

<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2022/0233/O</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>22<sup>nd</sup> February 2022</b>
<b>For Decision or For Information</b>	<b>For Decision – Referred Application by Cllr John McAuley</b>

<b>Linkage to Council Strategy (2021-25)</b>	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Senior Planning Officer

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

<b>Screening Requirements</b>	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:

**No:** LA01/2022/0233/O      **Ward:** Ballykelly

**App Type:** Outline

**Address:** 50m East of 51 Ballykelly Road, Rascahan, Limavady

**Proposal:** Single storey portal frame industrial building for workshop and industrial start-up units. Extension of hard standing to create yard for vehicle turning, staff and customer parking.  
Alterations to existing vehicular access to Ballykelly Road

**Con Area:** N/A      **Valid Date:** 24.02.2022

**Listed Building Grade:** N/A

**Agent:** Nathan Armstrong Architect, 9 Scroggy Park, Limavady, BT49 0DE

**Applicant:** SC Tarmac Ltd, 40 Laurel Road, Glack, Limavady, BT49 9NB

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

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

## **EXECUTIVE SUMMARY**

- Outline planning permission is sought for a single storey portal frame industrial building for workshop and industrial start-up units. Extension of hard standing to create yard for vehicle turning, staff and customer parking. Alterations to existing vehicular access to Ballykelly Road
- The site is located within open countryside and outside any Settlement Development Limit as designated within the Northern Area Plan 2016.
- Ballykelly Road from which the proposal is accessed is a protected route.
- The proposed development relates to the construction of standalone workshop and industrial start-up units and does not relate to the expansion of an Established Economic Development Use as required under Policy PED 3 of PPS4.
- The proposal has not demonstrated that there are no other suitable lands within existing settlements or zoned for Economic Development in the Northern Area Plan which could accommodate the proposal. No sequential test has been provided to demonstrate site selection outside of settlements and no detailed information has been forthcoming to indicate how the proposal would benefit the local economy as required by Policy PED 6
- It has not been demonstrated that the proposed development would not have an adverse impact on residential amenity, Natural Heritage features, features of Built Heritage Importance or not result in flood risk to the development site or elsewhere or not impact on receptors who would utilise the site.
- There is one letter of support to the proposal.

- The proposal is contrary to the SPPS, PPS2 – Natural Heritage, PPS4 – Planning and Economic Development, PPS6 – Planning, Archaeology and the Built Heritage, PPS15 – Planning and Flood Risk and PPS21 – Sustainable Development in the Countryside
- The application is recommended for Refusal.
- 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 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 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located 50m East of 51 Ballykelly Road, Rascahan, Limavady. The application site is set back from the public road approximately 140m and is accessed via an existing laneway which serves an adjacent agricultural machinery sales business and another derelict building adjacent the application site.
- 2.2 The application site comprises an unused parcel of land which is sandy in nature. The application site comprises a number of earth mounds in the southern part of the site and to the immediate north of the site which are covered in dense gorse/briars. The application site undulates slightly in a west to east direction with the land falling away to the east beyond the eastern site boundary. The northern and eastern boundaries of the application site are undefined. The southern site boundary comprises a post and wire fence on top of an earth bank with vegetation to the front and top of the bank, which extends to approximately 4-5m in height. The western boundary is defined by a 2.4m paladin fence immediately adjacent to the laneway and otherwise undefined other than by a group of trees to the eastern side of the derelict engineering works.
- 2.3 The site is located in the countryside, outside of any defined settlement development limit as defined in the Northern Area Plan 2016, between the settlements of Limavady and Ballykelly. The site is located within the designated Fruitfield Delta 1, 2 & 3 incorporating Tully Sandpit and Farlow Wood Site of Local Nature Conservation Importance (LNC 05) as designated within the Northern Area Plan 2016. The site is located adjacent to an

existing agricultural machinery sales business, and to a derelict engineering workshop to the west of the site. There are residential properties located approximately 100-160m to the east of the site along Farlow Rd. There are historic buildings within the wider setting of the application site with the dwelling at No. 6 Farlow Rd, being located approximately 125m east of the site, with Sampson's Memorial Tower located just under 300m east of the site.

### **3 RELEVANT HISTORY**

#### Application Site

Planning reference: B/2005/0075/F

Location: 51 Ballykelly Road, Rascahan, Limavady

Proposal: Replacement of existing workshops/stores with modern workshop relocated to allow for the modernisation of yard and the formation of additional vehicle parking

Decision: Permission Granted 25.05.2006

#### Adjacent to Application Site

Planning reference: B/2006/0282/F

Location: 51 Ballykelly Road, Rascahan, Limavady

Proposal: Erection of replacement office block with associated car parking and entrance details

Decision: Application Withdrawn 08.01.2009

Planning reference: B/2007/0582/F

Location: 51 Ballykelly Road, Limavady

Proposal: Demolition of existing buildings & erection of two/three storey residential care & nursing home with associated car parking & landscaping

Decision: Application Withdrawn 18.02.2010

Planning reference: B/1974/0019

Location: Roscahan, Ballykelly

Proposal: Workshop and addition of new buildings

Decision: Permission granted 25.12.1974

Planning reference: B/1976/0059  
Location: Rascahan, Ballykelly  
Proposal: Engineering Workshop  
Decision: Permission granted 18.05.1976

## 4 THE APPLICATION

- 4.1 Outline planning approval is sought for a single storey portal frame industrial building for workshop and industrial start-up units. Extension of hard standing to create yard for vehicle turning, staff and customer parking. Alterations to existing vehicular access to Ballykelly Road. Although the application is outline a site plan has been submitted which indicates the provision of 1 building with a total floor area of 640m<sup>2</sup>, which contains 4 units each with a floor area of 160m<sup>2</sup>. The site plan annotations refer to the reduction in ground levels by 0.5m and provision of earth bank and landscaping to provide screening from the Ballykelly Rd.

## 5 PUBLICITY & CONSULTATIONS

### 5.1 External

**Neighbours:** There is one letter of support to the application.

### 5.2 Internal

**DFI Roads** – No objections

**Environmental Health** – Additional Information Required

**NI Water** – No objections

**Historic Environment Division – Historic Buildings** –

Additional Information Required

**Historic Environment Division – Historic Monuments** – No objections

**DAERA Natural Environment Division** – Additional Information Required

**DAERA Water Management Unit** – Condition proposed

**DAERA Regulation Unit** – Additional Information Required

**Shared Environmental Services** – Additional Information Required

**Loughs Agency** – No Response

**NI Electricity** – No objections

**Rivers Agency** – Additional Information Required

## **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:  
Northern Area Plan 2016 (NAP)

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

6.3 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.

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

6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

Regional Development Strategy  
2035.

Northern Area Plan 2016.

Strategic Planning Policy Statement.

PPS 2: Natural Heritage.

PPS 3: Access, Movement and Parking.

PPS 4: Planning and Economic Development.

PPS 6: Planning, Archaeology and the Built Heritage.

PPS 15: Planning and Flood Risk.



PPS 21: Sustainable Development in the Countryside.

Recovery and Renewal – An economic strategy for the Causeway Coast and Glens

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to: principle of development, access, flood risk, natural heritage, Habitats Regulation Assessment, built heritage, land contamination.

