing development, the application site is not considered to constitute an infill opportunity. Furthermore, the proposal is unacceptable as it would create a ribbon of development and be harmful to rural character. The proposal fails to meet the policy requirements of PPS 21 Sustainable Development in the Countryside. The application was refused on 26 November 2014. Accordingly, the Committee is asked to support defence of this appeal.

Ref: B/2013/0023/O PAC Ref: 2014/A0217

Location: 270m west of 162 Seacoast Road, Crindle, Limavady

Description: Site for farm dwelling

This outline application seeks permission for a dwelling on a farm several hundred metres away from a group of buildings on the farm. The argument presented with the application is that the site is the only location on the holding that is outside the floodplain of the River Roe. Consultation with Rivers Agency as the competent authority indicates that the site lies within the River Roe fluvial flood plain and the Lough Foyle coastal flood plain. An aerial photograph from the 1987 flood event shows the site surrounded by flood water. The proposal is contrary to PPS 15 Planning and Flood Risk. The application was refused on 01 September 2014. Accordingly, the Committee is asked to support defence of this appeal.

Ref: E/2013/0147/F PAC Ref: 2014/A0221

Location: Nos 102 and 102 A Glen Road, adjacent to Callisnagh Bridge, Glenariffe

Description: Article 28 of 1991 Planning (NI) Order Application for Removal of Condition No 2 requiring use of dwellings at No 102 and 102A Glen Road, Glenariffe as

tourist accommodation on planning permission E/1998/0090/F due to the applicant's compliance with policy CTY10 of PPS 21 and lack of viability

Holiday accommodation in the form of 2 detached units was approved at this location in the late 1990's. A planning condition limited their use to holiday accommodation only. They were subsequently constructed and used for that purpose. This application seeks to remove the holiday accommodation only condition so that they can be used as dwelling houses. One of the units meets the policy requirements for a dwelling on a farm under PPS 21 Sustainable Development in the Countryside and as such, removal of the condition is acceptable in part. However, the case of lack of business viability for holiday letting is not considered sufficient to allow the removal of the condition on the second unit. Given that the application refers to both units, taken as a whole the proposal fails to meet the policy requirements of PPS 21 Sustainable Development in the Countryside. The application was refused on 04 November 2014. Accordingly, the Committee is asked to support defence of this appeal.

Ref: D/2013/0106/O PAC Ref: 2014/A0231

Location: 205A Seacon Road, Ballymoney

Description: Proposed 2 no detached dwellings for residential purposes

The application site is located in a residential, suburban area of Ballymoney characterised by mainly single storey dwellings with particularly large front gardens up to 100m in depth. This outline application seeks permission for two detached dwellings in the front garden of a single storey dwelling. From critical views on Seacon Road, the front gardens of the subject and neighbouring properties form a large area of open space (albeit privately owned with intervening boundary treatments). To develop the site would be out of character with the development pattern as the dwellings would appear out of place in this large area of open space. As such, the proposal would fail to take account of the character of the area. The proposal fails to meet the policy requirements of PPS 7 QD1 Quality Residential Environments. The application was refused on 23 October 2014. Accordingly, the Committee is asked to support defence of this appeal.

Ref: C/2014/0111/F PAC Ref: 2014/A0256

Location: 3 Antrim Gardens, Portrush

Description: Proposed change of use from private dwelling to 5 no self contained apartments

This application sought permission to change a dwelling to apartments within Portrush. While three of the proposed apartments provide an acceptable outlook, two of them fail to achieve this given that they look out onto a small, unsightly rear courtyard which includes rear access and waste storage/ servicing to at least one restaurant. Such an outlook for main living accommodation is unacceptable. Furthermore, the proposal does not provide for any private amenity space, contrary to standards. Overall, the proposal fails to create a quality residential environment and as such fails to meet the policy requirements of PPS QD1 Quality Residential Environments. The application was refused on 27 November 2014. Accordingly, the Committee is asked to support defence of this appeal.

Ref: C/2014/0097/F PAC Ref: 2014/A0267

Location: Approximately 505m NW of 20 Churchland Lane, Coleraine

Description: A single wind turbine with a tower height of 37m and a maximum output of 150kw

This application seeks to erect a commercial scale wind turbine in the countryside just west of Coleraine. There are 4 other approved turbines in the immediate locality running broadly in a north-south axis which would visually read with this proposal. The proposed site has strong visual linkage with those in the immediate locality and would serve to extend the negative visual impact of both the approved and proposed developments across this area of countryside on the fringe of the urban area. Cumulatively, the proposal would have a detrimental visual impact which outweighs other considerations in this case. The proposal fails to meet the policy requirements of PPS 18 Renewable Energy. The application was refused on 18 February 2015. Accordingly, the Committee is asked