

<b>Planning Committee Report LA01/2019/0420/F</b>	<b>27<sup>th</sup> January 2021</b>
<b>PLANNING COMMITTEE</b>	

<b>Linkage to Council Strategy (2015-19)</b>	
<b>Strategic Theme</b>	Protecting and Enhancing our Environment and Assets
<b>Outcome</b>	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
<b>Lead Officer</b>	Development Management & Enforcement Manager
<b>Cost: (If applicable)</b>	N/a

<b><u>No:</u></b>	<b>LA01/2019/0420/F</b>	<b><u>Ward:</u> KILREA</b>
<b><u>App Type:</u></b>	<b>Full</b>	
<b><u>Address:</u></b>	<b>165m NE of 58 Movanagher Road, Kilrea</b>	
<b><u>Proposal:</u></b>	<b>Retrospective Application for existing roadside pillars and area of tarmac &amp; stone to be used as a storage yard. Items to be stored include portacabin, shipping container, lorry, road roller digger and cars</b>	
<b><u>Con Area:</u> N/A</b>	<b><u>Valid Date:</u> 16<sup>th</sup> April 2019</b>	
<b><u>Listed Building Grade:</u> N/A</b>		
<b>Agent:</b>	<b>Simpson Design, 42 Semicock Road, Ballymoney. BT53 6PY</b>	
<b>Applicant:</b>	<b>Mr R Patterson, 9 Agivey Road, Kilrea</b>	
<b>Objections:</b> 3	<b>Petitions of Objection:</b>	<b>0</b>
<b>Support:</b> 0	<b>Petitions of Support:</b>	<b>0</b>

## **EXECUTIVE SUMMARY**

- Full planning permission is sought for a retrospective proposal including existing roadside pillars and area of tarmac & stone to be used as a storage yard. Items to be stored include portacabin, shipping container, lorry, road roller digger and cars
- The site is located within the countryside, outside of any defined settlement development limits as defined in the Northern Area Plan 2016.
- The development has been assessed as a storage use in relation to the applicant's car sales business which is located at a different site.
- The principle of development is considered unacceptable as no exceptional circumstances have been presented in accordance with PED 2 of PPS 4.
- Furthermore, DAERA has been consulted and the proposal has the potential to adversely affect the water environment as it has not demonstrated that the proposal would not result in adverse environmental impacts as a result of the storage of vehicles on the site.
- Environmental Health has been consulted and raises concerns regarding the hours of operation.
- DfI Roads has no objection to the proposal.
- There are 3 objections from 2 objectors to the proposal.
- The application is recommended for Refusal.

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 the recommendation set out in section 9 and the policies, guidance and consideration in sections 7 and 8 and resolves to **REFUSE** planning permission for the reasons set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The application site is located off the Movanagher Road and is accessed from an access point denoted by concrete pillars and field gates. The site comprises a large area of hard core/tarmac with more recently surfaced sections of newer tarmac. A portacabin sits along the eastern boundary of the site, with a shipping container in the south-western corner. There are piles of various materials strewn around the site, including gravel/stones, tyres, construction materials, fencing panels, and other miscellaneous items.
- 2.2 The topography of the site falls away from the road and its boundaries are presently defined by the existing planting, with timber post and wire fencing to some sections.
- 2.3 There were 6 cars, in various states of repair, a lorry, a van, a mini digger, a go-kart and a small all-terrain bucket loader on site.
- 2.4 The surrounding area is rural. There is an existing dwelling (No. 54) located to the west of the application site. South of the site is a go-kart track.
- 2.5 The site is not within any zonings or designations as defined within the Northern Area Plan 2016.

## **3 RELEVANT HISTORY**

There is no relevant history relating to the application site.

## **4 THE APPLICATION**

- 4.1 Full Planning Permission is sought for a retrospective proposal including existing roadside pillars and area of tarmac & stone to be used as a storage yard. Items to be stored include portacabin, shipping container, lorry, road roller digger and cars.