### **Principle of Development**

- 8.2 Paragraph 6.81 of the SPPS outlines that the planning system has a key role in achieving a vibrant economy. In this regard, the aim of this SPPS is to facilitate the economic development needs of Northern Ireland in ways consistent with the protection of the environment and the principles of sustainable development.
- 8.3 Policy CTY 1 of PPS 21 outlines the range of development types which are considered to be acceptable in principle in the countryside. With regards to industrial and business uses Policy CTY 1 refers to the policies contained within PPS 4 – Planning and Economic Development, while Paragraph 6.74 of the SPPS permits a range of types of development where they are in accordance with other applicable policies elsewhere within the SPPS.
- 8.4 There is no conflict between the policies relating to industrial and business development in the rural area as outlined within the Strategic Planning Policy Statement and PPS4.
- 8.5 Policy PED 2 - Economic Development in the Countryside within PPS 4 outlines that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following policies:
- The Expansion of an Established Economic Development Use – Policy PED 3

- The Redevelopment of an Established Economic Development Use – Policy PED 4
- Major Industrial Development – Policy PED 5
- Small Rural Projects – Policy PED 6

- 8.6 The applicant asserts that the appropriate policy against which to assess the application should be Policy PED 3 which relates to the expansion of an established economic development use.
- 8.7 Policy PED 3 states that the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise.
- 8.8 The applicant contends that the proposal for workshop and industrial start-up units, is related to an existing/established use, albeit not currently operational (Engineering Workshop), which is sited adjacent to the application site. The agent outlines that the correct policy test to be applied is whether the existing use of the site is lawful rather than the operational status. The agent referenced appeal 2020/A0073 at Corcreechy Road, Newry (Appendix 1) in support of their argument. Paragraph 14 of the appeal outlines that “for a business use to be an established use, it must be lawful”. While factually correct, as it would be erroneous to consider an application to expand a business use which is unlawful, the critical aspect to the appeal example was that there was a lawful operating business at this location which sought an expansion. In this regard the emphasis on the lawfulness of, or established land use rather than on the presence of an operational business is somewhat misplaced.
- 8.9 The scope of Policy PED 3 relates to providing for the expansion of existing businesses/enterprises. This point is clearly evident from the justification and amplification text at paragraph 5.12 of PPS4 which recognises that over time many existing enterprises will need to expand and/or diversify. In this regard it is necessary for a lawful, operational business/use to be present, in order to justify the need for expansion.
- 8.10 From the information provided it is apparent that the application site is a separate entity to the adjacent parcels of land which

comprise an agricultural machinery sales business and the derelict 'Engineering Works'. The P1 form and site location plan outline the extent of lands under the applicant's ownership or control, which does not include any of the lands to the west of the application site which comprise the aforementioned uses. From the submitted proposed 'site plan', the proposal relates to a self-contained parcel of land, physically separate from the adjacent businesses, as denoted by the separate access point, and the perimeter fencing along all site boundaries, and relates to the provision of new independent start-up units(uses), which are unrelated to any existing business. As there is currently no operational business/enterprise at the application site to which the proposed expansion relates there is no justification for an expansion. The proposal therefore fails to meet with Policy PED 3.

- 8.11 The proposal relates to the provision of a number of workshop and industrial start-up units, which could run independently of each other or any adjacent businesses. As such the appropriate policy context to assess the proposal against is Policy PED 6 – Small Rural projects.
- 8.12 Policy PED 6 of PPS4 outlines that a firm proposal to develop a small community enterprise park/centre or a small rural industrial enterprise on land outside a village or smaller rural settlement will be permitted where it is demonstrated that all the following criteria are met:
- (a) there is no suitable site within the settlement;
  - (b) the proposal would benefit the local economy or contribute to community regeneration; and
  - (c) the development is clearly associated with the settlement, but will not dominate it, adversely affect landscape setting or otherwise contribute to urban sprawl.
- 8.13 The Regional Development Strategy promotes a balanced spread of economic development opportunities across Northern Ireland focused on the main regional cities and urban hubs. Additionally, paragraph 6.88 of the SPPS outlines that in the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes

outside settlements must be restricted, however acknowledges that exceptions to this general principle may be justified

- 8.14 The Northern Area Plan 2016 identifies areas of Existing Economic Development land and has zoned a total of 135.7 hectares of land for economic development use across the Council area, with 61.2 hectares of land zoned at Aghanloo Industrial Estate outside Limavady. The application site is located approximately 1.5km west of Limavady Town and approximately 2.8km south west of the economic development lands at Aghanloo Rd, where there are sufficient available lands to accommodate a development use of the nature and scale proposed.
- 8.15 In the first instance, proposals relating to economic development in the vicinity of towns should be directed towards those lands identified for economic development use within the Area Plan. The applicant has not provided any justification in terms of the site selection process to demonstrate why the lands zoned for Economic Development at Aghanloo Industrial Estate were not considered or could not accommodate the proposed development. The applicant has not provided any justification why there are no suitable locations within existing settlements to accommodate the proposed development in order to justify a rural location. In the absence of this information the proposal fails to meet Criteria a of PED 6
- 8.16 Paragraph 5.25 of PPS 4 outlines that Policy PED 6 allows for a flexible approach to ensure adequate provision is made where firm proposals exist for a small rural enterprise that is associated with a village or smaller rural settlement but cannot be accommodated within the settlement. The proposed development is located in the rural area between the settlements of Limavady and Ballykelly, both of which are designated towns within the Northern Area Plan 2016. In this respect the application site is not located in proximity to or in association with an existing village or small rural settlement and therefore fails to meet Criteria c of Policy PED 6.
- 8.17 Policy PED 6 also requires applications to present a firm development proposal and requires the submission of supporting evidence to demonstrate how realistic the proposal is. Paragraph 5.26 outlines that the application should be

accompanied by details to include sufficient evidence to indicate how realistic the particular proposal is, what sources of funding are available to sustain the project and an assessment of the likely contribution the enterprise will make to the local economy. No details have been provided as to the likely end users of the units or in regard to factors such as job creation and contribution to the economy. In the absence of this information the proposal fails to meet Criteria b of PED 6

- 8.18 The Council's Economic Development Strategy (Recovery and Renewal – an economic strategy for the Causeway Coast and Glens) seeks to sustain and grow its local economy. While supporting economic growth is a material consideration in the processing of planning applications, given the lack of supporting economic information, the Planning Department do not find the economic argument presented by the agent to be of significant weight in this instance.
- 8.19 The application as presented lacks sufficient detail in terms of the firmness of the proposal and its contribution to the local economy. The proposal as presented is speculative in nature and has not provided a robust analysis of the sequential approach to site selection or site-specific circumstances which would justify a deviation from planning policy. A proposal of this nature and scale could be accommodated at the zoned economic development lands at Aghanloo Industrial Estate 2.8km North East of the proposed site and provide the same contribution to the local economy. The proposal is contrary to Paragraph 6.88 of the SPPS and Policy PED 6 of PPS 4.
- 8.20 As the proposal fails to meet with Policies PED 3 and PED 6 it fails to meet the overarching Policy PED 2.
- 8.21 Policy PED 9 requires that in addition to the other policy provisions of this Statement, proposals will be required to meet all the following criteria:

***(a) it is compatible with surrounding land uses;***

The application site is located adjacent to an operational agricultural machinery sales business and derelict premises, which is annotated as being an 'Engineering Works', however this does not appear to have been operational for a

considerable time. In terms of compatibility the final end user of the proposed units is not yet known. While the use of buildings for an industrial type use would be compatible to that of the former Engineering Works, given the wider land use character, which includes residential dwellings, and the unknown use/occupants, the compatibility of the proposal in respect of residential use cannot be fully assessed. The proposal is therefore contrary to PED 9.

