



Title of Report:	Planning Committee Report – LA01/2021/0928/F
Committee Report Submitted To:	Planning Committee
Date of Meeting:	25th October 2023
For Decision or For Information	For Decision - Referred Application by Ald. Fielding
To be discussed In Committee YES/NO	NO

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>No:</u>	LA01/2021/0928/F	<u>Ward:</u>	Portstewart
<u>App Type:</u>	Full		
<u>Address:</u>	2 Ballygelagh Village, Portstewart BT55 7WA.		
<u>Proposal:</u>	Section 54 application to further amend Condition 1 of Planning Permission C/1996/0485/F (as already varied under LA01/2016/1158/F) from The unit(s) hereby approved, except for No 3 Ballygelagh Village, Portstewart, shall be used only for holiday accommodation and shall not be used as a permanent place of residence To read The unit(s) hereby approved, except for Nos 2 and 3 Ballygelagh Village, Portstewart, shall be used only for holiday accommodation and shall not be used as a permanent place of residence.		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	29/07/2021
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Donaldson Planning, 50A High Street, Holywood BT18 9AE		
<u>Applicant:</u>	Mrs Irene Davidson		
<u>Objections:</u>	0	<u>Petitions of Objection:</u>	0
<u>Support:</u>	0	<u>Petitions of Support:</u>	0

EXECUTIVE SUMMARY

- This proposal is considered unacceptable at this location having regard to the Northern Area Plan 2016 and all other material considerations.
- The site is positioned within an existing long established holiday village within the countryside.
- No objections were received.
- The proposal is considered against Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside and Policy TSM 5 of Planning Policy Statement 16, Tourism.
- Refusal is recommended.

Drawings and additional information are available to view on the Planning Portal- <https://planningregister.planningsystemni.gov.uk/>

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **REFUSE** planning permission subject to the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site consists of No. 2 Ballygelagh Village which comprises of a semi detached chalet style dwelling used as and approved as a holiday dwelling. It is located within an existing approved holiday village located between Portstewart and Portrush. It is located within the countryside area as shown on the Northern Area Plan 2016. There is a small area of amenity to the front and rear. It sits elevated above the entrance laneway from Ballyreagh Road and fronts onto this main lane which serves the whole holiday village. No.2 was previously a dwelling which was subdivided into 2 holiday dwellings as part of a wider holiday development approved under C/1996/0485. No. 3 was attached to No. 2 and it was approved by PAC for variation of condition to exempt it from holiday accommodation only as relates to the whole holiday development.

3 RELEVANT HISTORY

Application C/1996/0485 on land at 106 Ballyreagh Rd in October 1996 for the conversion of a bungalow into 2 holiday dwellings and erection of 5 holiday dwellings. Granted

Application LA01/2016/1158/F for variation of condition no. 1 of C/1996/0485 (holiday units) to exempt 3 Ballygelagh village Portstewart from being used for holiday accommodation. Approved by the PAC

4 THE APPLICATION

- 4.1 This is a Section 54 application to further amend Condition 1 of Planning Permission C/1996/0485/F (as already varied under LA01/2016/1158/F) from

The unit(s) hereby approved, except for No 3 Ballygelagh Village, Portstewart, shall be used only for holiday accommodation and shall not be used as a permanent place of residence.

To read

The unit(s) hereby approved, except for Nos 2 and 3 Ballygelagh Village, Portstewart, shall be used only for holiday accommodation and shall not be used as a permanent place of residence.

5 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: There are no objections

5.2 Internal

No consultations were necessary.

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:

- The Northern Area Plan 2016 (NAP)

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

- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times

as a new local plan strategy is adopted, councils will apply specified retained operational policies.

- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

The Strategic Planning Policy Statement (SPPS)

PPS 16: Tourism

PPS 21: Sustainable development in the countryside

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The proposal must be considered having regard to the NAP 2016, SPPS, and PPS policy documents specified above. The main considerations in the determination of this application relate to the principle of changing the use of the holiday unit to permanent residential use in the countryside.

Planning Policy and Principle of Development.

- 8.2 The principle of the type and scale of the development proposed must be considered having regard to the SPPS and PPS policy documents specified above. The SPPS promotes sustainable development throughout the planning system. The guiding principle for planning authorities is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

- 8.3 Paragraph 6.65 states that the aim of the SPPS with regard to the countryside is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities consistent with the RDS.
- 8.4 The original approved holiday development was for 7 no. tourist units. The planning permission used a condition that restricted the occupation to holiday use only and that they could not be used as a full-time residence. 2 of the units, Nos 2 & 3, were provided through a sub division of a permanent residential dwelling.
- 8.5 The previous planning history LA01/2016/1158/F sought to remove the occupancy condition for No 3. The removal of the occupancy condition in this case was considered appropriate as the original dwelling was once a residential unit prior to its subdivision into 2 holiday lets. Planning considered the principle acceptable on a one for one unit basis but refused the application due to the lack of sufficient amenity space.
- 8.6 The proposal to change a holiday home at No 2, to a full time residence in the countryside would be contrary to planning policy and also set a precedent for other properties in the countryside that were only approved for holiday home use.
- 8.7 The application site and the surrounding approved holiday homes offer a valuable contribution of tourism accommodation. If the proposal is allowed it would have an adverse impact on tourism in the area and set a precedent for other holiday homes in the countryside to be turned into full time residences. This all would have a negative and adverse impact on tourism in the area.