- 4.2 When the application was submitted, it was imprecise as to what actual use the agent was seeking for the site. The agent was then asked to clarify this during the processing of the application and, following discussion with the case officer, submitted an amended description.
- 4.3 The amended P1 form was received 22.1.2020 with the revised description stating: Retrospective Application for existing roadside pillars and area of tarmac & stone to be used as a storage yard. Items to be stored include portacabin, shipping container, lorry, road roller digger and cars. The application was then re-advertised and the neighbours re-notified.

### **Habitats Regulation Assessment**

- 4.4 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**

**Neighbours:** To date three objections have been received in respect of this application. Issues raised include:

- the cars parked have not been moved in over a year;
- the porta cabin has not been used since it was placed on the site over a year ago and is in disrepair;
- Movanager Road is a small country road not suitable for 6 & 8 wheel lorries;
- query in relation to the sight lines;
- plastic rubbish blowing off the site;
- rural location not suitable for commercial use and increased commercial traffic;
- site previously turned down for residential use;
- land owner has other yards that could be used with less impact on the local environment;

- photographs provided of vehicles coming and going from the site on a daily basis;
- size of vehicles using the site;
- ongoing works to the site.

## 5.2 Internal

**Dfl Roads** - has no objection to the proposal

**Environmental Health** - seek additional information in respect of days/hours of operation.

**DAERA Water Management Unit** - the proposal has the potential to adversely affect the surface water environment.

**DAERA Natural Environment Division** - has no objection to the proposal

## 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)

PPS21: Sustainable Development in the Countryside

PPS 3 (and its Addendums): Access, Movement and Parking

PPS 4 Planning and Economic Development

## 8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to background, the principle of development, environmental impacts, hours of operation, traffic matters, and other issues.

### **Planning Policy**

- 8.2 The site is outside any settlement development limit as defined in the Northern Area Plan 2016.
- 8.3 The proposal must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above.

### **Background**

- 8.4 The proposal is a retrospective application for existing roadside pillars, shipping container, parked vehicles and storing of other items. Having reviewed the design and access statement, accompanying photographs, and an additional letter dated 1st August 2019, it is not clear as to what the daily use of the site is. Insufficient information has been submitted to date to clearly determine what operations are occurring and what the end use is. The agent's letter states that the applicant has advised that there will be no additional traffic as there is no business being run and any cars are just sitting parked on this site.
- 8.5 At the time of the site inspection it confirmed there were 6 cars parked on the site. Furthermore during the site inspection there were a number of other items including a lorry, a van, a mini digger, a go-kart and a small all-terrain bucket loader.

- 8.6 Aerial imagery of the site from July 2017 shows no areas of surfaced hard standing and no buildings / structures / vehicles on the site. Farm tracks are evident, providing access into the adjacent agricultural fields. From this evidence it concluded that as of July 2017, the use of the land was for agricultural purposes.
- 8.7 Aerial imagery from April 2019 shows that the site has been scraped back, i.e. that the land was showing as brown (exposed soil) and not green (grass), indicating some form of works to the site. There also appear to be items stored on the site, although it is not discernible from the imagery what these items are.
- 8.8 Photographs were included with the design and access statement which was submitted as part of the proposal. These photographs are undated and appear to show the construction of the adjacent go-kart track to the south. The agent states that this also shows the creation of the hardstand area that was created alongside the go-kart track. It is officials' opinion that the photograph does not sufficiently show the creation of the area of hardstanding as was claimed by the agent. The photographs do show grass has been cleared exposing soil, but the image shows part of the application site being used for access purposes to and from the go-kart track which is shown as being under construction.
- 8.9 There is no conclusive evidence to indicate that the area of hardstanding, which is currently being used for storage and the subject of this application, was created at whatever time the photograph shows. In assessing dated aerial imagery relating to the site which does not appear to show the area of hardstanding as being developed, in this evidential context, greater weight is attributed to the dated aerial photography.
- 8.10 When the application was submitted, it was imprecise as to what actual use was being sought. The agent was then asked to clarify this and following discussion with the case officer submitted an amended description as described in Para 4.3.

