Planning Committee Report **LA01/2017/1270/O**	**28th November 2018**
PLANNING COMMITTEE	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Protecting and Enhancing our Environment and Assets
Outcome	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
Lead Officer	Development Management & Enforcement Manager
Cost: (If applicable)	N/a

App No: **LA01/2017/1270/O** **Ward: Greysteel**

App Type: **Outline Planning**

Address: **Immediately west of no's 57, 59 & 59A Brisland Road, Eglinton.**

Proposal: **Erection of farm dwelling**

Con Area: N/A **Valid Date: 27.09.2017**

Listed Building Grade: N/A

Applicant: **Mr Alan Hunter, 132 Clooney Road, Eglinton**

Agent: **MKA Planning Ltd, 32 Clooney Terrace, Waterside, Derry**

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

Support: 1 **Petitions of Support: 0**

Drawings and additional information are available to view on the Planning Portal- www.planningni.gov.uk

1.0 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 reasons set out in section 10.

2.0 SITE LOCATION & DESCRIPTION

2.1 The application site is located immediately adjacent 57, 59 and 59a Brisland Rd, Eglinton. The application site is located in the north eastern corner of an agricultural field and is accessed via a shared laneway off Brisland Rd, which runs parallel to the main Clooney Rd. The application site sits at an elevated position above the access laneway and Clooney Rd, with a steep incline from the shared lane along the driveway to the dwellings at 57, 59 and 59a. The site is proposed to use an existing agricultural track which serves the field in which the dwelling is proposed. The site sits at a slightly higher level than the adjacent three properties and rises in a north to south direction towards the rear of the site. The site is undefined along the western and southern boundaries, with the eastern boundary defined by post and wire fencing and a field gate. The northern boundary is defined by post and wire fencing with two mature trees approximately 12-14m in height, with another mature tree located along the northern side of the access track.

2.2 The application site is located within the rural area outside any settlement as defined in the Northern Area Plan 2016. The site is not located within any environmental designations. The site is located between the settlements of Greysteel and Eglinton, with Brisland Rd heavily developed to the west of the site. A short distance west of the site is St Mary's Church, while to the east of the site lies five residential properties.

3.0 RELEVANT HISTORY

3.1 No relevant planning history.

4.0 THE APPLICATION

4.1 Outline Planning Permission is sought for a proposed dwelling, on a farm. The application site is located close to a number of residential properties owned by the applicant and is sited approximately 800m from the applicant's home and main farm complex. No plans have been submitted to assess the scale and design of the proposed dwelling.

5.0 PUBLICITY & CONSULTATIONS

5.1 **External:**

Neighbours: There are no objections to the proposal.

Letter of Support: There is one letter of support for the proposal.

5.2 **Internal:**

DFI Roads: No objections.

Environmental Health: No objections.

NI Water: No objections.

DAERA: No objections.

Health and Safety Executive for Northern Ireland: No objections.

GNI(UK) Ltd (Gas pipeline operator): No objections

Loughs Agency: No objections.

DAERA WMU: No objections.

6.0 MATERIAL CONSIDERATIONS

6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in

accordance with the plan unless material considerations indicate otherwise.

6.2 The development plan is:

- Northern Area Plan 2016 (NAP)

6.3 The Regional Development Strategy (RDS) is a material consideration.

6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.

6.5 Due weight should be given to the relevant policies in the development plan.

6.6 All material considerations and any policy conflicts are identified in the "Considerations and Assessment" section of the report.

7.0 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

PPS 2: Natural Heritage

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

Supplementary Planning Guidance

Building on Tradition – A Sustainable Design Guide for the NI Countryside

Development Control Advice Note 15 Vehicular Access Standards

8.0 CONSIDERATIONS & ASSESSMENT

Planning Policy

8.1 The proposed dwelling must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above. The main considerations in the determination of this application relate to: principle of development, visual impact, rural character, ribbon development access, and health and safety.

Principle of Development

8.2 The policies outlined in paragraph 6.73 of the SPPS and Policy CTY 1 of PPS 21 state that there are a range of types of development which are considered acceptable in principle in the countryside. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. The application was submitted as a dwelling on a farm and therefore falls to be assessed against Policy CTY 10.

8.3 Policy CTY 10 states that permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

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.

8.4 Initially the field in which the application site was proposed was not being farmed by the applicant and was leased to another farmer, farming it as part of their business. As such the application site would not have been regarded as being on the

applicant's farm which would conflict with Criteria A of Policy CTY10. However, during the processing of the application the applicant has reassumed the field into the farm business and is actively farming it. Therefore the application site is now regarded as being located on the applicant's farm.

8.5 The submitted P1C form outlines that the farm business was established in 1960 and that their Business ID Number was allocated in 1999. The Applicant has submitted a number of copies of farm maps relating to 2012, 2016 and 2018. DAERA have been consulted on the application and have confirmed that the Business ID associated with the farm business has been in existence for more than six years and that the business has claimed Single Farm Payment or other subsidies in the last six years. Given the evidence presented officials are content that the farm business has been active and established for the required period and Criteria A has been met.

