

Title of Report:	Planning Committee Report – LA01/2022/0176/F
Committee Report Submitted To:	Planning Committee
Date of Meeting:	28th February 2024
For Decision or For Information	For Decision – Referred Application by Ald. Callan
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	Development Management and Enforcement Manager

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

Legal Considerations	
Input of Legal Services Required	NO
Legal Opinion Obtained	NO

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.
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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: LA01/2022/0176/F Ward: Ballykelly

App Type: Full

Address: Approx 250m South East of 24 Carten's Road, Limavady

Proposal: Demolition of existing cottage and replacement with 2 storey dwelling, double garage and associated landscaping

Con Area: N/A

Valid Date: 09.02.2022

Listed Building Grade: N/A

Agent: Kevin Carten, Unit 5 Belmont Office Park, 232-240 Belmont Road, Belfast, BT4 2AW

Applicant: Sean Mullan, 26 Newline Road, Limavady, BT49 9NF

Objections: 0 Petitions of Objection: 0

Support: 0 Petitions of Support: 0

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

EXECUTIVE SUMMARY

- Full planning permission is being sought for demolition of existing cottage and replacement with 2 storey dwelling, double garage and associated landscaping.
- The site is located within the open countryside as designated in the Northern Area Plan 2016.
- It is considered that the candidate building for replacement does not qualify as a replacement dwelling under the requirements of CTY 3 as not all walls are substantially intact.
- As the proposal fails to satisfy the requirements of CTY 3, the proposal fails to meet CTY 1.
- The proposal meets Policies CTY13 and CTY14 as the proposal will not be prominent or erode rural character, and the proposed design is considered acceptable on this site.
- DFI Roads objects to the application as, if approved, would prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 60 metres cannot be provided in accordance with the required standards.
- NI Water and NIEA (Water Management Unit), Environmental Health were consulted on the application and raise no objection.
- There are no third-party representations on the proposal.
- Reasons for referral by elected member are attached as an annex to this report.
- Refusal is recommended.

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** outline planning permission for the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located in the open countryside, accessed from Cartens Road, close to its junction with the Baranait Road. The wider area is agricultural with little development, but includes farm buildings/holdings and single dwellings. The wider land area is also dominated by pockets of trees/forest.
- 2.2 The application site is significantly large measuring approx. 1.85 hectares. The candidate building to be replaced is accessed via an access lane off Cartens Road, an access which serves several other dwellings.
- 2.3 The building to be replaced ruinous, with a very small footprint. There are no other buildings on site. There is only one gable remaining, with little built form within the remaining walls.
- 2.4 The site is relatively flat, and the southern boundary is currently undefined on the ground (as per the red line). The eastern boundary is currently defined with section of hedge and sporadic trees. The northern boundary is partly defined by post and wire fencing with sporadic trees and hedging dotted along. The western boundary is mostly defined with some trees/vegetation dotted along it. Access to the site is taken from an existing lane off Cartens road, which leads to the development site.

3 RELEVANT HISTORY

- 3.1 There is no relevant or recent planning history on the site or surrounding area.

4 THE APPLICATION

- 4.1 Full planning permission is sought for demolition of existing cottage and replacement with 2 storey dwelling, double garage and associated landscaping.
- 4.2 The potential impact 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

There are no letters of support or objection to the proposal.

5.2 Internal

DFI Roads – Objects to the proposal.

Environmental Health – No objection to the proposal.

NI Water – No objection to the proposal.

NIEA - No objection to the proposal.

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 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of development and access.

Planning Policy

- 8.2 The site is located outside any settlement development limit and is within the countryside. This site is not subject to any specific zonings or designations.
- 8.3 The proposal must be considered having regard to the NAP 2016, SPPS, PPS policy documents and supplementary planning guidance specified above.

Principle of Development

- 8.4 Policy CTY 1 outlines the types of development which are acceptable in principle in the countryside, one of which is the replacement of a dwelling under CTY 3. CTY 3 states that:

“Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls are substantially intact. For the purposes of this policy all

references to ‘dwellings’ will include buildings previously used as dwellings..”