### **Principle of Development**

- 8.11 Policy CTY1 identifies 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, or it is otherwise allocated for development in a development plan.

- 8.12 The proposal includes the siting and retention of a shipping container. Of particular relevance is a planning application for a temporary change of use of land which included the siting of four steel containers to facilitate storage of equipment and domestic items during the construction of new dwelling. This application was refused planning permission and was subsequently appealed. In dismissing this appeal (2018/A0144) the Commissioner stated the following which is noteworthy to the consideration of this application:

*“Whilst I acknowledge that these [steel] containers are located within the appellant’s agricultural holding and are set back from the roadside, screened from public view by the existing vegetation enclosing No. 11 and the roadside, this does not justify the retention of even a single container in the open countryside where development is restricted to those types of development listed in Policy CTY1. I am not persuaded that any of these factors outweigh the policy objections to the retention of these 4 containers”*

- 8.13 Therefore the Commissioner considered there is no justification for the retention of even one steel container [shipping], even on a temporary period subject to the construction of a new dwelling. A steel container is part of the development under consideration in this application. Having regard to this, it is considered that there is no policy basis for accepting the retention of the steel/shipping container.
- 8.14 It is unclear which of the types of non-residential development such a proposal best fits, but if it satisfies the policy requirements it would in turn satisfy CTY 1.
- 8.15 As the proposal appears to be partly used in association with the applicant’s car sales business for the storage of vehicles for *Richard Patterson Motors* this is considered relevant. Page 1 of PPS 4 states that economic development uses comprise industrial, business and storage and distribution uses, as currently defined in Part B ‘Industrial and Business Uses’ of the Planning (Use Classes) Order (Northern Ireland) 2004.
- 8.16 Having regard to the site having an element of storage, that PPS 4 Economic Development is the best suited policy in which to assess the development.



- 8.17 It should be noted that if planning permission is forthcoming this will permit a storage use only and should the site be used for anything other than storage, then a further planning application will likely be required.
- 8.18 The specific policy consideration is Policy PED 2 - Economic Development in the Countryside. It states 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
- 8.19 The proposal does not involve the extension of any existing buildings or the provision of any new buildings or the expansion of an established economic development use. The proposal is located on a different site to that of the car sales business. This is not the redevelopment of an established use and the proposal is not for major industrial development. The proposal is not considered to be a small rural project and does not meet the criteria of PED 6. As the proposal does not fall within the provisions of Policies PED 3, PED 4, PED 5 or PED 6, it falls to be considered as “an other” type of proposal for economic development in the countryside. As this is a proposal for storage use, and does not involve farm diversification, then it falls to be considered directly under PED 2. The relevant policy test states that *all other proposals for economic development in the countryside will only be permitted in exceptional circumstances.*
- 8.20 Paragraph 5.11 of the justification and amplification states that development proposals relating to large scale storage and distribution use will, in general, be more tightly controlled in the countryside than proposals for other economic development uses. It is considered that such proposals are usually more difficult to absorb into the countryside without detrimental impact on rural amenity and their capacity for generating employment is generally less than other uses.

- 8.21 Paragraph 5.11 refers specifically to proposals for large scale storage and distribution. However, the same principles and guidance would apply to any such proposal.
- 8.22 It states that these proposals are usually more difficult to absorb into the countryside without detrimental impact on rural amenity and the capacity to generate employment, and therefore is of significant relevance consideration of this application. The proposal seeks retrospective permission for existing roadside pillars and the area of tarmac and stone (identified as hardcore yard on the site plan) to be used as a storage yard. What was formerly a grass covered agricultural field has become a visually unsightly area of ground roughly covered in tarmac and now used for the storage of items, which include a portacabin, shipping container, lorry, road roller digger and cars. By virtue of the materials used to create the area for storage and the types of items stored these are inherently difficult to absorb into the countryside. The proposal does not appear to generate employment as the storage of cars and the shipping container is in association with the applicant's car sales business on a different site. The storage of the other items is not associated with the car sales business.
- 8.23 In a letter from the agent, date received 5th August 2019, the agent states that no business is being run from the site. It is considered that as the proposal results in an unsatisfactory form of development and does not generate employment, it is unacceptable in this location. As no exceptional circumstances have been demonstrated, the proposal is contrary to Policy PED 2.

