



Title of Report:	Planning Committee Report – LA01/2020/0687/F
Committee Report Submitted To:	Planning Committee
Date of Meeting:	24th November 2021
For Decision or For Information	For Decision

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	Senior Planning Officer

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

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

<u>App No:</u>	LA01/2020/0687/F	<u>Ward:</u>	Greysteel
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Approx 70m NE of No 81 Coolagh Road, Greysteel		
<u>Proposal:</u>	Proposed first farm shed on holding		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	22.07.2020
<u>Listed Building Grade:</u>	N/A	<u>Target Date:</u>	
Agent:	Carol McIlvar Ltd, Chartered Planning Consultants, Unit 7 Cookstown Enterprise Centre, Cookstown, BT80 9LU		
Applicant:	Mr Ryan Brolly, 117 Dunlade Road, Greysteel, BT47 3EG		
Objections: 0	Petitions of Objection: 0		
Support: 0	Petitions of Support: 0		

Executive Summary

- Full planning permission is sought for an agricultural shed within a roadside field along Coolagh Road.
- The applicant's farm holding has not been established for six years.
- It has not been demonstrated that the applicant cannot maintain the current arrangement of renting sheds or find other alternative sheds to meet the needs of the farm business, and that the proposed shed is necessary for the efficient use of the holding.
- The application site lacks sufficient landscaped boundaries to provide a suitable degree integration for the proposed shed.
- The application is recommended for Refusal as it is contrary to Paragraphs 6.70 and 6.73 of the SPPS and Policies CTY 1, 12 and 13 of PPS21.

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

1 RECOMMENDATION

- 1.0 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 conditions set out in section 10.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located approximately 70m North East of No.81 Coolagh Rd, Greysteel. The application site is located at a roadside location within an agricultural field which has recently been sub-divided into two fields, with the application site in the southern portion of the field. The field in which the site is located falls away gently from the Road in an eastern direction with the shed proposed in the south eastern corner of the site. The roadside boundary of the field comprises of a post and wire fence which is set down behind the grass verge. The grass verge has been cleared/lowered in recent times and is devoid of any vegetation other than one tree to the southern end which is approximately 5-6m in height. The southern boundary runs along an existing laneway and is defined by an earth embankment with gorse hedge on top which extends to approximately 2-2.5m in height. The eastern boundary is defined by a post and wire fence while the northern boundary is undefined.
- 2.2 The application site is located within the rural area outside of any settlement limit as defined in the Northern Area Plan 2016. The site is not located within any environmental designated sites. The application site is located in an area which is predominately agricultural in nature, with development sparsely scattered and of a modest scale. To the south west of the site is a dwelling which is unrelated to the proposed site. To the north of the application site is a grouping of buildings comprising a mix of dwellings and farm outbuildings which are unrelated to the proposed development.

3.0 RELEVANT HISTORY

- 3.1 B/1999/0320/O - Coolagh Road, Bolie, Limavady - Site for house
– Application Withdrawn 09.11.1999

4.0 THE APPLICATION

- 4.1 The application seeks full planning permission for the erection of an agricultural shed. The proposed shed will be accessed via a newly constructed access onto Coolagh Rd. The area around the shed will be finished in hardstanding with drainage channels provided to collect dirty water and effluent, directed to a collection tank to prevent run-off from the site.

5.0 PUBLICITY & CONSULTATIONS

External: No objections have been received to this application.

Internal:

DFI Roads: No objections.

Environmental Health: No objections.

NI Water: No objections.

DAERA: No objections.

DAERA NED: No objections.

DAERA WMU: No objections.

Shared Environmental Services: 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

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)

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 21: Sustainable Development in the Countryside

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, access, and Habitat Regulations Assessment.