***(b) it does not harm the amenities of nearby residents;***

The application site sits approximately 100-170m west of two residential properties along Farlow Rd, with a number of dwellings located to the north west and south west of the site along Brighter Rd, approximately 400m from the site. Given the application proposal relates to industrial and start-up units there is the potential for adverse impacts on nearby residential properties from noise, odour and dust from the end user of the units. Environmental Health have been consulted on the application who have advised that the following additional information is required to assess the impact on residential amenity;

- Intended use class of proposed units
- Hours of operation of the units
- Noise impact assessment to predict resultant noise levels at closest dwellings and details of any mitigation required
- Clarification of likelihood of dust, odour etc. arising from use of units

To date none of the above information has been provided to the Planning Department for consideration and given the principal of development is considered to be unacceptable it has not been formally requested. In an email to the Planning Department dated 5<sup>th</sup> July 2022 the agent advised that they have no further technical submissions to make for this application. As it has not been demonstrated that the proposed development would not result in an adverse impact on the amenity of surrounding residential properties the proposal is contrary to Policy PED 9 of PPS4.

***(c) it does not adversely affect features of the natural or built heritage;***

The application site is located approximately 170m west of a listed building at Rascahan House, 6 Farlow Rd. Historic Environment Division have considered the proposed development and require further information to assess the impact on the setting of the listed building. This issue is discussed in further detail below at paragraphs 8.37 - 8.41.

The application site is not located within any European or Nationally designated sites but is located within a designated Site of Local Nature Conservation Importance. The application site has the potential to support a range of species and habitats as well as provide a hydrological link to the designated Lough Foyle SPA, Ramsar, ASSI site. Further information is required in order to assess the impact of the development on natural heritage features. This issue is discussed in further detail below at paragraphs 8.31 - 8.36. The proposal is therefore contrary to PED 9.

***(d) it is not located in an area at flood risk and will not cause or exacerbate flooding;***

The main body of the application site is not located within a fluvial or coastal floodplain. A small portion of the application site boundary is shown to be within the fluvial floodplain of the adjacent watercourse to the west at the access point onto Ballykelly Rd. An amended site plan confirms no works are to take place within the identified floodplain. Due to the size and nature of the application a Drainage Assessment is required under Policy FLD3 of PPS15. This issue is discussed in further detail below at paragraphs 8.26 - 8.28.

***(e) it does not create a noise nuisance;***

As assessed above at criteria b, no information regarding the end user or likely use and associated impacts have been submitted for consideration. Environmental Health Department have advised that a Noise Impact Assessment is required to assess the impact of noise at the nearest sensitive receptors. The proposal is therefore contrary to PED 9.

***(f) it is capable of dealing satisfactorily with any emission or effluent;***

In terms of foul disposal the development proposes the use of a private waste water treatment plant. DAERA Water Management Unit have advised that the proposal has the potential to adversely affect the surface water environment. DAERA advise that Consent to Discharge is required for discharges to the aquatic environment and have advised that no development should take place prior to a means of foul disposal being approved.

Given the limited details submitted in respect of the end user of the units and the operations to be carried out there is limited information in respect of potential emissions or effluent being generated during the operational phase of development. Further details on the intended use/user is required to gauge the potential for unacceptable emissions or effluent from the scheme.

***(g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;***

Access to the site is from the Ballykelly Rd which is a key transport corridor and Protected Route. The P1 form outlines that there will be 16 staff vehicles, 28 customer vehicles and 8 goods vehicles visiting the site daily. A Transport Assessment has been submitted to assess the impact of associated traffic and vehicle movements on the existing road network. DFI Roads have been consulted on the information and have no objections regarding the additional traffic the development would create.

***(h) adequate access arrangements, parking and manoeuvring areas are provided;***

Access is proposed via the existing access onto Ballykelly Rd. DFI Roads have advised that they have no objection to the proposal in terms of access and road safety. An indicative site plan has been provided which indicates areas of hardstanding



for parking and manoeuvring. A schedule for parking has been provided which is in accordance with the requirements outlined within the 'Parking Standards' document. Access and parking is discussed in further detail below at paragraphs 8.21 - 8.25.

***(i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;***

The application site is in the rural area between the settlements of Limavady and Ballykelly. It is anticipated that the majority of trips and movements to the site will be dependent upon the private car, however given the proximity to the adjacent settlements access by bicycle would be feasible. While public footpaths are located along the Ballykelly Rd, the rural location is such that walking would be impractical for the majority of people. As this is an outline application the detailed design of the development has not been submitted for consideration, however the development could be designed to meet the needs of those with mobility issues.

***(j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;***

As this is an outline application there are no detailed plans relating to the design of the building, the indicative site plan indicates the proposed building sited parallel to the adjacent derelict 'Engineering Works' with the parking and manoeuvring areas to the east and south of the proposed building. The site plan shows new landscaping along the western, northern and eastern site boundaries comprising a mix of hedgerow and trees, with the southern boundary comprising a raised earth embankment with hedgerow and trees. The application site has excluded the existing earth mounds and areas of scrub/gorse and area of wetland to the east of the site, which may be of biodiversity value. The detailed landscaping scheme could be agreed at a subsequent stage in the planning process to ensure that that it is sufficient to provide biodiversity value for species which may utilise the immediate surroundings.

***(k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;***

As outlined above the indicative site plan shows new landscaping along the western, northern and eastern site boundaries with hedgerow and trees, with the southern boundary comprising a raised earth embankment with hedgerow and trees. The site plan indicates the existing ground level is to be reduced by approximately 0.5m to aid with integration of the proposed building. The detailed planting scheme can be agreed at a subsequent stage in the planning process but in principle the means of boundary treatment are considered to be acceptable.

***(l) is designed to deter crime and promote personal safety; and***

The application site is within the rural area and set back from the public road within a relatively well screened area. The site can be designed to ensure security and safety of users through the use of appropriate security fencing and CCTV etc.

***(m) in the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape.***

The application site is located approximately 140m back from the main Ballykelly Rd. When viewed from the Ballykelly Rd the application site would be relatively well screened from view by existing vegetation along the access lane and southern site boundary. Only the upper level/roof of a building on the site would generally be visible when travelling along this route, although views from lorries or other vehicles with an elevated nature would be able to see more of the proposed development. The indicative site plan submitted has indicated new and additional landscaping to be provided to all site boundaries. Subject to the submission of a detailed landscaping plan and the buildings being of a modest scale, the proposed development would suitably integrate into the landscape. Additionally, as it is considered that the proposed

development could satisfactorily integrate into the landscape the proposal meets with Paragraph 6.70 of the SPPS and Policies CTY13 and CTY14 of PPS21

- 8.22 The proposal fails to comply with Paragraphs 6.87 and 6.88 of the SPPS and Policies PED2, PED3, PED6 and PED9 of PPS4. In addition, no overriding reasons have been forthcoming as to why the development is essential in this location and is therefore contrary to CTY1 of PPS21.