### **Environmental Impacts**

- 8.24 Consultation was carried out with DAERA Water Management Unit (WMU) as the competent authority on drainage/water management and to consider the storage of old cars on site. From the photographs, it is identified that the surface treatment would not be impervious, and there is the potential for leaching/spillage of pollutants which may impact on groundwater and surface water receptors.
- 8.25 In its response, WMU said that on the basis of the information provided it is unable to determine if the development has the potential to adversely affect the surface water environment. It is noted that the application represents a retrospective application of an existing

storage site for vehicles and equipment, and certain activities can pose a significant risk to the aquatic environment.

- 8.26 Furthermore WMU is concerned that there is little evidence of required mitigation including statutory permissions, depollution of vehicles, any repairs or servicing of cars on the site or elsewhere. This application is being considered for storage use only. That said, as the agent has not demonstrated that the proposal would not result in adverse environmental impacts, and as a result of the storage of vehicles on the site, the proposal is contrary to paragraph 4.12 of the SPPS.

### **Hours of Operation**

- 8.27 Having regard to the comments of Environmental Health regarding the hours of operation, this is a matter which was not clarified as the principle of the development is considered unacceptable. That said, and without prejudice, this is a matter which could be conditioned if the principle of development was established.

### **Traffic Matters**

- 8.28 DfI Roads was consulted as the competent authority on road and traffic matters and it initially raised some concerns. However, following the receipt of further and additional information, including a letter from MCR Consulting providing a transport assessment report, DfI Roads raised no objection following further consultation.
- 8.29 The proposal is considered acceptable in respect of Policy AMP 2 and that the proposal complies with PPS 3 and its addendums.

### **Other Issues**

- 8.30 The proposal is described as retrospective and includes the use of the area of tarmac and stone for a storage yard. The cars and the portacabin are included in the list of items stored. DfI Roads has been consulted on this application in respect of the proposed access and the vehicles travelling to and from the site. Further to receipt of additional information it raises no objections and the Council has no evidence to disagree with its position regarding the suitability of the road and access.

- 8.31 Plastic rubbish blowing off the site is not specifically a planning related matter and limited weight is given. Environmental Health has been consulted and it has not raised concern regarding this matter.
- 8.32 Council has a duty to process and assess the proposal as described in the application and the land to which it relates. It is not for the Planning Authority to comment in respect of the suitability of another yard under the ownership of the applicant for any development.