Principle of Development

- 8.2 Paragraph 6.73 of the SPPS and Policy CTY1 of PPS21 outline the range of types of development that may be acceptable in principle in the countryside. In the case of agricultural development Policy CTY1 refers to Policy CTY12.
- 8.3 Paragraph 6.73 of the SPPS and Policy CTY 12 outline that provision can be made for development on an active and established farm where the proposal is necessary for the efficient use of the holding.
- 8.4 Policy CTY 12 requires that the subject development is located on an active and established agricultural holding. This requirement is distinguishable from the farm business being active and established. Therefore, Policy CTY 12 does not require assessment of whether the associated farm business is active and established. The established period for the agricultural holding is a minimum of six years.
- 8.5 The applicant has provided details of the extent of their farm holding, by way of detailing the lands currently farmed and lands previously rented but which no longer form part of their holding. The current farm holding equates to the 2.88 acres of land at Coolagh Rd (application site), 50 acres of land sited to the north of Clooney Rd (Greysteel), 1.78 acres of land within the defined settlement limit of Greysteel and 5.46 acres of land at Dunlade Rd (O'Connor).
- 8.6 The applicant advises that they have rented the lands at Clooney Rd since 2017. Previously the applicant had rented a different small parcel of land at Dunlade Rd, Greysteel from 2012-2017 (Mr and Mrs Moore). The applicant also advises that the only lands within their ownership are the 2.88 acres of land at Coolagh Rd, which were purchased in 2019.
- 8.7 Planning appeal 2018/E0032, which related to an unauthorised erection of a shed, hardstanding and access at Largy Rd, Limavady, defines an agricultural holding as land occupied as a unit for the purposes of agriculture. The same appeal outlines

that in order to comply with Policy CTY 12 what the appellant needs to demonstrate is that the holding is active and established. The word “established” means more than mere existence; it has the connotation of being set up and settled on a firm or permanent basis.

8.8 It is the longevity of the farm holding which is the key criteria to determining compliance with policy CTY12. In this context it is possible that a farm holding can be active and established over a period of time by different businesses, however this relates to the holding relating to the same extent/unit of land. A farm holding can comprise agricultural land either owned or leased or a combination of both.

8.9 The applicant’s holding has been an evolving entity in that there has been little in the way of a continuous or fixed element to the extent of the holding, up until the purchase of 2.88 acres of land at Coolagh Rd, on which the application site is located. However, when considering the applicant’s holding only lands which have been farmed as part of the holding for more than six years, are eligible for consideration under Policy CTY12.

8.10 The lands at the application site have only been part of the holding since their purchase in 2019 from another farm holding. Reliance upon the previous activities of another farm holding and business cannot be relied upon to justify the established nature of the applicant’s farm holding, whereby those activities do not relate to the same agricultural unit. This approach is consistent with the outcome of planning appeal 2018/E0032.

8.11 As outlined above, the only part of the current farm holding which the applicant outlines has been farmed by the applicant for a period of more than six years is the lands at Dunlade Rd. A letter from the landowner (Mr O’Connor) outlines that the applicant was using their land for sheep in 2013 and that there was no written agreement. The letter goes on to outline that the applicant is still currently using their land. However, this letter does not provide sufficient clarity that the lands have been used continuously since 2013 or for what purpose. Additionally, DAERA have outlined that the applicant has only claimed Single Farm Payment on these lands since 2020, despite being eligible to claim entitlements since 2017. As there is insufficient information relating to the continuous use of the lands at

Dunlade Rd, rented from Mr O'Connor it has not been demonstrated that those lands have been farmed continuously for a period of 6 years and as a result do not form a holding for the purposes of the policy.