### **Access and Parking**

- 8.23 Access to the proposed site is via an existing laneway onto the Ballykelly Rd, which is a Protected Route. From the plans submitted it appears that the applicant does not control lands to the east of the application site which could facilitate access to Farlow Rd, a minor road. As access from an adjacent minor road cannot be achieved the use of the existing access may be acceptable where it meets with published standards.
- 8.24 DFI Roads were initially consulted on the proposal and advised that a Transport Assessment and amended plans are required in order to be able to provide a substantive response. A Transport Assessment form and amended site plan were submitted on 4<sup>th</sup> July 2022 which demonstrated the necessary upgrade works to the access and outlines no significant intensification of use on the road network. DFI Roads were re-consulted on the information and have no objection in respect of access or road safety. It has therefore been demonstrated that a safe means of access can be achieved at the existing access point onto Ballykelly Road and as such the proposal complies with Paragraph 6.303 of the SPPS and Policies AMP2 and AMP 6 of PPS3 and Annex 1 of PPS21 entitled consequential amendment to AMP3 of PPS3.
- 8.25 Policy AMP 7 of PPS3 states that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements.
- 8.26 The indicative site layout plan indicates a building comprising 4 units with a floorspace of approximately 160m<sup>2</sup> each. As the development falls within Class B2: Light Industry and B3: General Industry (<250m<sup>2</sup>) the proposed units will require 7 car

parking spaces each, 1 operational space each and 2 bicycle spaces each as per the requirements stipulated within the 'Parking Standards' document.

- 8.27 The indicative site plan provides a parking schedule which states that provision will be made for 28 car parking spaces, 4 operational/lorry spaces and 8 bicycle spaces which meets with the requirements for the development. It is noted that the indicative site plan only shows 27 car parking spaces and 4 commercial spaces, however as this is an outline application the specific parking details can be provided in detail at a subsequent stage. The proposal complies with Policy AMP 7.

### **Flood Risk**

- 8.28 The application site is located outside of the fluvial and coastal floodplains as identified on the strategic flood maps. There is an identified area of fluvial floodplain to the west of the access laneway, to the north of the Ballykelly Rd. The access laneway is at an elevated position in relation to this area of floodplain. The revised access plan submitted 4<sup>th</sup> July 2022 to address road safety/access issues confirms that the required upgrade works to the access can be facilitated outside of the identified floodplain. As such Policy FLD 1 of PPS 15 is not engaged.
- 8.29 The development is located partially within a predicted flooded area as indicated on the Surface Water Flood Map. Additionally, the proposed development would result in a change of use involving new buildings and hardstanding in excess of 1000m<sup>2</sup>. As such the development proposal would require the submission of a Drainage Assessment as per Policy FLD 3 of PPS 15 to demonstrate how surface water can be satisfactorily managed.
- 8.30 As the principle of development is not considered to be acceptable the additional information in respect of surface water flood risk/Drainage Assessment has not been formally requested and as outlined above, the agent has advised that they have no further technical submissions to make for this application. In taking the precautionary approach adopted by PPS15 as it has not been demonstrated that the proposal will not result in an unacceptable flood risk the proposal is contrary to Paragraphs 6.115 of the SPPS and Policy FLD 3 of PPS 15.

## **Natural Heritage and Habitats Regulation Assessment**

- 8.31 The application site is located within the designated Fruitfield Delta 1,2 & 3 Incorporating Tully Sand Pit and Farlow Wood Site of Local Nature Conservation Importance (LNC 05) as defined within the Northern Area Plan. The SLNCI is designated due to its earth science importance.
- 8.32 Policy ENV2 of the Northern Area Plan relates to SLNCI's and outlines that planning permission will not be granted for development that would be liable to have a significant adverse impact on the intrinsic nature conservation importance of a designated SLNCI. DAERA Natural Environment Division were requested to provide comment on the potential impact of the development on the SLNCI, however no comment was made within their response dated 24/05/2022. In terms of the development, the site is located immediately adjacent to existing built development and given the nature of the development is not likely to be significantly invasive and with appropriate design and mitigation, should not result in any adverse impacts on the SLNCI.
- 8.33 The application site is not within any European or Nationally designated site, however the Biodiversity Checklist submitted with the application has identified that the application site may be hydrologically linked to Lough Foyle SPA/Ramsar/ASSI via drainage systems within the site which link to watercourses adjacent the application site. The application therefore is subject to the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). Shared Environmental Services, who undertake the Habitats Regulations Assessment on behalf of the Council advise that further information is required to enable them to conclude on the likely impact on the aforementioned designated site. Taking a precautionary approach to the potential impacts on designated sites, the applicant has not demonstrated that the proposal will not have an adverse impact on the integrity of the abovementioned designated sites and is therefore contrary to Paragraphs 6.176 and 6.183 of the SPPS and Policies NH1 and NH3 of PPS2.
- 8.34 The biodiversity checklist submitted with the application has identified that a number of trees are to be removed which could

provide roosting and nesting potential for bats and birds, as well as foraging potential for bats. The checklist outlines that development which is proposed to occur adjacent to hedgerow, areas of woodland and scrub and within 25m of wetland habitat, provides for favourable habitat for badgers and otters on site and within the local area, the presence of resting places for these species cannot be ruled out. The Biodiversity Checklist advises that additional survey work in the form of a Preliminary Ecological Assessment (PEA) is required to establish the presence of protected or priority species/habitats on site. DAERA Natural Environment Division have also requested the submission of a PEA to determine the presence of habitats and species on the site.

- 8.35 DAERA Regulation Unit Land and Groundwater Team, who are responsible for assessing the impact of development on environmental receptors including groundwater and surface water, were consulted on the application and note that the previous activities in the surrounding area may have caused the land to be affected by contamination. Regulation Unit advise that based on the limited environmental information provided they are unable to advise on whether this development would have significant adverse impacts on the water environment and have advised that as a minimum a Preliminary Contaminated Land Risk Assessment is required.
- 8.36 As the principal of development is considered to be unacceptable this information has not been formally requested. Additionally, the agent has advised that no further information is to be submitted to address the issues raised. In taking a precautionary approach, doubt remains over the potential impact on protected and priority species and their habitats, and as such the proposal is contrary to Paragraphs 6.176 and 6.183 of the SPPS and Policies NH 2 and NH 5 of PPS2

### **Built Heritage**

- 8.37 Historic Environment have been consulted on the application given the proximity to features of Built Heritage importance. Historic Monuments Division have responded to outline that on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

- 8.38 Historic Buildings Division has assessed the application with regards to the potential impact on the nearby Listed Building at No. Rascahan Cottage 6 Farlow Road Rascahan Limavady (HB02 10 013), a Grade B2 listed building of special architectural or historic interest as set out in Section 80 and protected under the Planning Act (NI) 2011, located approximately 170m east of the application site.
- 8.39 HED Historic Buildings are content in principle with development however, advise that further information is required to allow a comprehensive assessment of the proposal in terms of the impact upon the setting of the Listed Building (Rascahan Cottage). The additional information sought refers to;
1. Longitudinal site sections clearly illustrating the proposal in context with the listed buildings. Outline will suffice.
  2. Provide elevations of the proposed structure with detail on colours and external finishes be used for façade and roof.
  3. Provide details on proposed site lighting and site signage etc. Where applicable include all new site lighting along the site access road from Ballykelly Road.
- 8.40 While it is appreciated that this is an outline application and the detailed design of the buildings may not yet be known it would be possible to provide indicative plans outlining the position and scale of the proposed building in line with the indicative site layout plan (Drawing 03), while there may be scope for discussion around a variety of finishes for the building which can be considered in principle at outline stage.
- 8.41 As the principle of development is not considered to be acceptable the above information has not been requested. Additionally, the agent has advised that no further information is to be submitted to address the matters raised. As such it has not been demonstrated that the proposed development will not have an adverse impact on the setting of a listed building and is therefore contrary to Paragraph 6.12 of the SPPS and Policy BH11 of PPS6.