- 8.5 For a building to qualify as a replacement, it requires (as a minimum), all external walls to be substantially intact. The candidate building has one gable that would meet this threshold. However, the rest of the building is ruinous with only built form up to around the height of a window cill.
- 8.6 The building also needs to exhibit the essential characteristics of a dwelling. This is a very small building with little built form which could exhibit the character of a dwelling. That said, the one wall that is remaining has a brick built hearth/chimney; which is in a different building material to the gable wall and other remaining built form. While it is unknown if this is part of the original structure, or potentially added to the building at a later date, it, in itself, is not sufficient to demonstrate this is a candidate building eligible for replacement under CTY 3.
- 8.7 It is considered that this building no longer exhibits the essential characteristics of a dwelling-house and does not have all external walls substantially. Therefore, the candidate building does not meet this policy test within CTY 3
- 8.8 Notwithstanding that the candidate building fails to meet the primary policy criteria to be eligible for replacement, there is additional criteria that all replacement dwellings must meet. Each of the criteria is assessed below:

The proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest size dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

While there is no defined curtilage given the state of the existing building on site, the proposed siting is within the general location of it. The submitted red line is extremely large but the curtilage could be restricted by condition to the extent shown on the proposed site plan. This criterion is met.

The overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building.

The proposed dwelling is a two storey dwelling, with a frontage length of 11.3 metres and a gable depth of 9.8 metres. To the ridge line is 8 metres from finished floor level.

Notwithstanding the original building to be replaced is extremely modest in size and scale, the proposal is significantly larger and could have a visual impact significantly greater than the existing. That said, the proposed development is unlikely to have a visual impact greater than the original due to the distance it is from any critical views, the road being some 400 metres, intervening topography and vegetation, and a backdrop of extensive trees located due south of the development site. The contouring of the site, coupled with the FFL indicate that the dwelling will not sit elevated on the site and will respect the existing landform. This criterion is met.

The design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness.

The design of the proposed dwelling is two storey of a simple design, with no over-elaborate features. The gable depth on the western elevation is broken up with a family / sun room, which is single storey. The overall footprint of the proposed dwelling is approx 122.5 sq. metres. The proposed finishes include the walls to be roughcast render painted white, roof to be clad in slate, and sliding sash windows. Chimneys are positioned on the gable end positioned on the inner leaf. Windows are of a vertical emphasis. Having regard to the limited views and critical views of the site, it is considered that the overall form and scale and design of the proposed dwelling is acceptable. This criterion is met.

All necessary services are available or can be provided without significant adverse impact on the environment or character of the locality.

It is considered that provision of necessary services to the site can be accommodated without any adverse visual or environmental impacts. This criterion is met.

Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

Dfl Roads has been consulted as the competent authority on road and traffic matters who have raised an objection to the proposal on road safety grounds. It is considered that, if permitted, the increased traffic would prejudice the safety and convenience of road users on the Cartens Road. Therefore, the proposal does not meet this criterion.

- 8.9 As the candidate building no longer exhibits the essential characteristics of a dwelling-house and does not have all external walls substantially, the proposal fails to meet the principle policy test of CTY 3.

Integration and rural character

- 8.10 Policy CTY 13 states that permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.
- 8.11 The topography of the site is relatively flat and is approx 400 metres from the Cartens Road. The existing boundary treatments of the northern boundary is defined by post and wire fencing for the first 10-15 metres, then trees sporadically positioned along. The southern boundary is defined by hedging along the length of its boundary. The western and eastern boundaries are defined by sporadic hedging and trees. The proposed design of the dwelling, as previously set out under Para. 8.8, is a simple 2 storey dwelling and is considered acceptable. Given the site characteristics and proposed design, the proposal will not be unduly prominent in the landscape and meets the policy tests set out for integration and design. The proposal complies with Policy CTY 13.
- 8.12 CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Having regard to the site and proposal which will not be prominent in the landscape, the proposal complies with the relevant criteria 'a' to 'e' in CTY 14 and it

will not unacceptably erode the rural character of the area. Therefore, it complies with Policy CTY 14

Access

- 8.13 DfI Roads has been consulted as the competent authority on road and traffic matters. DfI Roads objects to the application on the grounds of road safety. Therefore, as it has not been demonstrated that the proposal, if permitted, would not prejudice road safety or significantly inconvenience the flow of traffic, the proposal is contrary to AMP 2 of PPS 3 as it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 60 metres cannot be provided in accordance with the required standards.