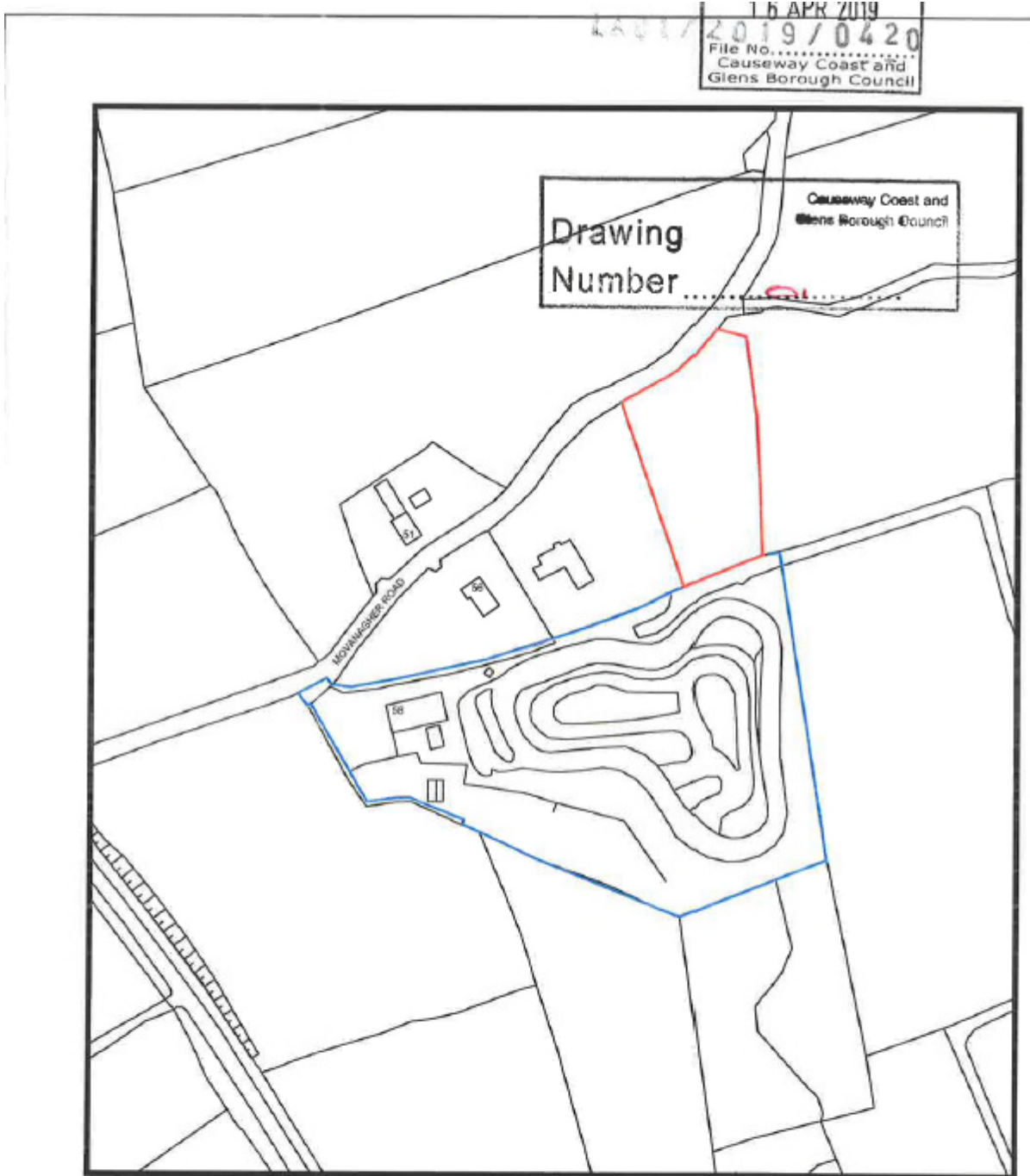
## **9 CONCLUSION**


- 9.1 The proposal is considered to be unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations including the SPPS, PPS 21, PPS4 and PPS 3. No exceptional circumstances have been presented and it has not demonstrated that the proposal would not result in adverse environmental impacts, as a result of the storage of vehicles on the site. The proposal fails to meet PED 2 of PPS 4 and CTY 1 of PPS 21 as it is not considered an acceptable type of development in the countryside. Refusal is recommended.

## **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 Policy PED 2 of Planning Policy Statement 4, Planning and Economic Development, in that the site is located in the countryside and no exceptional circumstances have been demonstrated to justify relaxation of the planning controls exercised in this countryside location.
3. The proposal is contrary to paragraph 4.12 of the Strategic Planning Policy Statement for Northern Ireland as it has not been demonstrated that the proposal will not result in an adverse impact on the surface water and groundwater environments and will not pose a significant risk to the aquatic environment.

# Site location Map



CLIENT Mr. R. Patterson				40 DENNISDALE ROAD, BALLYMURPHY CO. ANTRIM TEL: 09490 88910 Email: info@simpsondesign.co.uk Web: www.simpsondesign.co.uk
PROJECT Retrospective application for workshop used for Car Servicing/ Valeting at 58 Movannagher Road, Kileeshane	SCALE 1-2500	DATE Feb. 19	JOB NO ----	
DRAWING TITLE Location Plan	DRAWING NO LP-01	REVISIONS -		

# SITE LAYOUT