## **Land Contamination**

- 8.42 Both DAERA and Environmental Health have outlined that the previous activities in the vicinity of the application site may have caused the land to be affected by contamination. Paragraphs 4.11 and 4.12 of the SPPS relate to safeguarding residential and work environs. Paragraph 4.11 of the SPPS outlines that there are a wide range of environmental considerations which should be taken into account when managing development.
- 8.43 Given the intended use of the site there is the potential for adverse impact on sensitive receptors from contamination, namely those who would occupy the site on a daily basis. Given the potential risk to receptors a Preliminary Contaminated Land Risk Assessment is required to identify all unacceptable risks and if necessary, a suitable Remediation Strategy.
- 8.44 As the principal of development is considered to be unacceptable this information has not been formally requested. Additionally, the agent has advised that no further information is to be submitted to address the issues raised. In taking a precautionary approach, doubt remains over the potential impact sensitive receptors who would utilise the site and as such the proposal is contrary to Paragraphs 4.11 and 4.12 of the SPPS.

## **9 CONCLUSION**

- 9.1 The principal of development is considered to be unacceptable when assessed against the relevant planning policies for economic development contained within the SPPS and PPS4. With regards to Policy PED 3 of PPS4 the applicant places a reliance on the historical land use of the adjacent lands, to which there is currently no operational use as the grounds for expansion of the land use, which is not the intended scope of the policy. Policy PED3 relates to the justifiable expansion of an established economic development use to which this application does not propose. As the proposal relates to the provision of independent start-up units and workshops the relevant policy is Policy PED 6 of PPS 4 to which the proposal also fails to comply with. The proposal also fails to meet with all criteria outlined within Policy PED 9. In addition to being



contrary to Policies PED 3, PED 6 and PED 9 the proposal has fail to demonstrate that it complies with planning polices in regard to natural heritage (PPS2), built heritage (PPS6) and flood risk (PPS15) and residential amenity (SPPS).

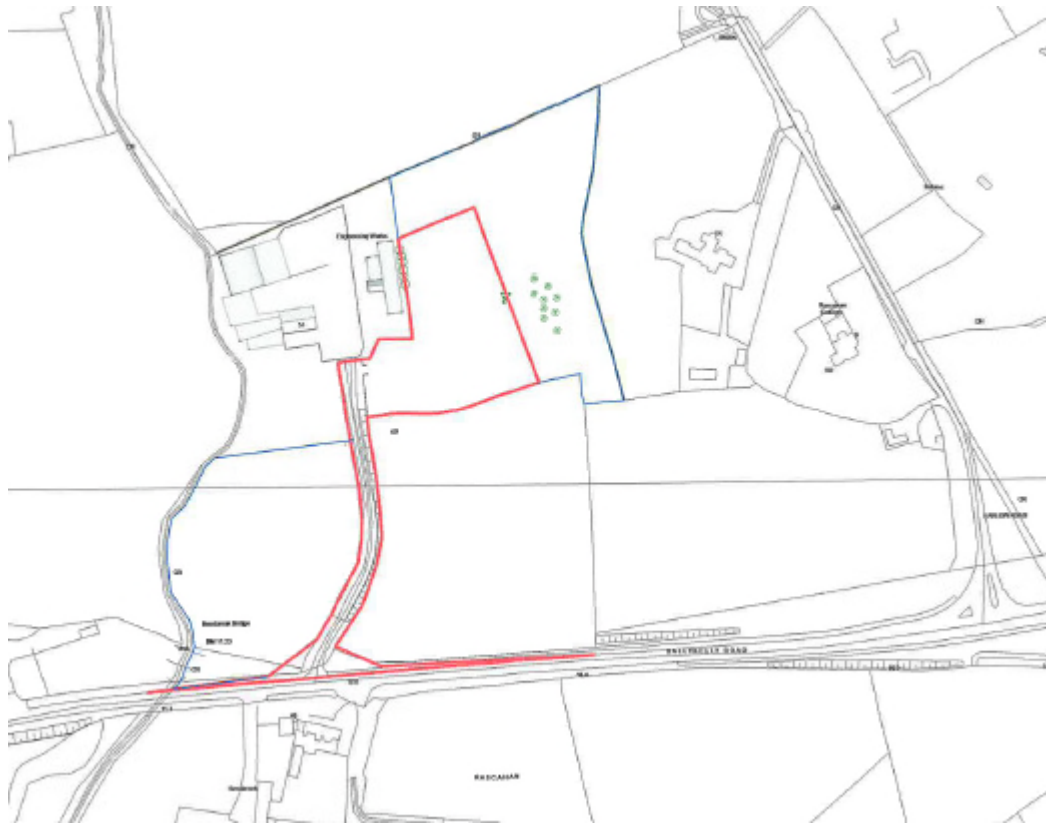
## **10 Refusal reasons**

1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Paragraph 6.87 of the Strategic Planning Policy Statement for Northern Ireland and Policies PED2 and PED3 of Planning Policy Statement 4, Planning and Economic Development in that the proposed development does not relate to the expansion of an established economic development use in the countryside.
3. The proposal is contrary to Paragraph 6.88 of the Strategic Planning Policy Statement for Northern Ireland and Policies PED2 and PED6 of Planning Policy Statement 4, Planning and Economic Development in that it has not been demonstrated that there are no suitable sites available within a settlement; the proposal would benefit the local economy or contribute to community regeneration or that the development is associated with a settlement.
4. The proposal is contrary to Paragraphs 4.12 and 6.91 of the Strategic Planning Policy Statement for Northern Ireland and Policy PED 9 of Planning Policy Statement 4, Planning and Economic Development in that it has not been demonstrated that the proposed development; is compatible with surrounding land uses; does not harm the amenities of nearby residents; does not adversely affect features of the natural or built heritage; will not cause or exacerbate flooding; does not create a noise nuisance and is capable of dealing satisfactorily with any emission or effluent.
5. The proposal is contrary to Paragraphs 6.115 of the SPPS and Policies FLD 3 of Planning Policy Statement 15 in that it has not

