

Planning Committee Report LA01/2019/0183/O	24th March 2021
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

<u>No:</u> LA01/2019/0183/O	<u>Ward:</u> Feeny
<u>App Type:</u> Outline Planning	
<u>Address:</u> Site approx 12m east of 4 Larch Road, Ballyharigan, Dungiven	
<u>Proposal:</u> Outline planning application for a 2 storey dwelling, with detached garage and associated siteworks	
<u>Con Area:</u> n/a	<u>Valid Date:</u> 28.02.2019
<u>Listed Building Grade:</u> n/a	
<u>Agent:</u> Farren Architects, 447 Ballyquin Road, Dungiven, BT47 4LX	
<u>Applicant:</u> Mr Kieran Farren, 17 Chapel Road, Dungiven, BT47 4RT	
<u>Objections:</u> 0	<u>Petitions of Objection:</u> 0
<u>Support:</u> 0	<u>Petitions of Support:</u> 0

Executive Summary

- The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations.
- There is no overriding reason why this development is essential in this rural location and could not be located in a settlement and is therefore contrary to CTY1.
- It has not been demonstrated that the farm business is currently active and is therefore contrary to CTY10.
- The proposal will share a common frontage with the shed within its curtilage, the dwelling at No 4, No.123 Altmover Road and its outbuilding and No.125 Altmover Road. As such, it would extend the existing ribbon of development in a north easterly direction and is therefore contrary to CTY8 and CTY14.
- The proposal is a prominent feature in the landscape meaning it does not integrate and would result in a detrimental change to rural character and is therefore contrary to CTY13 and 14.
- No objections have been received in relation to this application.
- The proposal is contrary to the relevant planning policies including the Northern Area Plan, SPPS and PPS 21.
- Refusal is recommended.

Drawings and additional information are available to view on the new Public Access web address- <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** planning permission for the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

2.1 The application site is a road side rectangular shaped plot of land measuring 0.25 ha. The site is located north of the junction of Larch Road and Altmover Road. The topography is flat. Part of the site is grazing land and part has a shed located on it which is enclosed by some mature trees and 1 metre high post and wire fence. The site contains the small enclosed area and a portion of the adjacent field.

2.2 The north eastern and north western boundaries are undefined, the south eastern boundary is defined by a 1 metre high post and wire fence. The south western boundary is part undefined and partly defined by a 1 metre high post and wire fence.

2.3 The applicant owns the dwelling and shed opposite the site at 4 Larch Road. There are no watercourses in the vicinity of the site. There are transient critical views of the site from the south east on Altmover Road and from the north west on Larch Road. The local area is characterised by agricultural farm land and some detached single and 2 storey dwellings.

2.4 The site is located outside any settlement limit and is in the Countryside as shown in the Northern Area Plan 2016.

3 RELEVANT HISTORY

B/2011/0049/F - 2 storey dwelling, detached garage and associated landscaping at farm at 4 Larch Road, Ballyharigan, Dungiven - Refused 06.03.2012. Appeal dismissed 22.02.2013

3.1 The previous application for a dwelling under B/2011/0049/F on this site was refused and subsequently appealed. The appeal failed and all of

the refusal reasons were sustained. The application was dismissed for the following reasons:

- Under policy CTY10 Criteria c the proposed dwelling was refused by the PAC because the site would be positioned on the opposite side of the road and as such would be physically separated from the dwelling and outbuilding at no.4 by a road. Furthermore it was not considered to form an integral part or be visually interlinked or sited to cluster with no.4 or the outbuilding as one would appreciate the physical separation and it would extend development outwards from the group.
- Under policy CTY8 (Ribbon Development) the proposed dwelling was refused by the PAC because it would extend development further in a north east direction along the road and add to the existing ribbon.
- Under policy CTY13 (Visual Integration) the proposed dwelling was refused by the PAC because on the approach from the south west, the proposal would be open to direct view and the vegetation was too sparse to provide a suitable degree of enclosure and as such would be a prominent feature on the landscape.
- Under policy CTY14 (Rural Character) the proposed dwelling was refused by the PAC as it would be unduly prominent on approach from the south west and would ribbon development.

