

<b>Title of Report:</b>	<b>Planning Committee Report – LA0/2023/0039/F</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>22<sup>nd</sup> November 2023</b>
<b>For Decision or For Information</b>	<b>For Decision – Referred Item by Alderman Aaron Callan</b>
<b>To be discussed in Committee YES/NO</b>	<b>No</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>Legal Considerations</b>	
Input of Legal Services Required	NO
Legal Opinion Obtained	NO

<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:

<b><u>No:</u></b>	<b>LA01/2023/0039/F</b>	<b><u>Ward:</u> Greystone</b>
<b><u>App Type:</u></b>	<b>Full</b>	
<b><u>Address:</u></b>	<b>Lands adjoining 36 Knockanbaan and 12 Plantation Drive, Limavady</b>	
<b><u>Proposal:</u></b>	<b>Closing up existing path to the side of 36 Knockanbaan and 12 Plantation Drive and extension to residential curtilage to both dwellings.</b>	
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Valid Date:</u> 16<sup>th</sup> January 2023</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	
<b>Agent:</b>	<b>CM Architectural Design, 36 Knockanbaan, Limavady, BT49 0UL</b>	
<b>Applicant:</b>	<b>Craig Matthews, 36 Knockanbaan, Limavady, BT49 0UL</b>	
<b>Objections:</b> 4	<b>Petitions of Objection:</b>	<b>0</b>
<b>Support:</b> 1	<b>Petitions of Support:</b>	<b>0</b>

## **Executive Summary**

- Full planning permission is sought for the closing up of the existing path to the side of 36 Knockanbaan and 12 Plantation Drive, and extension to residential curtilage to both dwellings.
- The application site is located within the settlement development limits of Limavady as identified within the Northern Area Plan (NAP) 2016.
- The proposal fails paragraphs 4.5, 4.88, 6.137 and 6.201 of the SPPS and Policy OS1 of PPS 8 in that it will result in the loss of open space, and it has not been demonstrated that redevelopment will bring substantial community benefits that decisively outweigh the loss of open space.
- The proposal fails to meet criterion (b) under Policy EXT 1 of APPS 7 in that it will unduly affect the amenity of neighbouring residents.
- No consultations were necessary in the processing of the planning application.
- There has been one (1) letter of support and four (4) letters of objection.
- The application is recommended for refusal.
- Reasons for Referral by the elected member are attached as an annex to this report.

**Drawings and additional information are available to view on the Planning Portal -**

**<https://planningregister.planningsystemni.gov.uk/simple-search>**

## **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 conditions set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The application site is located within the settlement development limits of Limavady as identified within the Northern Area Plan (NAP) 2016.
- 2.2 The site comprises two dwellings, namely 36 Knockanbaan and 12 Plantation Drive, and the footpath which runs between 36 and 8 Knockanbaan, and 10 and 12 Plantation Drive.
- 2.3 The footpath is approx. 1.5m in width and has 1m of grass to either side. The dwelling boundaries are defined from the path by 1.8m fencing along either side supplemented with well-maintained hedgerows of varying heights.

## **3 RELEVANT HISTORY**

B/2001/0042/F – Lands at “Mc Causlands Field”, adjacent to Newton Road, Bovally, Limavady.

Erection of 41 No detached and semi-detached two storey dwellings and associated roadways.

Permission Granted – 10.12.2001

B/2001/0594/A41 – Phase Three, Newton Park, Limavady.  
Minor amendments to previously approved plans. (Ref:  
B/2001/0042/F).

Permission Granted – 07.02.2002

B/2004/0220/F – Land adjacent to Greystone Road including  
143 Greystone Road, Limavady (Phase 16 part 2 – Bovally  
housing development).

Erection of 92 two storey dwellings and associated roadways  
and landscaping.

Permission Granted – 08.02.2006

LA01/2015/0197/F – Lands to the rear of 157 to 169 Greystone  
Road and 21 Broad Road, East of 30, 147 and 149 Greystone  
Road, adjacent to 12, 14, 16, 29 and 31 Plantation View and  
adjacent to 8, 10, 32 and 34 Knockanbann, Bovally, Limavady.  
Design Amendments to House Types on Sites 48,49,51,52,,60  
to 66b, 90 and 91,101 and 102 and 124 to 129 and Change of  
House Type to Site 110 ( as approved in Planning Approval ref  
B/2004//0220/F ) and construction of four new two storey  
detached dwellings.

Permission Granted – 24.11.2015

LA01/2015/0585/F – Land to rear of 157 to 169 Greystone  
Road, 21 Broad Road and East of 30, 147 and 149 Greystone  
Road, Limavady.

Change of house type approved in previous approval  
B/2004/0220/F for sites 103-109 & 111-123.