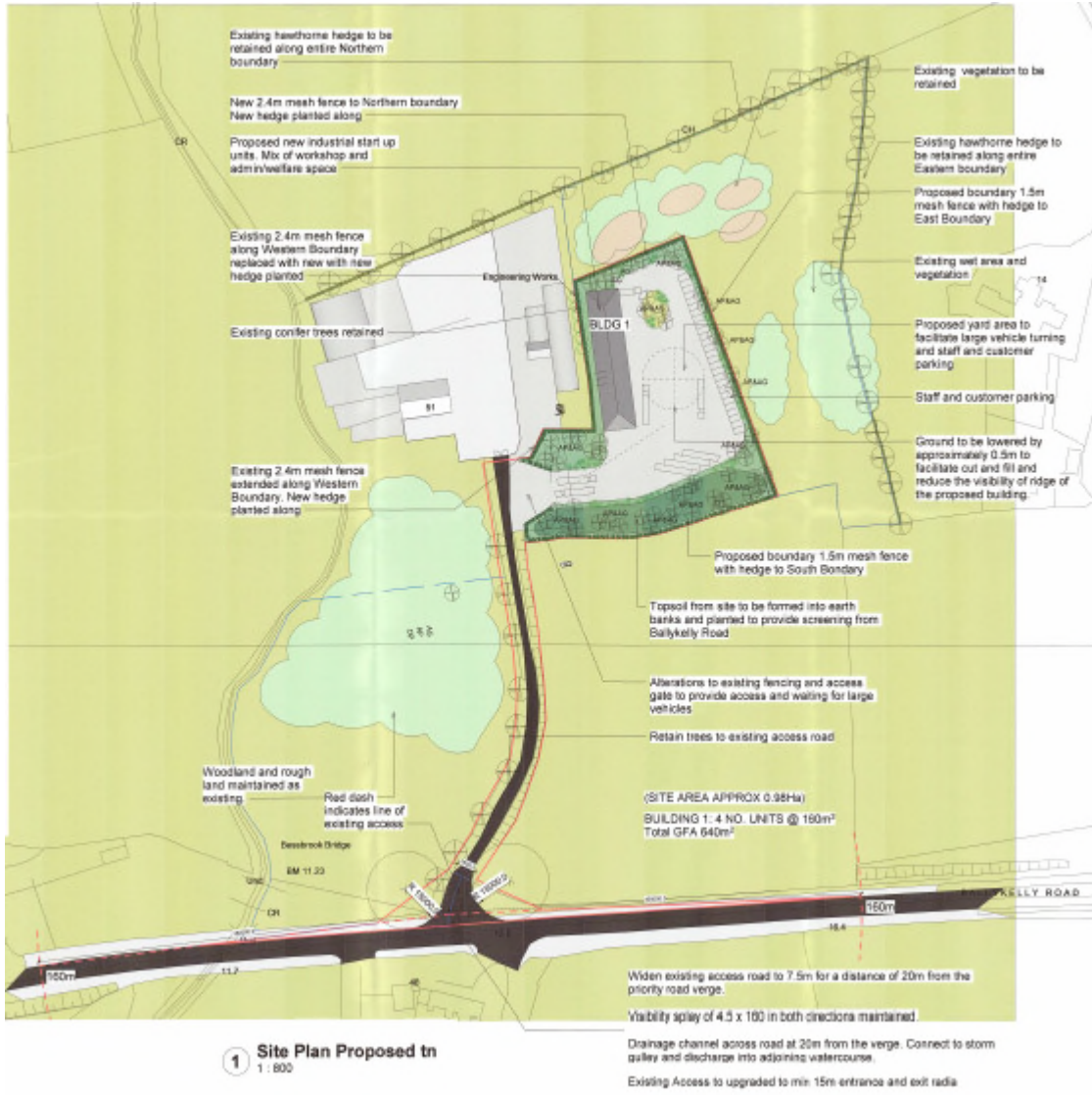
been demonstrated through the submission of a Drainage Assessment that the proposed development will not increase the risk of flood risk to the development or elsewhere.

6. The proposal is contrary to Paragraphs 6.176 and 6.183 of the SPPS and Policies NH 1 and NH 3 of Planning Policy Statement 2, Natural Heritage in that it has not been demonstrated that the proposal would not have a significant effect on an international/national designated site.
7. The proposal is contrary to Paragraphs 6.180 and 6.192 of the SPPS and Policies NH 2 and NH 5 of Planning Policy Statement 2, Natural Heritage in that it has not been demonstrated that the proposal would not result in harm or adverse impact to protected and/or priority species.
8. The proposal is contrary to Paragraph 6.12 of the SPPS and Policy BH11 of Planning Policy Statement 6, Planning, Archaeology and the Built Heritage, in that it has not been demonstrated that the proposed development would not have an adverse impact on the setting of a listed building.
9. The proposal is contrary to Paragraph 4.11 and 4.12 of the SPPS in that it has not been demonstrated that the proposed development would not have an adverse impact on environmental receptors who utilise the site.

# Site Location Plan



# Indicative Site Plan



## **Appendix 1**

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<b>Appeal Reference:</b>	2020/A0073
<b>Appeal by:</b>	Mr Gerard Rice
<b>Appeal against:</b>	Retrospective application for the extension of curtilage to include retaining wall, in-filling inert material, fencing and associated landscaping. Existing firework containers relocated and form utilisation of car parking.
<b>Location:</b>	8 Corcreechy Road, Newry
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2019/1575/F
<b>Procedure:</b>	Informal Hearing on 30 <sup>th</sup> July 2021
<b>Decision by:</b>	Commissioner B Stevenson, dated 27 <sup>th</sup> September 2021

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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. During the appeal proceedings, the Council contested the admission of a drawing titled 'block plan' to scale 1:500@A1 and economic supporting information. Some of the supporting economic information relates to the business's circumstances having changed in the last 6-12 months due to the pandemic. The Council's witness explained that neither were before the local planning authority during the processing of the planning application and considered that to admit them would be contrary to Section 59 of the Planning Act (Northern Ireland) 2011.
3. Under Section 59(1), a party to the proceedings is not to raise any matter which was not before the Council at the time the decision appealed against was made unless that party can demonstrate that the matter could not have been raised before that time, or that its not being raised before that time was a consequence of exceptional circumstances. Section 59(2) states that nothing in subsection (1) affects any requirement or entitlement to have regard to (a) the provisions of the local development plan, or (b) any other material consideration.
4. The appellant confirmed at the hearing that the block plan accompanying their statement of case was submitted for illustrative purposes only. I will therefore rely on the original block plan in the determination of the appeal.

5. The appellant also explained that the economic information could not have been submitted any earlier due to the pandemic and the timelines involved in the planning application process. Whilst one would have expected economic information to be provided in support of a proposal such as this at application stage, I consider that in the given circumstances, which can be considered exceptional, the economic information is admissible. Given the nature of the proposal, it is also an important material consideration in the appeal. No prejudice arises from admitting this information as all parties involved had an opportunity to comment on it.

## **Reasons**

6. The main issues in this appeal are whether retention of the development is acceptable in principle in the countryside, whether it integrates satisfactorily into the countryside and whether it erodes the rural character of the area.
7. Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where in making any determination, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The adopted Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) operates as the LDP for the area wherein the appeal site is located. In the BNMAP, the appeal site lies outside any designated settlement development limit and falls within the countryside north of the city of Newry. As the BNMAP contains no provisions material to the development, other material considerations relevant to this appeal are examined below.
8. The Strategic Planning Policy Statement 'Planning for Sustainable Development' (SPPS) sets out the transitional arrangements that will operate until the Council has adopted a Plan Strategy for the whole of their area. During the transitional period, both the SPPS and retained Planning Policy Statements (PPSs) apply. In the absence of an adopted Plan Strategy, the retained policies namely Planning Policy Statement 4 "Planning and Economic Development" (PPS4) and Planning Policy Statement 21 "Sustainable Development in the Countryside" (PPS21) are relevant. There is no conflict or change in policy direction between the provisions of the SPPS and the above-mentioned retained policies insofar as they relate to the appeal proposal. Accordingly, PPS4 and PPS21 provide the regional policy context for assessing this appeal.
9. The appeal development relates to the extension in the site area of an existing commercial business within the countryside. The 'Around a Pound' business is located in a building north-west of a dwelling at No. 2 Corcreeghy Road. The building is not within the appeal site boundary. The appeal proposal seeks the retention of development works comprising a retaining wall, the in-filling of land, fencing and associated landscaping. It is also proposed to re-locate the existing firework containers within the extended site area and to provide additional vehicle parking spaces.