4 THE APPLICATION

This application seeks permission for 'Outline planning application for a 2 storey dwelling, with detached garage and associated site works'.

5 PUBLICITY & CONSULTATIONS

5.1 External

All neighbours identified for notification within the terms of the legislation where notified on 20.03.2019. The application was advertised on 13.03.2019 and re-advertised on 3.04.2019.

5.2 Internal

Environmental Health: No objection to the proposal.

Northern Ireland Water: No objection to the proposal.

DFI Roads: No objection to proposal.

DAERA : Drainage and Water: No objection to the proposal.

DAERA : Natural Environment Division: No objection

DAERA : The farm business has not claimed farm business payments within the last 6 years and the site is located on land associated with another farm business.

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 development 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

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

Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS) 2015

Planning Policy Statement 2 (PPS 2) Natural Heritage

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

Planning Policy Statement 21 (PPS 21) Sustainable Development in the Countryside

8 CONSIDERATIONS & ASSESSMENT

8.1 The main consideration in the determination of this application relate to the principle of development, ribbon development, integration, rural character, wastewater disposal, access arrangements, natural heritage and Habitat Regulation Assessment.

Principle of Development

8.2 The principle of the development proposed must be considered having regard to the Northern Area Plan and PPS policy documents specified above and the supplementary guidance.

8.3 The site falls outside any settlement limits and is in the rural Countryside as defined by the NAP 2016.

8.4 The application which was subject of appeal was a full application and although the current application is outline, it is important to note that the proposed siting is similar and includes the application site which was previously refused and dismissed by the PAC. Planning policy has not changed. The planning history in this instance is a material consideration which must be given significant weight.

8.5 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.

8.6 The application was submitted for a dwelling on a farm and falls to be determined under CTY10. Policy CTY 10 of PPS 21 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;

DAERA were consulted with the farm business number. The farm Business ID has been in existence for more than 6 years. The farm business has not claimed either single farm payment, less favoured area Compensatory allowance or Agric Environment Schemes in the last 6 years nor is any currently being claimed. DAERA have also stated the proposed site is located on land associated with another farm business. The DAERA consultation response does not confirm active farming over the required period as required by the policy.

8.7 The applicant has advised that the land associated with the farm is let out in conacre to a sheep farmer and as such, the applicant is not farming the land or claiming payments from DAERA on the land. The applicant has provided the following evidence to demonstrate that the farm is active and established,

- Receipts from 1981 and 1982 for straw bailing. It is not clear if these relate to work on this holding.
- A letter from DAERA relating to Farm Survey Number 5/064/100 stating that field numbers 1, 2, 3, 4A and 4B were claimed for SFP in 2005, 2006, 2007, 2008, 2009, 2010 and 2011. This period is before the 6 years required by the policy.
- Lease agreement for land at 4 Larch Road for period 1st November 2012 to 31st October the following year when the contract will be renegotiated. The leaser is Patrick Millar and the lessee is Kieran Farren.
- An invoice dated 31st March 2013 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for a mini yard brush, deck scrub brush shaft and a tap connector.
- An invoice dated 31st May 2013 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for superglue, sanding block, double sided tape, glass paper sheets, tube of oak plastic wood, white site marker
- An invoice dated 31st May 2014 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for a black wheelbarrow, long tail shovel, 10kg of grass seed for field 3
- An invoice dated 3th September 2014 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for joint filler.

- An invoice dated 25th April 2015 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for post and wire stock proof fencing and a field gate.
- An invoice dated 30th April 2016 but with an order date of 25.04.20 and invoice no 633451 and order no 3160115 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for 4 sawn treated wood, 4 sawn tanalised wood, 50 fencing boards delivered to 4 Larch Road
- NI Water bill for the property of no. 4 Larch Rd in the applicants name covering the period of July - December 2016.
- An invoice dated 15th November 2017 but for order dated 12-07-13 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for 50 bags of pea gravel and 50 drainage pipes and fittings for field 4
- An invoice dated 17th November 2017 from B McAteer Agricultural Contracting addressed to K Farren at Larch Road, Dungiven for digger work and digging drains
- An invoice dated 30th April 2018 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for 10 drain pipes for field 4
- An invoice dated 30th June 2018 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for 2 packets of galvanised 300mm band and hook, 5 litre sandtex grey paint, 225mm long pile masonry sleeve, 3 piece brush set, 9 inch roller set, masking tape.
- A receipt from B McAteer agricultural contractor for 10 hours of hedge cutting on Larch Rd on 10th October 2019.
- An invoice dated 30th August 2020 but for order dated 23-04-18 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for 22 twinwall drain pipe
- An invoice dated 19th September 2020 but for order dated 23-04-18 from JJ Coyle Limited addressed to Kieran Farren at 4 Larch Road for 90 pea gravel (drainage)