Permission Granted – 11.03.2016

LA01/2015/0965/F - Land to rear of 157 to 169 Greystone  
Road, 21 Broad Road and East of 30, 147 and 149 Greystone  
Road, Limavady.

Change of House Type approved in previous approval  
B/2004/0220/F. For Sites 53-59 and 79-89.

Permission Granted – 19.04.2016

## **4 THE APPLICATION**

- 4.1 The application seeks full planning permission for the closing up existing path to the side of 36 Knockanbaan and 12 Plantation Drive and extension to residential curtilage to both dwellings.

### **Habitat Regulations Assessment**

- 4.2 The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the conservation (Natural habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

## **5 PUBLICITY & CONSULTATIONS**

### **5.1 External**

Neighbours: 4 letters of support and 1 letter of objection received. Issues raised are considered in the report below.

In addition to issues raised, the letter of objection stated that wider neighbour notification should have taken place, however in accordance with Article 8(2) of the GDPO, all appropriate neighbours have been notified. The application was also advertised in the local press.

### **Internal**

No Consultations 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)
- 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 both 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)

Addendum to Planning Policy Statement 7: Residential Extensions and Alterations

Planning Policy Statement 8: Open Space, Sport and Recreation

**Supplementary Planning Guidance**

Creating Places – Achieving Quality in Residential Environments

## 8 CONSIDERATIONS & ASSESSMENT

- 8.1 The proposal must be considered having regard to the Northern Area Plan 2016, SPPS, PPS policy documents and supplementary planning guidance specified above. The main considerations in the determination of this application relate to: Loss of Open Space, and Impact on the Amenity of Neighbouring Residents.

### **Loss of Open Space**

- 8.2 Annex A of PPS 8 defines an amenity footpath as open space which is also of public value. Policy OS 1 of PPS 8 advises against development that would result in the loss of existing open space or land zoned for the provision of open space. The presumption against the loss of existing open space will apply irrespective of its physical condition and appearance. An exception will be permitted where it is clearly shown that redevelopment will bring substantial community benefits that decisively outweigh the loss of the open space.
- 8.3 The footpath is annotated on approved Drawing 04 of B/2004/0220/F as 'public open space, pathways, planting and landscape to be adopted by management company.' Condition 6 of the same approval states:
- 'The proposed open space and amenity areas coloured yellow on the stamped approved drawing No. 04, received by Planning Service on 19 December 2005, shall be maintained by Plantation Management (Limavady) Ltd to the satisfaction of the Department. The Memorandum and Articles of Association shall be in accordance with the signed copy submitted to Planning Service on 19 December 2005 and the Companies Form No. 112 received by Planning Service on 02 February 2006.*
- Reason: to ensure successful establishment and long term maintenance of open space/amenity areas in the interests of visual and residential amenity.'*



- 8.4 The path is very clearly well maintained, as evidenced on site inspections on 13<sup>th</sup> March 2023 and 23<sup>rd</sup> October 2023, as well as on images on Google Street View dated November 2021.
- 8.5 Management company minutes from AGMs were submitted, along with an additional letter which highlighted that the path is a 'public walkway and stipulation of the planning approval' and that it must remain open. It is noted that reference is made to antisocial behaviour that takes place within the path and that additional efforts have been made to limit this, however no additional evidence has been submitted to detail further the specific issues in respect of the path.
- 8.6 A planning statement was submitted from Les Ross Planning consultants in support of the application which outlined that the path lacks natural surveillance from surrounding houses and that it does not serve an important, necessary or obvious desire line within the neighbourhood. Nos. 8 and 36 Knockanbaan are two storey dwellings with upper floor windows which directly overlook the footpath which provide a degree of natural surveillance overlooking onto the footpath.
- 8.7 The planning statement cites antisocial behaviour, local people saying the path is rarely used, the path feeling unsafe and no obvious ways of improving the path as all reasons to close it up. Issues raised in the letters of support also cite anti-social behaviour, litter, and the path having no merit or benefit. In contrast to this, a letter of objection to the proposal states that a wide number of residents use the path to get to the shop, and its closure would encourage car use and have a negative impact on wildlife.
- 8.8 The addition of lighting is one such way that a path can be improved in terms of feelings of safety, however as the

application is not for its retention this has not been fully explored.