10. The Council confirmed that a Certificate of Lawfulness of an Existing Use or Development (CLEUD) was granted for the retention of the building as both a commercial store and for the retail sale of fireworks with associated office, customer parking, service area and access (P/2013/0735/LDE). However, the CLEUD relates to only part of the appeal site.
11. In addition to the CLEUD described above, full planning permission was granted in August 2014 for a fireworks storage container for hazard type 4 explosives and the permanent closure of an existing laneway for commercial traffic (P/2014/0305/F). In addition, the Council approved (retrospectively) the storage of 2 tonnes of fireworks hazard type 4 in 1 No. curtain trailer and 5 No. steel containers (P/2014/0931/F). As outlined above, this appeal seeks permission, inter alia, to relocate the storage containers approved under P/2014/0931/F.
12. Policy CTY1 of PPS21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One such type of development is industry and business uses that accord with PPS4.
13. Policy PED2 of PPS4 explains that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of certain policies. The expansion of an established economic development use is covered by Policy PED3.
14. Policy PED3 of PPS4 states that "the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise". The policy also explains that a proposal for the major expansion of an existing industrial enterprise that would not meet the above policy provisions will only be permitted in exceptional circumstances. The amplification text emphasises that it is important to weigh carefully the advantages to the rural economy of job creation or an improved industrial/business facility against the potential for an adverse impact on the rural environment. A list of general criteria that all economic development proposals are required to comply with is set out in Policy PED9 of PPS4.
15. For the business to be an established use, it must be lawful. It was common case that part of the appeal site has an established lawful use for Class B4: Storage and Distribution use with Class A1: Retail (for fireworks sales) and ancillary Class B3: Office use. In the evidential context, I am satisfied that the appeal development is associated with an established economic development use in the countryside.
16. With regard to whether there is a major increase in the site area, the Council argued that the appeal development results in a major increase of 73% in the site area from that considered lawful under the CLEUD and from that which benefits from planning permission. The Council explained that their figure took into account additional lands within the red line of the appeal site boundary including the strip beyond the retaining wall. In contrast, the appellant considered there to be a 23% increase which excludes the strip of land beyond the retaining wall. As



the strip of land comprises new planting which is part of the appeal development and based on my own observations and analysis of the planning history, I agree with the Council that the extended site area results in a major increase in the site area of the enterprise.

17. The fourth paragraph of the headnote of Policy PED3 indicates that a proposal for the major expansion of an existing industrial enterprise will only be permitted in exceptional circumstances where it is demonstrated that relocation of the enterprise is not possible for particular operational or employment reasons, that the proposal would make a significant contribution to the local economy and that the development would not undermine rural character. Whilst the fourth paragraph of the headnote of Policy PED3 specifically refers to industrial uses, it is common case that it should apply to the appeal development, and I concur.
18. The policy, when read as a whole, directs that expansion proposals should be explored first in existing buildings either through re-use or extension before considering a new building. It also emphasises that any such extension or new building should respectfully integrate and be of adequate scale. The wording therefore infers that containment of development in the countryside is the fundamental intention of the policy.
19. The appellant explained that 'Around A Pound' is a long-standing enterprise employing 85 staff in total with the appeal site acting as a distribution centre for the businesses' six local shops. The appellant added that upwards of 20 people are employed at the appeal facility and that the relocation of the enterprise would not be possible due to financial reasons. He continued to say that over £1.5 million pounds had been invested in providing the facilities at the site which have been built over the last 25 years. The appellant also said that the business had expanded significantly over the last six years with its online trade growing over the last 18 months especially since the pandemic. The appellant explained that the appeal facility entails the sale of fireworks and that the commercial store and associated office also operate from the premises.
20. In order to justify the extension in the site area, the appellant argued that there were operational reasons for siting the fireworks containers in the far north-western corner of the appeal site. He explained that the Explosives Regulations require Type 4 Explosives to have a separation distance of 19 metres from areas of parking and 30 metres from buildings with the only parking currently available adjacent to the explosives. The Council, however, argued that there was scope to re-locate the firework containers within the north-eastern part of the site and continue to comply with the licence.
21. Having reviewed a copy of the submitted licence granted under Regulation 11 of the Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 as Amended, it makes reference to a separation distance of 30 metres only from buildings. Therefore, the containers could be located elsewhere within the original yard area while continuing to comply with the Explosives Regulations. Thus, I am not convinced that the fireworks containers must be sited within the proposed location. Their relocation would not therefore justify an extension of this size and scale.

22. During my site visit, I witnessed around half a dozen cars informally parked adjacent to the dwelling while some lorry trailers were parked in the northern portion of the site. A significant amount of the lawful yard area was unutilised. The block plan shows 20 No. car parking spaces as part of the appeal development. There is also space to turn lorries. In my opinion, the extended yard subject of this appeal could accommodate at least double the amount of parking spaces shown on the plan. Considering the scale and nature of the lawful facility, the extended yard area now sought is overly excessive to facilitate the parking and service areas associated with it.
23. Whilst the appellant referred to the business employing up to 20 staff at the premises, the Council advised that no employee details were provided on the application form. Notwithstanding that no details were provided on the form, I accept that a certain number of staff are employed at the appeal facility given my on-site observations. However, even if there are 20 employees, this is a relatively small amount of staff compared with the overall scale of the development subject to this appeal. Limited rationale was provided to demonstrate why so much extra space was required.
24. I was not provided with persuasive evidence to convince me that relocation could be ruled out because of employment reasons and no persuasive evidence was given as to the operational need for such an extensive expansion. The appeal development therefore fails to accord with the first exceptional test set out in Policy PED3.
25. The appellant claimed that the 'Around the Pound' business makes a significant contribution to the local economy with a wage bill of approximately £450,000 annually and a rates bill for all their properties in excess of £150,000 per annum. The appellant also stated that the business sponsors a number of local sports clubs. The Council did not dispute this at the hearing. In the evidential context provided, I find that the appeal development complies with the second exceptional test.
26. The third exceptional test under Policy PED3 requires that the appeal development should not undermine rural character. The "Around the Pound" business is large in scale and it has encroached onto agricultural land which has involved the infilling of said land to significantly change ground levels. It also involves a sizeable retaining wall, an extensive hard-standing area and the relocation of the fireworks containers. Despite the planting of new landscaping, the appeal development contributes unacceptably to a build-up of development detrimental to the rural character of the area. Rather than contain development in the countryside, the appeal development significantly erodes into its countryside setting. The appeal development therefore undermines rural character and thus offends the third exceptional test under Policy PED3. Given that two of the exceptional tests in Policy PED3 are not overcome, the first reason for refusal is sustained.
27. The Council also raised objection based on Policies CTY13 and CTY14 of PPS21. Whilst both said policies refer to new buildings in the countryside, their justification

and amplification text provides the context for the consideration of the policy objectives which relate to preserving the visual amenity and rural character of an area. For reasons given above, I find that the appeal development is detrimental to the rural character of the area in particular the retaining wall. The appeal development therefore offends Policy CTY14 insofar as stated. Thus, the Council's third reason for refusal is sustained.