9 CONCLUSION

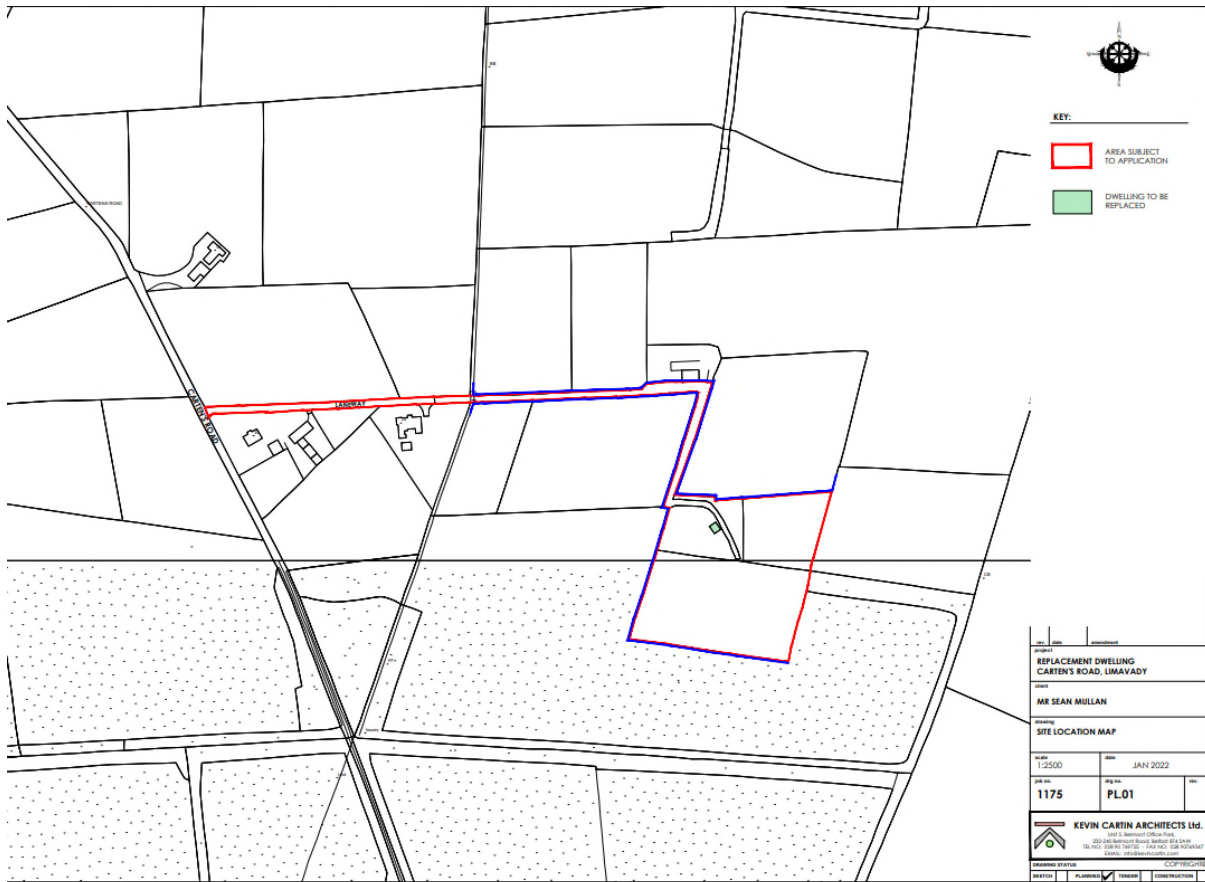
- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan, SPPS, other planning policies and material considerations. The proposal is contrary to CTY 3 of PPS 21 as the candidate building is not suitable for replacement under the policy test. The proposal meets the requirements of CTY 13 and CTY 14 of PPS 21.
- 9.2 As approving this development would prejudice the safety and convenience of road users since as it proposes to intensify the use of an existing access at which visibility splays of 2.4 metres x 60 metres cannot be provided, the proposal is contrary to Policy AMP 2 of PPS 3. Refusal is recommended.