8.12 The lands at Coolagh Rd (application site) would not support an application under CTY12 until the current holding has been established for six years (2025). This assessment is in line with PAC decision 2018/A0164, which related to the retention of an existing agricultural shed at Cairn Rd, Carrickfergus, whereby the appellant purchased lands less than 6 years from when the application was submitted, and had also farmed rented lands for a period in excess than 6 years at an alternative location. It was ruled that despite the required period of agricultural activity being met, the appeal site did not form part of their farming activities until their purchase and that there was no justification for allowing development on lands purchased less than six years ago. Additionally appeal 2017/A0010, which was for a new shed at Edenreagh Road, Eglinton, ruled that Policy CTY12 requires consideration of the holding that has been in existence for 6 or more years. Policy CTY12 therefore requires the building to be sited on lands which has been part of holding for at least 6 years, as opposed to the land recently bought into holding.

8.13 The applicant raised a number of appeal decisions in support of their application during the processing of the application. Appeal 2011/A0128 (Kilcoo, Portadown) makes no comments in regards to agricultural holdings and is therefore of no relevance. Appeal 2010/E049 (Portadown) outlines that the 45 Ha holding on which the shed was proposed was purchased in 2005 and on the basis of the evidence it was clear the holding had been active and established. This is at odds with the proposal and is consistent with the approach in appeal 2018/E0032 referenced above which outlines that while separate businesses can be used to establish activity over the desired period it is required to be on the same unit of land. Appeal 2011/0081 (Newtownhamilton) outlines that the lands had been used for agricultural purposes prior to their purchase. No information is provided as to whether the purchase was for the entire holding or not. Appeal 2014/A0136 (Edenreagh Rd, Eglinton) clarified that the field (site) was purchased in 2002 and was therefore part of the applicant's holding for over 6 years. The appeals referenced above by the Planning Department apply the same approach to

defining an active and established holding, but go further than those cited by the applicant/agent, to clearly clarify when lands are or are not part of an active and established holding.

8.14 Therefore, while the applicant has an active and established farm business, the agricultural holding, as a unit, has not been active and established for the required six years and the lands on which the shed is proposed are on lands which have not been part of the holding for at least six years. The proposal therefore fails to meet with the requirements of CTY12.

8.15 CTY 12 further clarifies that planning permission will be granted for development on an active and established agricultural or forestry holding where it is demonstrated that:

- (a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;
- (b) in terms of character and scale it is appropriate to its location;
- (c) it visually integrates into the local landscape and additional landscaping is provided as necessary;
- (d) it will not have an adverse impact on the natural or built heritage; and
- (e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

In cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

- there are no suitable existing buildings on the holding or enterprise that can be used;
- the design and materials to be used are sympathetic to the locality and adjacent buildings; and
- the proposal is sited beside existing farm or forestry buildings.

8.16 The proposal is for a new agricultural shed. The applicant has outlined that there are no farm buildings. Consequently there are no buildings on the holding which can be used to meet the needs for the business and to which the new building can be sited beside.

(a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;

- 8.17 The applicant advised that the shed is necessary as there are currently no buildings on the farm holding and that the shed is required to provide storage for machinery and periodic housing of animals, mainly ewes at lambing time (20-30 ewes). The applicant has clarified that they use rented animal accommodation as their handling facilities in the absence of their own buildings, however it is unclear where these buildings are located. The applicant has not demonstrated why this arrangement cannot be maintained or that they have carried out adequate inquiry as to the availability of other available sheds/handling facilities which could be used to accommodate their machinery and livestock. For example there are existing sheds adjacent to the lands at Clooney Rd. It has not been demonstrated whether any of these buildings are available for renting. It is also noted that there are existing sheds at the applicant's home address. Again no evidence as to why these cannot be used to serve the holding has been provided.
- 8.18 The agricultural lands at Coolagh Rd (application site) equate to 1.07Ha (as per the submitted farm maps). The application site equates to 0.5ha which is almost half of the lands at Coolagh Rd. In practical terms to lose almost half of farm lands at this location to provide the shed and associated yard area will have a significant impact on the viability of the remaining lands at this location.
- 8.19 Given that the applicant has, up until now been able to provide accommodation for their animals through rented accommodation, it has not been satisfactorily demonstrated why this arrangement cannot be maintained. In terms of efficiency for the holding, to locate the proposed shed at the application site would be removed from the majority of the lands which make up the applicant's holding and also removed from their place of residence, which would appear to be a less practical and efficient means of farming the holding. While the Planning Department acknowledge that this is the only land which the applicant owns, it is not persuaded that the erection of a shed on these lands is necessary for the efficient use of the holding.