8.8 The above evidence does not demonstrate that the farming business is both established and active over the required period. From the evidence provided it appears that the applicant has cut hedges, bought fencing, and carried out drainage work and bought grass seed during the relevant years but not on an annual basis. Some of the evidence such as the receipts from 1981 and 1982 for straw bailing and the DAERA letter relating to 2005-2011 are not within the relevant 6 year timeframe to be considered. Some of the information provided does not relate to

farming such as the invoices dated 31/03/2013, 31/05/2013, 3/09/2014, 30/04/2016 (order date 25/04/2020), 30/05/2018 and the NI Water bill from December 2016. There are lengthy gaps in the evidence that has been provided for example between an invoice on 25/04/2015 to another on 15/11/2017, this indicates there is a gap of 2 years and 6 months where no activity has taken place. This is insufficient to demonstrate an active and established farm business. The applicant does not make a contribution that equates to the policy requirements. The land is being farmed by a third party, the applicant has failed to demonstrate that the farm business is active and established. The proposal fails to comply with criteria 'a' the active and established test of policy CTY10.

8.9 The agent raised appeal reference 2018/A0194 at Townhill Road Rasharkin in the supporting statement DOC 01 received 11th September 2020. In this appeal the PAC concluded that there is no reference to SFPs in Policy CTY 10, as such a farm does not have to be in receipt of this or other subsidies in order to be considered active for the purposes of the policy. The circumstances of the case at Townhill Road and this application are not comparable as evidence was provided for the appeal case to demonstrate that the appellant farmed the land for 6 months a year and provided invoices for cutting and round bailing, cutting hedgerows and spreading slurry in the relevant years. This evidence demonstrated that the appellant was responsible for the annual cutting of grass and silage as well as maintaining the land.

8.10 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; Having checked the details, it would appear that no dwellings or development opportunities have been sold off. The proposal complies with criteria 'b' as no dwellings or development opportunities have been sold off.

8.11 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. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group(s).

- 8.12 In terms of clustering or being visually linked with the established group of buildings on the farm, on review this site is visually linked with the dwelling and shed located north of the dwelling when viewed from Altmover Road. The proposal satisfies the requirements of criterion (c) of Policy CTY 10 of PPS 21.
- 8.13 The proposal fails to comply with criteria 'a' of policy CTY10 and paragraph 6.73 of the SPPS. As it is not one of the types of housing development that are acceptable in principle in the countryside and there are no overriding reasons why it is essential and could not be located in a settlement, the proposal is contrary to Policy CTY 1 of PPS 21. CTY 10 states that dwellings on a farm should also comply with CTY 13 (a-f), CTY 14 and CTY 16. This will be considered below.

Ribbon Development

- 8.14 Policy CTY8 Ribbon Development and paragraph 6.73 of the SPPS states planning permission will be refused for a building which creates or adds to ribbon development. Paragraph 5.33 of the Justification and Amplification to Policy CTY 8 states that a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.
- 8.15 The proposal will share a common frontage with the shed within its curtilage, the dwelling at No 4 , No.123 Altmover Road and its outbuilding and No.125 Altmover Road. As such, the site would extend the existing ribbon of development in a north easterly direction. The proposal is contrary to CTY 8 of PPS 21 and paragraph 6.73 of the SPPS.