10 Reasons for Refusal

1. The proposal is contrary to SPPS Para. 6.73 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 in this rural location and could not be located within a settlement.
2. The proposal is contrary to the Strategic Planning Policy Statement Paragraph 6.73 and Policies CTY 1 and CTY 3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling and the external structural walls are not substantially intact.

3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of 2.4metres x 60 metres cannot be provided in accordance with the standards contained in the Departments Development Control Advice Note 15.

Site Location Map



From: Aaron Callan <>
Sent: Friday, June 30, 2023 4:01 PM
To: Oliver McMullan <>; Denise Dickson <k>
Cc: Planning <Planning@causewaycoastandglens.gov.uk>
Subject: LA01/2022/0176/F

Oliver/Denise

I would like to refer the above application for decision at the planning committee.

Reasons for Refusal: 1. The proposal is contrary to SPPS Paragraph 6.73 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.

The applicant recently moved back home from London, after acquiring a farm to settle back into the countryside, where he was born. When he purchased the farm he was aware there was an old dilapidated dwelling on the farm, which he was advised could be replaced with a modern dwelling in due course. The applicant is currently living at home, but had intended to move onto the farm, so that he could be closer to his property. In reference to the objection, we believe that this is a significant overriding reason why this development is sustainable in that it will be lived in by the applicant / farmer, who will continue to improve the land under his control. As you will be aware, under PPS 21 CTY 10, the applicant is unable to apply for a house on his farm, as his farm business has not been established for 6 years, so his replacement dwelling is his only hope of getting established on the farm, as he had originally intended. It would be totally impracticable for him to move to a settlement, as he would be too remote from his farm.

2. The proposal is contrary to the Strategic Planning Policy Statement Paragraph 6.73 and Policies CTY1 and CTY3 of Planning Policy Statement 21, sustainable development in the countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling and the external structural walls are not substantially intact.

The first paragraph of the Policy reads as follows; Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls are substantially intact. For the purpose of this policy all references to dwellings will include buildings previously used as dwellings. We have highlighted the key tests and would comment as follows; 'Exhibits the essential characteristics of a dwelling' The building has a chimney breast, which is

completely intact, which clearly demonstrates that the building was used as a dwelling and not as a barn or other outbuilding. In addition it has a number of windows with traditional cills and reveals, which again clearly demonstrate that the building had windows for light and ventilation, which would not be required in a barn. Traditionally barns would not have windows and if they did have windows they would be at high level and much smaller than the windows in the application dwelling. 'All external walls are substantially intact' The external walls are substantially intact. You can clearly read the external walls, particularly the chimney gable, which is fully intact and the other external walls although a little lower, we would argue, are substantially intact. The walls are quite sound and with a little bit of work to the external walls the building could be reroofed. The applicant has produced evidence that the house was lived in by the Kane family as identified in the 1911 Census.

3. The proposal is contrary to the Strategic Planning Policy Statement Paragraph 6.73 and Policies CTY1 and CTY3 of Planning Policy Statement 21, sustainable development in the countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling and the external structural walls are not substantially intact. This reason for refusal will fall away if the Council are minded to accept that the dwelling is considered a replacement dwelling, which is substantially intact and demonstrates the characteristics of a dwelling.

Look forward to hearing from you.

Regards

Aaron

Aaron Callan BA (Hons.) MA LL.M

Alderman - Causeway Coast and Glens Borough Council

Democratic Unionist Party

The Hermitage, 29 Roe Mill Road, Limavady, BT49 9BE