(b) in terms of character and scale it is appropriate to its location;

8.20 The proposed shed measures 18.2m in length and 12.2m in width and has a ridge height of 6m. The shed is to be constructed in blockwork walls to the lower levels with metal cladding on the upper levels and roof. One large door opening is proposed in the northern façade. In terms of character and scale the shed would be considered typical of the local rural area and similar in scale to other agricultural sheds in the vicinity. The critical consideration would be, despite being in keeping the character and scale of other agricultural development in the vicinity, does the proposed shed have the ability to be able to integrate in the landscape. This issue is discussed at criteria c below.

(c) it visually integrates into the local landscape and additional landscaping is provided as necessary;

8.21 The application site is located in a roadside location with the shed located approximately 40m back from the road. On approach from the north views of the site will come into view when passing Nos. 76 and 78. From here the application site will be in clear view with only low lying vegetation along the roadside boundary of the subdivided field to the north, and limited existing vegetation, which will require removal for the provision of access, across the application site frontage present. This lack of roadside vegetation, coupled with the fact that there is no existing natural boundary or vegetation to the northern and eastern site boundaries means that the application site is open and exposed when approaching from the north. Only the southern boundary offers any degree of natural screening but at approximately 2- 2.5m in height will not, in itself, offer sufficient enclosure or integration to a building of the scale proposed.

8.22 With views of approximately 200m on approach from the north the shed would appear as a conspicuous feature in the landscape and would fail to satisfactorily integrate with its surroundings. A significant amount of new landscaping is proposed by the applicant in an attempt to integrate the building into the site. However the application site is almost completely dependent on new landscaping to provide sufficient screening and integration and will take a considerable time to become

established to a level which would achieve satisfactory integration. The proposed shed will fail to integrate with its natural surroundings and therefore fails to meet with criteria c of the policy. Consequently as the proposal would fail to satisfactorily integrate it also fails to meet with Paragraph 6.70 of the SPPS and Policy CTY13 of PPS21.

(d) it will not have an adverse impact on the natural or built heritage; and

- 8.23 The application site is not located within the vicinity of any listed buildings or identified archaeological or other built heritage features. As such the proposal will not impact upon such features.
- 8.24 The application site is not located within an environmental designated site or sensitive area. Both DAERA and Shared Environmental Services were consulted on the proposal to assess the potential impact of the development on natural heritage features, including the potential impact on designated sites from ammonia emissions etc.
- 8.25 Following confirmation from the applicant that a relatively small number of sheep (20-30) would be stored in the shed during the lambing period (max 2 months) Shared Environmental Services advised that based on the small number of sheep to be housed occasionally, emissions of ammonia will be insignificant and there will be no impacts to any European sites from the proposal. Mitigation has been proposed by way of condition to limit the housing of animals to lambing sheep.
- 8.26 Having considered the proposal, DAERA have advised that due to the nature of the development and the distance to designated sites, that provided a minimum buffer of 10 metres is applied to any watercourse throughout all phases of the development and appropriate pollution prevention measures are implemented during the construction and operational phases of the development and there is no untreated surface water discharged to any watercourse, the proposal is unlikely to have a significant impact on the designated sites.
- 8.27 There are no identifiable watercourses within the application site, with the closest identified watercourse being approximately

140m east of the site, which will ensure an appropriate buffer is maintained. An updated block plan was submitted 16th September 2021, which provides for the appropriate collection of dirty water/effluent from the yard area surrounding the shed, to prevent run-off from the site which may have the potential to adversely impact on the aquatic environment. DAERA Water Management Unit were consulted on this element of the proposal and have no objection. The Planning Department are content that the proposal will not result in any detrimental impact on any designated sites.