Principal for Residential development

- 8.8 In some circumstances the removal of the occupancy condition is permissible if the application meets with Policy CTY 1 – Development in the Countryside. It 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. Other types of development will only be permitted

where there are overriding reasons why that development is essential and could not be located in a settlement.

- 8.9 In order to allow the proposed residential development the application needs to meet the criteria set out for the range of policies listed in CTY 1. The proposal does not fall under any of the acceptable range of dwelling types. The applicant has not submitted any supporting evidence to support the approval under the tests of this policy. It is an existing approved holiday unit with an existing planning condition that restricts the use to holiday accommodation only.
- 8.10 The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential and could not be located in a settlement.

Planning Policy Statement 16 Tourism

- 8.11 Ballygelagh Village was approved to provide for tourist accommodation under the Rural Strategy for Northern Ireland which has been superseded by PPS 16. However, both the PSRNI and PPS 16 require all permissions for self-catering accommodation in the countryside to include a condition restricting units to be used for holiday letting accommodation only and not for permanent residential accommodation.
- 8.12 Paragraph 7.27 of Policy TSM 5 states the requirement for approved self catering units to be retained in tourism use and not used for permanent residential accommodation will seek to ensure that tourist accommodation is available to benefit local communities in rural areas and that the unauthorised use of approved tourist accommodation as a private dwelling(s) does not occur. This justification further supports the recommendation refusal of this application to amend the condition. The proposal is contrary to this policy.
- 8.13 If approved the application would set precedent for tourist accommodation in the countryside to be allowed for permanent residential use, contrary to planning policy.

- 8.14 The proposal is contrary to paragraph 6.260 of the Strategic Planning Policy Statement for Northern Ireland and Policy TSM 5 of Planning Policy Statement 16, Tourism, in that the proposal is approved and conditioned under this policy and it does not allow for residential use in the countryside.
- 8.15 Recent Planning Appeal 2021/A0240 to the rear of 33 Glenann Road, Cushendall was to remove the occupancy condition. The application to modify the planning agreement was refused at Planning Committee and then appeal was lodged with the PAC. The final paragraph of the PAC decision stated: "Originally the subject buildings were accepted in principle in the countryside for tourism accommodation as holiday lets. There is no justification in principle to deviate from this permitted and restricted use to allow an additional three new dwelling units in the countryside. The Council's first reason for refusal is sustained and is determining. The appeal to discharge the planning agreement is therefore dismissed."

Habitats Regulations Assessment.

- 8.16 The Habitats Regulations assessment Screening Checklist- Conservation (natural habitats, etc) Amendment) Regulations (Northern Ireland) 2015: The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural habitats, etc) Regulations (Northern Ireland) 1995 (as amended). Rivers agency were consulted and offer no objections. There is no watercourses in close proximity to the proposal. The proposal would not likely to have a significant effect on the features, conservation objectives or status of any of these sites.