Integration

- 8.16 Policy CTY 1 of PPS 21 and paragraph 6.70 of the SPPS state that all proposals must be sited and designed to integrate into its setting, respect rural character, and be appropriately designed. Policy CTY 13 states that 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.
- 8.17 The characteristics of the site are set out in paragraph 2.2. The dwelling is located on an open road side site. There are transient critical views of this site from the north east and south west on Altmover Road

and from the north west on Larch Road. A new dwelling would be prominent given the openness of the site. The site lacks long established boundaries and it is unable to provide a suitable degree of enclosure given some of the boundaries are undefined. It will rely primarily on new landscaping for integration since there is no landscaping on most of the boundaries, a new lane will be required which if accessed north of the existing shed will remove mature vegetation and this new lane will not integrate into its surroundings. The application is outline however the description includes that the proposal is 2 storey which is inappropriate for this site. Given the site and surrounding characteristics for this proposal it fails to integrate satisfactorily and will be unduly prominent in the landscape. The proposal fails to comply with Policy CTY 13.

Rural Character

- 8.18 CTY 14 states 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. The proposal is unduly prominent in the landscape as demonstrated above under section CTY 13 consideration. The proposal fails to comply with criteria `a` of CTY14.
- 8.19 In addition the site fails to comply with criteria (b) and (d) of CTY14 in that it results in a suburban style build-up of development when viewed with existing and approved buildings and would add to a ribbon of development. The proposal when viewed with the 3 nearby dwellings will result in a build up of development detrimental to the rural character of this area.
- 8.20 The ancillary works include a new access lane which may remove mature vegetation. The impact of ancillary works will damage rural character. The proposal is contrary to criteria `e`.
- 8.21 The proposal fails to comply with Paragraph 6.70 of the SPPS and criteria a, b, d, and e of CTY14 and will erode rural character.

Wastewater disposal

- 8.22 Policy CTY 16 of PPS 21 - Development Relying on non-mains sewerage, applies and states planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.
- 8.23 Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made. In those areas identified as having a pollution risk

development relying on non-mains sewerage will only be permitted in exceptional circumstances.

8.24 The applicant proposes to discharge to a septic tank. Environmental Health and DAERA Drainage and Water have been consulted and are content subject to standard conditions and informatives therefore the proposal complies with policy CTY 16.

Access, Movement and Parking

8.25 Policy AMP 2 of PPS 3 Access, Movement and Parking applies: Access to Public Roads states 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:

- 8.26 a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

8.27 The applicant has demonstrated visibility splays of 2 metres by 60 metres. DFI Roads have been consulted and on 21st March 2019 they confirmed they had no objection to the proposal. Larch Road is not a protected route. The proposal complies with Policy AMP 2 of PPS 3 - Access, Movement and Parking.

Natural Heritage

8.28 PPS 2 Policy NH2 – Species Protected by Law and Policy NH5 – Habitats, Species or Features of Natural Importance are applicable. There are mature trees on site and a building. Natural Environment Division were consulted and given the site characteristics a biodiversity checklist was required. The biodiversity checklist states that there is no impact on habitat or species. The case officer considered the content of the biodiversity checklist and concluded that there was no evidence to contradict the findings of the biodiversity checklist. On this basis the proposal complies with policy NH 2 and NH 5 of PPS 2 in that it has been demonstrated that the proposal is not likely to harm any European protected species, Habitats, Species or Features of Natural Importance.

Habitats Regulations Assessment

8.29 Habitat Regulations Assessment Screening Checklist - Conservation (natural Habitats, etc) (Amendment) Regulations (Northern Ireland)

2015: 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 is not in the vicinity of any watercourse. 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 at this location having regard to the Northern Area Plan and other material considerations, the SPPS and Planning Policy Statements 2, 3 and 21. Consultee responses have been considered. As the proposal has not complied with the various planning policies it is considered unacceptable, and refusal is recommended.

10 Reasons for Refusal

1. The proposal is contrary to SPPS Para 6.73, 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 it has not been demonstrated that the farm business is currently active.
2. The proposal is contrary to 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 Altmoover Road.
3. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal is unduly prominent, the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape.
4. 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, be unduly prominent in the landscape and would if permitted add to a ribbon of development and would

therefore result in a detrimental change to the rural character of the countryside.

Site Location Map