- 8.28 DAERA NED outlined within their response that the NI Biodiversity Checklist should be used to establish if any ecological surveys are required for a complete application. From inspection of the site it is evident that ground conditions differ from the aerial imagery with the majority of the roadside boundary and eastern (rear) boundary having been removed. The only significant elements of vegetation remaining within the site is the presence of a tree along the roadside boundary which will be required to be removed to facilitate the necessary access and visibility splays, and the gorse hedgerow along the southern boundary which is broken across the extent of the site. The prior removal of this vegetation will have impacted on any potential habitats and species present and is likely to limit the potential for significant ecological value remaining within the site boundaries. On the basis of the information above a biodiversity checklist has not been requested by the Planning Department.

e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.

- 8.29 The proposed shed was initially sited approximately 65m from the property at No. 81 Coolagh Rd on the opposite side of the road from the site. Initial comment form Environmental Health stated that it is recommended that agricultural buildings are separated from residential dwellings by at least 75m. The dwelling at No. 81 Coolagh Road may on occasions suffer a loss of amenity due to noise or odour arising from operations at the proposed farm shed. Subsequent revised plans have sited the proposed shed further to the east within the application site and now propose the shed to be approximately 80m from the

dwelling at No. 81. Environmental Health were asked via email if they required further consultation or additional information to assess the proposal, and responded to outline that they did not require to make any further comment as the proposed separation distance met with their guidance. It is noted that a planning application to the north of the site, which was for a new dwelling (LA01/2020/0253/O), from a different applicant, has been withdrawn. Given the comments from Environmental Health and the proposed use of the shed, the Planning Department are content that there will be no significant adverse impact on surrounding residential amenity.

- 8.30 The proposal fails to comply with Paragraph 6.73 of the SPPS and CTY 12 of PPS21. In addition no overriding reasons have been forthcoming as to why the development is essential and is therefore contrary to CTY1 of PPS21.

Access

- 8.31 Access to the proposed shed is via the construction of a new access directly onto Coolagh Rd. DFI Roads were consulted on the scheme, and following the submission of amended plans now offer no objection. The proposal is in compliance with Policy AMP2 of PPS3.

Habitat Regulations Assessment

- 8.32 Shared Environmental Services were consulted in relation to this application and have carried out a Habitat Regulations Assessment under the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995, on behalf of the Planning Department to assess potential impacts on the selection features, conservation objectives and status of Lough Foyle SPA/Ramsar, River Faughan and Tributaries SAC and River Roe and Tributaries SAC. Having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on a European site. This conclusion is subject to the imposition of mitigation by means of planning condition to limit occupation of the proposed shed to lambing ewes.