28. In relation to Policy CTY13, given that the site sits into the hillside on lower topography than the Lisserboy Road and has a significant backdrop when viewed from the A1 Belfast-Dublin dual carriageway, I do not consider the appeal development to be prominent in the landscape. However, the appeal development relies primarily on the use of new planting to assist with integrating the sizeable retaining wall, fencing and relocated fireworks containers surrounding the yard area. For these reasons, the appeal development fails to comply with criteria (c) and (d) of Policy CTY13. Accordingly, the Council's second reason for refusal is sustained insofar as stated.
29. The appellant also raised Policy PED9 of PPS4 in their statement of case which relates to general criteria for economic development proposals. Whilst this policy was not referenced by the Council, in the amplification text, it explains that some developments may also require consent under the Planning (Hazardous Substances) Regulations (Northern Ireland) 1993, as amended by the Planning (Control of Major-Accident Hazards) Regulations (Northern Ireland) 2000. This has since been superseded by The Planning (Hazardous Substances) (No. 2) Regulations (Northern Ireland) 2015.
30. Regulation 4(11) of the Hazardous Substances Regulations exempt Hazardous Substances Consent being required for the presence of an explosive within the meaning of Regulation 2(1) of The Manufacture and Storage of Explosives Regulations (Northern Ireland) 2006 in relation to which a licence is required and has been granted by the Department of Justice. Given that a licence has been granted for such explosives, Council's witness advised that no Hazardous Substances consent would be required for this appeal development. Furthermore, considering that I have not found the appeal development to be acceptable in principle which is determining, it is not necessary to expand further on Policy PED9.
31. In light of the above, I conclude that the expansion of the business is not considered acceptable in principle in the countryside contrary to Policy PED3 of PPS4. Furthermore, no persuasive overriding reasons as to why the development is essential and could not be located in a settlement have been advanced. Therefore, as all three reasons for refusal are sustained insofar as stated, the appeal must fail.

This decision is based on:-

- Drawing No. 01-Rev-01: Site Location Plan 1:2500 @A4 date stamped received by Council 15 Jan 2020

- Drawing No. 02-Rev-01: Block Plan 1:500 @A1 date stamped received by Council 15 Jan 2020
- Drawing No. 03: Individual Storage Container Floor Plan and Elevations 1:100 @A4 date stamped received by Council 21 Oct 2019

**COMMISSIONER B STEVENSON**

**Remote Hearing Appearances**

Planning Authority: - Mr Eamon McArdle  
Newry, Mourne and Down District Council

Appellant: - Mr Chris Cassidy  
CMI Ltd

**List of Documents**

Planning Authority: - "A" Written Statement of Case  
Newry, Mourne and Down District Council

"B" Written Rebuttal Statement  
Newry, Mourne and Down District Council

Appellant: - "C" Written Statement of Case  
Mr Gerard Rice

"D" Written Rebuttal Statement  
Mr Gerard Rice

## REFERRAL REQUEST

**From:**

**Sent:** 05 August 2022 15:56

**To:** Planning <[Planning@causewaycoastandglens.gov.uk](mailto:Planning@causewaycoastandglens.gov.uk)>

**Subject:** RE: LA01/2022/0233/O (adjacent 51 Ballykelly Road)

Good Afternoon

I wish to request that planning application LA01/2022/0233/O (adjacent 51 Ballykelly Road) be referred to the planning committee for the following reasons.

- We believe that the proposed development of a Single storey portal frame industrial building for workshop and industrial startup units, extension of hard standing to create yard for vehicle turning, staff and customer parking is compliant with all prevailing planning policy and will bring about a local betterment to an existing brownfield that is in much need of redevelopment.
- This application has generated local support (see attached local supporting letter), will utilise an existing access via the Ballykelly Road, provide local employment and will provide a sustainable local service to the wider Limavady area.
- The application is very modest in scale and while this application only seeks outline permission the applicant is committed to working closely with the planners at Reserved Matters stage to secure an appropriate design, layout and siting. The site is significantly setback from the public road and will not result in any adverse visual impacts on the site or the surrounding area.

For the reasons outlined above, we would be very grateful if this item could be requested for consideration by the local elected members.

Regards

**John McAuley**

Causeway Coast & Glens Borough Council

Mob.

Email:



# Addendum

## LA01/2022/0233/O

### 1.0 Update

- 1.1 Outline applications are temporarily not available to view on the new planning portal.
- 1.2 Drawings and additional information including letters of representation are available to view on the old planning portal at link <https://epicpublic.planningni.gov.uk/publicaccess/>

### 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**

## **LA01/2022/0233/O**

### **1.0 Update**

- 1.1 A letter from Erwin Agri-Care Ltd was received 1<sup>st</sup> June 2022 in support of the application. A copy of the letter is attached below for consideration.

### **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.

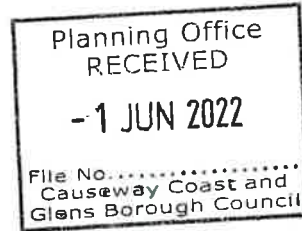


Erwin Agri-Care Ltd.  
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30-05-2022

Head of Planning  
Causeway Coast & Glens Borough Council  
Planning Department  
Cloonavin  
66 Portstewart Road  
Coleraine BT52 1EY



**LA01/2022/0233/O | Single storey portal frame industrial building for workshop and industrial startup units. Extension of hard standing to create yard for vehicle turning, staff and customer parking. Alterations to existing vehicular access to Ballykelly Road | 50m East of 51 Ballykelly Road Rascahan Limavady**

Dears Sirs,

I write in respect of the ongoing outline planning application LA01/2022/023/O at 51 Ballykelly Road, Limavady.

I write in capacity as the adjacent landowner on the application site and wish to lend my support to this application and would trust that Causeway Coast and Glens will take this into consideration as part of their assessment.

I understand that an application has been submitted seeking permission for single storey industrial building for workshop and industrial start-ups units. I own and operate an adjacent sales yard to which this site adjoins. I also share an easement over the existing access from the Ballykelly Road therefore I have a direct interest in this application.

The application proposed is modest in scale utilising an existing access and naturally extends the adjacent existing sales yard and will help to deliver some much-needed local employment and make a huge benefit to the local economy as well as direct local employment for the area.

I trust Causeway Coast & Glens will take this into consideration and look favourably on this application.

Yours faithfully



Michael Erwin

Managing Director  
Of both Harvest Equipment Ltd & Erwin Agri-Care Ltd

**SITE VISIT REPORT: MONDAY 19<sup>th</sup> December 2022**

*Committee Members: Alderman Baird, Boyle, Duddy, S McKillop and McKeown; Councillors Anderson, Dallat O'Driscoll (Vice Chair), Hunter, McGurk, MA McKillop, McMullan (Chair), P McShane, Nicholl, Peacock, Scott and Storey*

**10.30 am**

LA01/2022/0233/O – 50m East of 51 Ballykelly Road, Rascahan, Limavady

**App Type: Outline Application**

**Proposal: Single storey portal frame industrial building for workshop and industrial startup units. Extension of hard standing to create yard for vehicle turning, staff and customer parking. Alterations to existing vehicular access to Ballykelly Road**

**Present:** Ald Baird, Cllrs McGurk, Nicholl and Scott Official S Mathers

**Apologies:** Ald Boyle

**Comments:**

S Mathers explained how the proposal was a separate entity from the agricultural machinery premises and the disused industrial building. It was advised that the proposal did not meet the principle for development in the countryside. In addition to this, it was explained that other matters necessitated resolution comprising amenity, natural heritage, flooding and the setting of a listed building. It was confirmed that the access was to be by the established laneway and that this was acceptable to DfI Roads. Members noted these points and queried whether the disused industrial building was owned by the applicant. Looking at the land shown outlined in blue on the site location plan, S Mathers advised that it was not shown to be in control of the applicant. Further clarification would be given on this matter on return to the office.

S Mathers      19/12/2022