- 8.9 The submitted planning statement also considers PPS 7 to be the relevant policy test in assessing this type of planning application. The preamble of PPS 7 outlines that it is relevant to new housing development only and therefore the proposal has been considered with regards to the policy documents outlined at Section 7 of this report. The agent provided evidence that the path is not a designated public right of way, however this does not extinguish its use as public open space for the purposes of this assessment.
- 8.10 The path provides pedestrian links to a shop and two hot food takeaways within the Greenbank Service Station site. It is unclear how many residents use the footpath, however there are a number of dwellings within close proximity of the path which, if closed, are not within proximity to alternative shorter pedestrian routes, having particular regard to those with mobility issues or those using a pushchair etc. It is unclear how many residents use the footpath at any given time; however it is highly likely that given its maintained nature, surrounding streetlighting and a shorter route to retail services, that the footpath can be utilised by a number of residents.
- 8.11 The SPPS promotes sustainable design to include footpaths as their inclusion can reduce the need for a private car. The proposed closure of the footpath directly contradicts this guidance and cannot therefore be considered to be a sustainable form of development.
- 8.12 It has not been demonstrated that the loss of the open space will bring substantial community benefits that decisively outweigh the loss of the open space. The proposal is contrary to Policy OS 1 of PPS 8.

### **Impact on amenity of neighbouring residents**

8.13 Policy EXT 1 of APPS 7 provides the policy context for the extension or alteration of a residential property. Of particular relevance to this application is criterion (b):

*the proposal does not unduly affect the privacy or amenity of neighbouring residents.*

8.14 The extended curtilages would result in the loss of the footpath which would negatively impact upon the amenity of neighbouring residents and therefore the proposal is contrary to criteria (b) of Policy EXT 1 of APPS 7.

## **9 CONCLUSION**

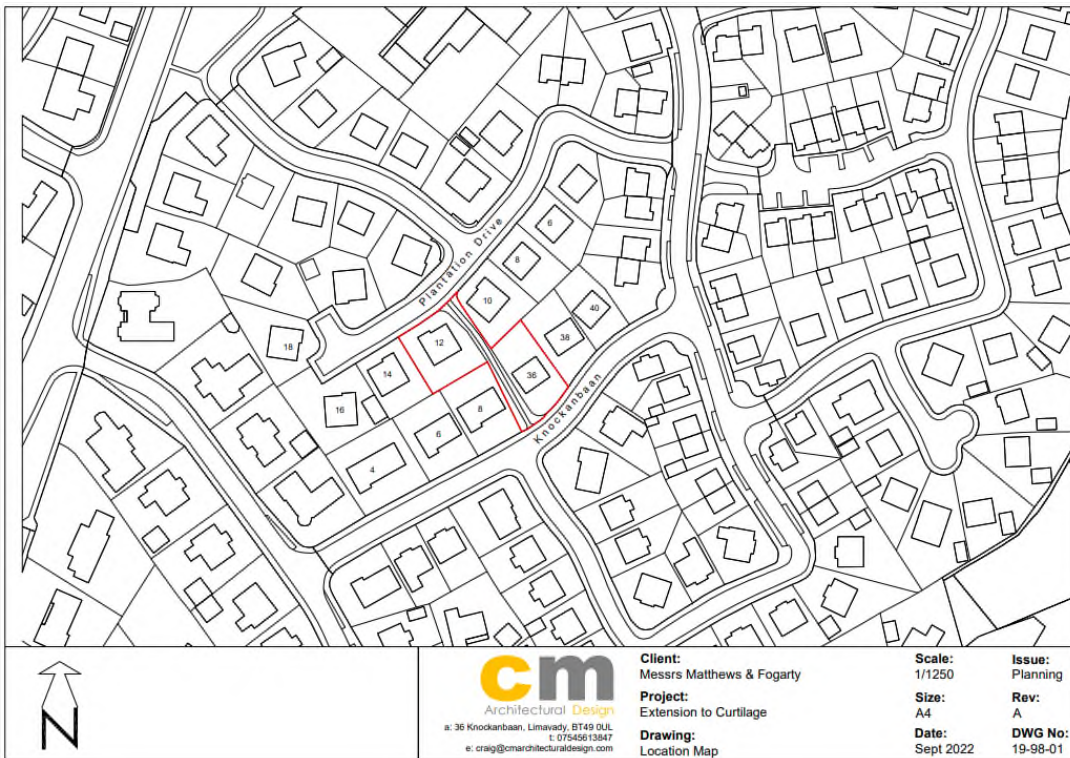
9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations, including the SPPS. The proposal is contrary to Policy OS 1 of PPS 8 as it would result in the loss of existing open space. The proposal is also contrary to Policy EXT 1 of APPS 7 as it would unduly affect the amenity of neighbouring residents. Refusal is recommended.

## **10 REFUSAL REASONS**

1. The proposal is contrary to paragraphs 4.5, 4.8, 6.137 and 6.201 of the SPPS, and Policy OS 1 of PPS 8 as it will result in the loss of open space and it has not been demonstrated that redevelopment will bring substantial community benefits that decisively outweigh the loss of open space.