8.6 Having carried out a history search against the farm Business ID Number no other planning histories have been identified. Having carried out a planning history search of the lands on the applicants farm map no planning approvals for dwellings have been found. There have been planning approvals on the farm lands for industrial type development and a hotel, but none relating to dwellings. As such no dwellings or development opportunities have been disposed of and criteria b has been met.

8.7 The applicant resides at No. 132 Clooney which is approximately ½ a mile away from the proposed site. The farm business is registered to this address and the farm sheds/buildings are located to the immediate rear of the dwelling. The applicant owns/farms a relatively large portion of land which extends from the airport road in an eastern direction and on the northern side of the Clooney Rd. The applicant owns the field in which the dwelling is proposed which is slightly removed from the main parcel of the holding by the Clooney Road.

8.8 The applicant owns the properties to the east of the application site at Nos. 57, 59 and 61 and 59a. The three properties at Nos. 57, 59 and 61 are rented and the Rent Officer for NI has confirmed that these are protected tenancies. The applicant argues that, as these properties are within his ownership, they constitute buildings on a farm. However these buildings are not

considered to be part of the farm business, nor are they considered to form part of the farm holding. The properties are not used for agricultural purposes or in association with the active running or management of the farm business. The Rent Officer has confirmed that while the properties are protected tenancies they are not classified as tied tenancies i.e. agricultural tenancies, as outlined by the applicant/agent. The Rent Officer outlined that the criteria for protected tenancies are that the building must have been built before 1945 and would need to have been rented out in 1978. The properties were not registered as protected tenancies on the basis of the occupation of the occupants, but solely on the age of the properties and the fact that they were already rented out in 1978.

8.9 While the applicant may own these properties they do not constitute a group of buildings on the farm. These buildings have their own plots and established curtilages and are separated from the farm lands by the property at No. 59a. These buildings cannot be used in order to cluster or visually link with for the purposes of Criteria C of CTY10. The proposal fails to comply with criteria C in that the proposed dwelling would not visually link or cluster with an established group of buildings on the farm.

Integration and Rural Character

8.10 As this is an outline application no detailed drawings have been submitted for consideration. In terms of the sites ability to absorb a dwelling into the landscape only a modest dwelling would be suitable for the site. The site currently sits at a level slightly above the adjacent properties, which are old one and a half storey properties with a relatively low ridge level. These existing dwellings are sited at an elevated level above the main Clooney Rd, from which there are some views of the site available. As such any dwelling would have to be a modest single storey dwelling with a ridge height no greater than that of the adjacent properties. There is some vegetation along the frontage of the site in intervening lands between the site and Clooney Rd which provides some visual relief, however this would not be sufficient to allow a larger dwelling to be located on the site without appearing unduly conspicuous and prominent. The proposal therefore complies with Policy CTY13.

8.11 The proposed siting of the dwelling is adjacent to a line of four dwellings, with a further dwelling located to the east of the four. The location of a dwelling on the application site would extend this linear pattern of development in a western direction. When travelling along the Clooney Rd, or the laneway immediately south of Clooney Rd, a dwelling on the application site would be visually read with the adjacent four dwellings and would clearly extend this linear formation resulting in the addition to a ribbon of development which is contrary to Paragraph 6.70 of the Strategic Planning Policy statement for Northern Ireland and Policies CTY8 and CTY14 of PPS21.

Access

8.12 Access to the site is proposed via the existing private lane/road onto Brisland Rd to the North West of the site. DFI Roads has been consulted on the application and following the submission of revised plans, now have no objections. The proposal is therefore considered to comply with Policy AMP2 of PPS3.

Health and Safety

8.13 The application falls within the consultation zone of a major gas pipeline. As such the Health and Safety Executive and Pipeline operator were consulted to assess any potential risk to either the pipeline or the proposed development. Both the HSENI and the pipeline operator have responded that the proposal lies outside the permanent wayleave and that the proposal would not compromise the safety and integrity of the pipeline.

Habitats Regulations Assessment

8.14 The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation 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 or conservation objectives of any European site.

9.0 CONCLUSION

9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan, and other material

considerations, including the SPPS. The proposal is contrary to Paragraph 6.73 of the SPPS and Policy CTY10 of PPS 21 in that the proposed dwelling will not cluster or visually link with an established group of buildings on the farm. The proposal is also contrary to Paragraph 6.70 of the SPPS and Policies CTY8 and CTY14 in the proposal would add to an existing ribbon of development thereby resulting in a detrimental impact on rural character. The proposal is contrary to Paragraph 6.303 of the SPPS and Policy AMP2 of PPS3 It has not been demonstrated that the proposal will not prejudice road safety. Refusal is recommended.

10.0 REFUSAL REASONS

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 and does not merit being considered as an exceptional case in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm

2. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along the private laneway which serves application site and adjacent properties.

3. The proposal is contrary to Paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create or add to a ribbon of development and would therefore result in a detrimental change the rural character of the countryside.

Site Location Map