9 CONCLUSION

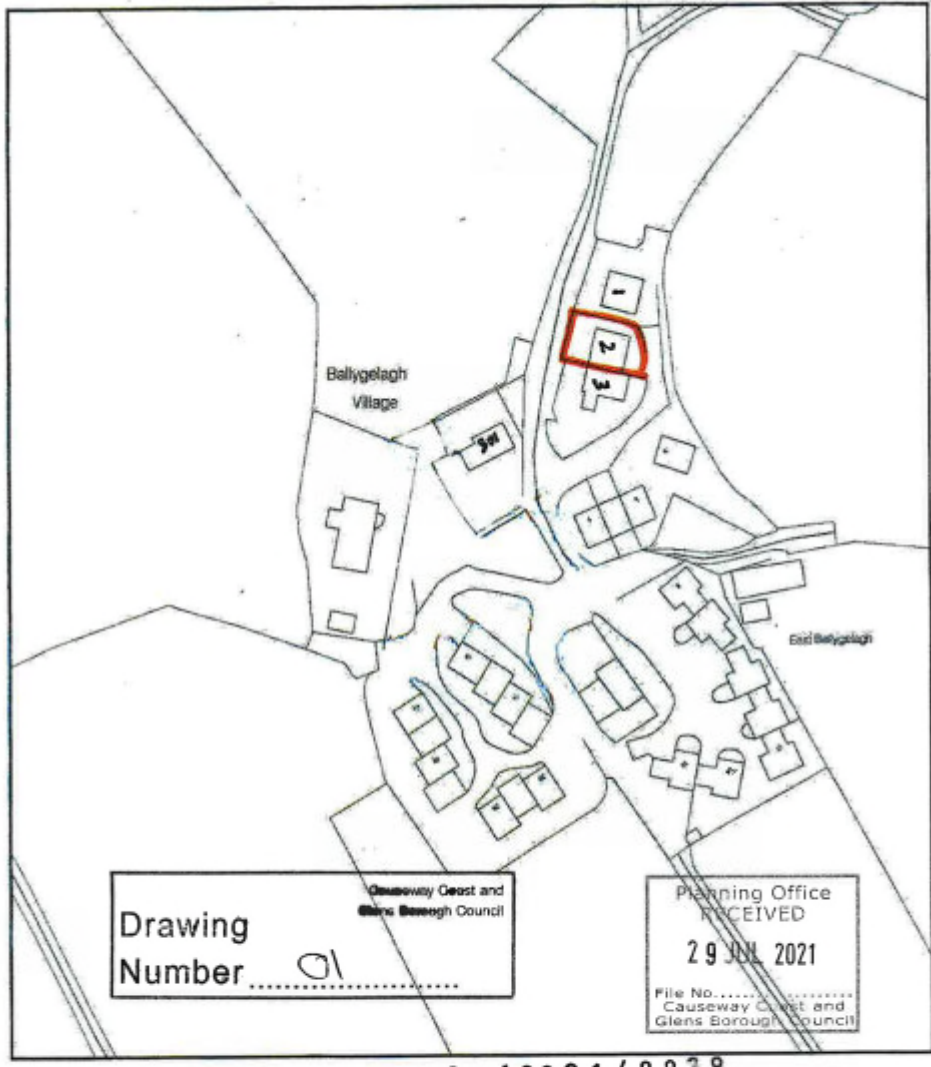
- 9.1 The proposal is considered unacceptable at this location having regard to the Northern Area Plan and other material considerations, the SPPS, and Planning Policy Statement 10. The principle of development is not acceptable as it would create a precedent for further conversions of holiday units in the countryside into permanent

residences, resulting in the undermining of the SPPS, PPS 16 and PPS 21. Therefore, refusal is recommended.

10 Refusal reasons:

1. The proposal is considered contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential and could not be located in a settlement.
2. The proposal is considered contrary to paragraph 6.260 of the Strategic Planning Policy Statement for Northern Ireland and Policy TSM 5 of Planning Policy Statement 16, Tourism, in that the proposal is approved and conditioned under this policy and it does not allow for residential use in the countryside

Site Location Map



LA01/2021/0928

PROPOSED REMOVAL OF HOLIDAY OCCUPANCY CONDITION AT NO 2
BALLYGELAGH VILLAGE
SITE LOCATION PLAN
SCALE 1/1250

From: Mark Fielding < >

Sent: Saturday, September 23, 2023 12:30 AM

To: Planning <Planning@causewaycoastandglens.gov.uk>; Denise Dickson <Oliver McMullan < >; Cllr Oliver McMullan < >

Subject: LA01/2021/0928/F

REF : LA01/2021/0928/F

Section 54 application to further amend Condition 1 of Planning Permission C/1996/0485/F (as already varied under LA01/2016/1158/F) from The unit(s) hereby approved, except for No 3 Ballygelagh Village, Portstewart, shall be used only for holiday accommodation and shall not be used as a permanent place of residence. To read The unit(s) hereby approved, except for Nos 2 and 3 Ballygelagh Village, Portstewart, shall be used only for holiday accommodation and shall not be used as a permanent place of residence.

At 2 Ballygelagh Village

I wish to refer the above application to the Planning Committee for the following reasons.

Numbers 2 and 3 semi detached units at Ballygelagh Village were both built following approval of the conversion of a former bungalow cottage in this location outside Portstewart.

No 3 Ballygelagh Village has been excluded from the holiday condition (LA01/2016/1158/F) , it would therefore be inequitable not to similarly exclude No2 which shares a common boundary and has identical planning history.

Strategic Planning Policy Statement (SPPS) indicates (para 2.3) that fairness is among the yardsticks against which development proposals will be measured. This application is a case where fairness and consistency must prevail, especially in circumstances where there will be no harm to the character or appearance of the rural area. No precedent will be set, as it is only No 2 and No 3 which were approved as conversions of the original dwelling as distinguishable from the 5 new build units granted under the same permission in 1996 .

As the condition has already been varied for No.3, the Planning Committee should have regard to the need for consistency in this identical proposal for No.2.

Yours,

Mark
Ald. M Fielding