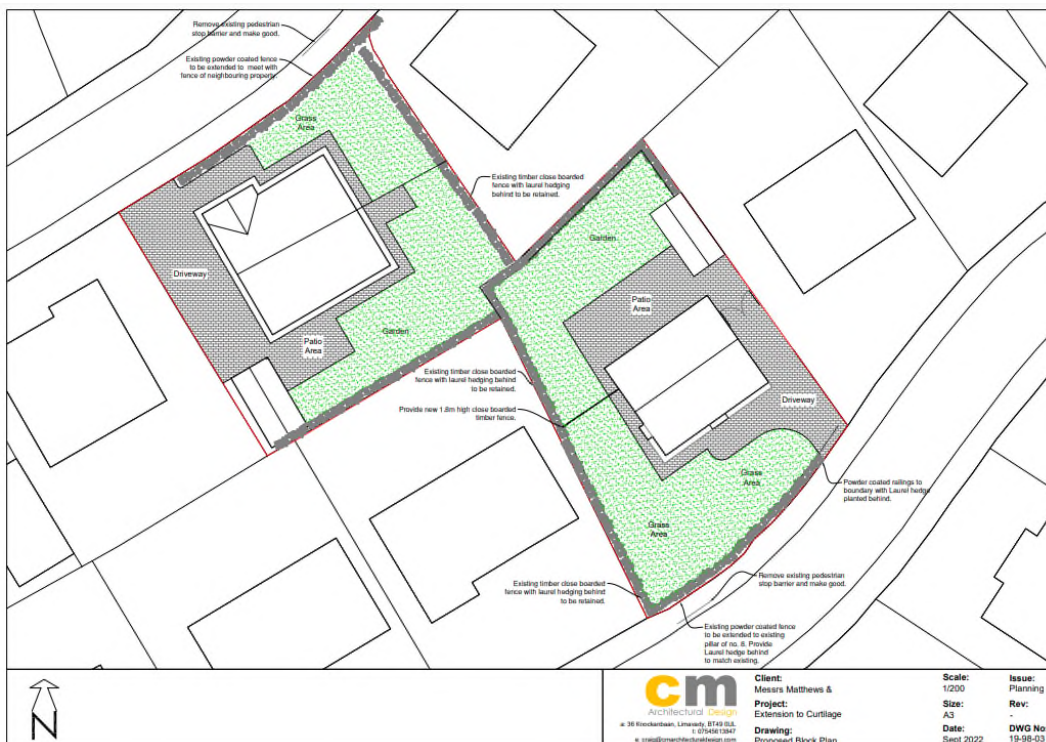
2. The proposal is contrary to Paragraph 4.12 of the SPPS and criterion (b) of Policy EXT 1 in Addendum to PPS 7 in that it will unduly affect the amenity of neighbouring residents.

# Site Location Map



Not to scale

# Proposed Block Plan



Not to Scale

## Appendix 1

**From:** CALLAN, Aaron [REDACTED]  
**Sent:** Wednesday, September 27, 2023 10:37 AM  
**To:** Planning <Planning@causewaycoastandglens.gov.uk>  
**Cc:** Denise Dickson [REDACTED]  
**Subject:** LA01/2023/0039/F

Denise/Oliver

I would like to have the above application referred to the planning committee for the following reasons;

Local residents have lobbied for the path to be closed. The momentum for this is based on:

a. The path is a focal point for antisocial behaviour. A place where people gather and to create unwelcome noise, littering, and general nuisance.  
Planning Appraisal

b. Local people say the path is rarely used for the purpose it was intended, because it is not an obvious desire line.

c. It has a sense of being an unsafe place, due to its disuse and its antisocial use.

d. There are no obvious ways of improving the path, because it is extremely narrow and natural surveillance cannot be achieved.

The planning application represents a successful way of solving the problems created by this poorly designed path. The proposal will not cause harm to any interest of acknowledged importance, because the route of the path is not necessary and access between the houses and amenities is easily facilitated by the existing residential road and footpath network

When the people of a neighbourhood ask for a change to their urban environment, it is incumbent on planning professionals and Council to afford significant material weight to their experience and their wishes.

The path itself is clearly contrary to the relevant sections of PPS7 and Creating Places, whereas its closure will certainly enhance the residential neighbourhood in line with Creating Places and PPS7.

The relevant planning policy and guidance is found in PPS7 and Creating Places. Generally, in planning terms, it is highly desirable to create pedestrian and cycle routes within residential neighbourhoods, however where policy and guidance refers to the need for good linkages it allies this with the overriding need to create high quality urban spaces in the wider sense. PPS7 states at paragraph 4.39:

‘Public areas such as open spaces, pedestrian routes and cycle linkages should be overlooked by the fronts of dwellings and other buildings to provide maximum surveillance. Narrow, potentially unfrequented or unsupervised routes for pedestrians and cyclists will not be acceptable’.

Regards

Aaron



Alderman Aaron Callan BA (Hons.) MA LL.M FRSA

Parliamentary Researcher | for Gregory Campbell MP  
Member of Parliament for East Londonderry