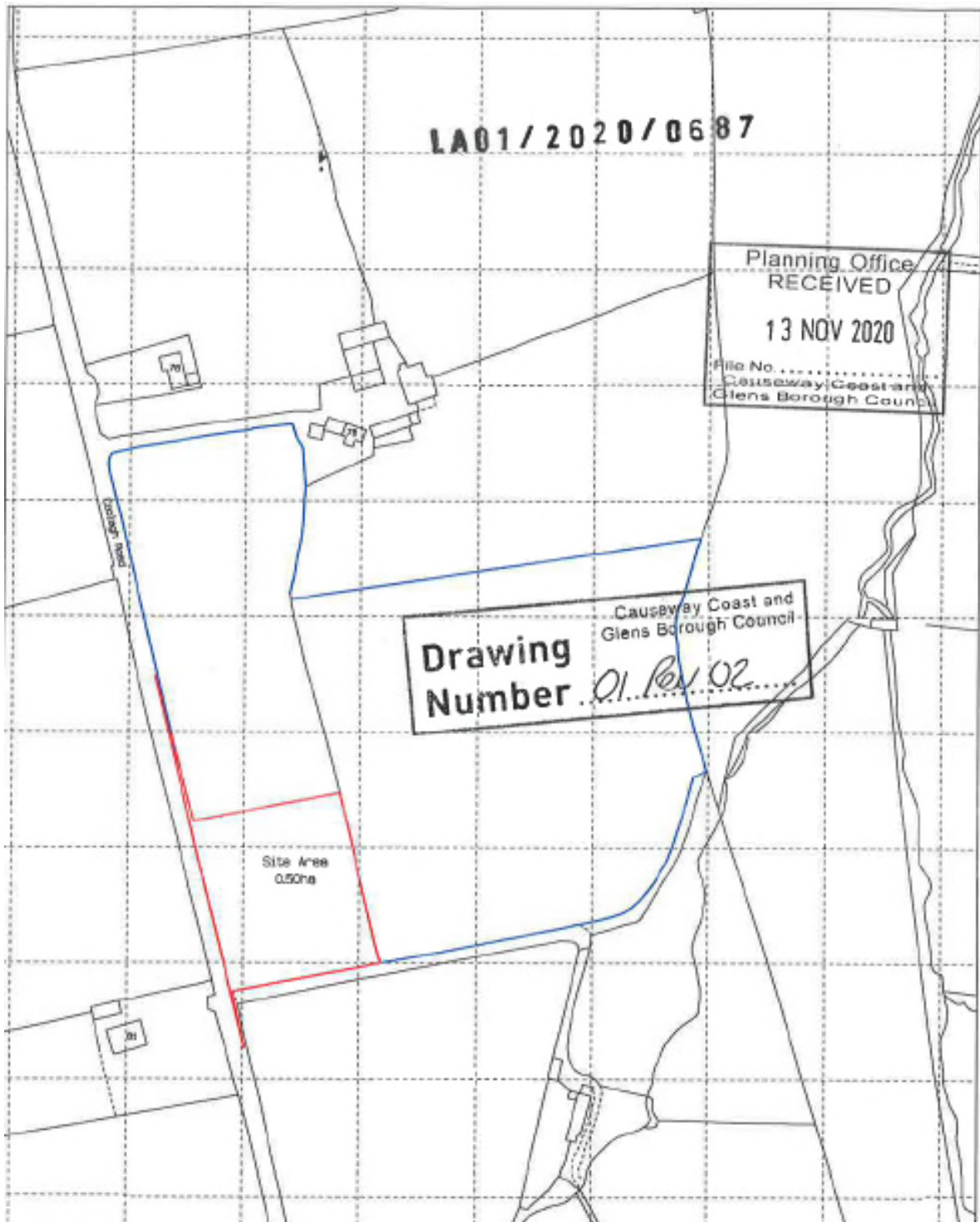
9.0 CONCLUSION

- 9.1 The proposed agricultural shed is not located on an active and established agricultural holding. Additionally, it has not been demonstrated that the shed is necessary to meet with the efficient use of the holding and that there are no available alternative buildings which could serve the needs of the farm. The application site is located in a roadside location and is devoid of any meaningful vegetation or adjacent buildings which would provide sufficient screening for the proposed building meaning that the proposed building would not satisfactorily integrate into the landscape. The proposal is contrary to Paragraphs 6.70 and 6.73 of the SPPS and Policies CTY 1, 12 and 13 of PPS21. Refusal is recommended.

10.0 Reasons for Refusal

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.73, and Planning Policy Statement 21, Policy CTY 1 in that there are no overriding reasons why the development is essential and could not be located in a settlement
2. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.73, and Planning Policy Statement 21, Policy CTY 12 in that it has not been demonstrated that: the agricultural holding has been active and established for 6 years; the shed is necessary for the efficient use of the agricultural holding and; the development visually integrates into the local landscape.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.70 and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration.

Site Location Map



Block Plan

