



Planning Committee Report LA01/2018/1286/O	23rd September 2020
PLANNING COMMITTEE	

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

<u>No:</u> LA01/2018/1286/O	<u>Ward:</u> Dungiven
<u>App Type:</u> Outline Planning	
<u>Address:</u> Land Approx. 260m North West of 923 Glenshane Road Dungiven	
<u>Proposal:</u> Site for farm dwelling	
<u>Con Area:</u> n/a	<u>Valid Date:</u> 15.10.2018
<u>Listed Building Grade:</u> n/a	
Agent: G M Design Associates 22 Lodge Road, Coleraine, BT52 1NB	
Applicant: Dairmuid McLaughlin 17 Birren Road, Dungiven	
Objections: 0	Petitions of Objection: 0
Support: 0	Petitions of Support: 0

Executive Summary

- The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations.
- The site is outside any settlement limit and is located in the Countryside and within the Sperrin AONB.
- There is no overriding reason why this development is essential in this rural location and could not be located in a settlement.
- The proposal does not visually link or site to cluster with an established group of buildings on the farm. There are no demonstrable health and safety reasons to justify the alternative siting.
- The proposal is a prominent feature in the landscape meaning it does not integrate and would result in a detrimental change to rural character.
- The applicant has failed to demonstrate that the proposal would not prejudice road safety onto Glenshane Road (A6) which is a protected route.
- The proposal would adversely affect the distinctive character of the Sperrin Area of Outstanding Natural Beauty in terms of its siting and lack of enclosure.
- It has not been demonstrated that the development would not be harmful to habitats, species or features of natural heritage importance.
- No objections have been received in relation to this application.
- The proposal is contrary to the relevant planning policies including the Northern Area Plan, SPPS, PPS 2, PPS 3 and PPS 21.

Drawings and additional information are available to view on the Planning Portal- www.planningni.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 for the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

2.1 The site is a rectangular shaped plot of land measuring 0.32 hectares in a rural area. The site is 190 metres north of the Glenshane Road. The topography of the land is a steep gradient which is higher in the north and lower in the south. The rear of the site rises further to the north to the top of the hill. The site is currently agricultural grazing land. There are no buildings in the vicinity of the site. The site is accessed from an existing lane.

2.2 The northern and eastern boundaries are open / undefined. The southern boundary is defined by a 1 metre high post and wire fence and one tree. The western boundary is defined by a 1 metre high post and wire fence and some whin bushes. There is a small stream along the western boundary that flows downhill in a southerly direction towards the River Roe and Tributaries SAC / ASSI which is 569 metres to the south west. There are transient critical views of this elevated site from the Glenshane Road to the south east. The local area is characterised by agricultural farm land and some detached residential properties.

2.3 The site is located outside any settlement limit and is in the countryside within the Sperrin AONB as shown in the Northern Area Plan 2016.

3 RELEVANT HISTORY

No relevant planning history.

4 THE APPLICATION

This application seeks permission for 'Site for farm dwelling'.

5 PUBLICITY & CONSULTATIONS

5.1 External

All neighbours identified for notification within the terms of the legislation were notified on 2.11.2018, 5.12.2018 and 31.01.2019. The application was advertised on 7.11.2018 and re-advertised on 13.02.2019.

5.2 Internal

Environmental Health: No objection to the proposal.

Northern Ireland Water: No objection to the proposal.

DFI Roads: Contravenes Protected Routes Policy.

DAERA : Drainage and Water: No objection to the proposal.

DAERA : Natural Environment Division: Require further information. (A biodiversity checklist)

Shared Environmental Services: No objection to the proposal.

DAERA : Confirmation of active and established farming.

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 development 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

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

Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS) 2015

Planning Policy Statement 2 (PPS 2) Natural Heritage

Planning Policy Statement 3 (PPS 3) Access, Movement and Parking

Planning Policy Statement 21 (PPS 21) Sustainable Development in the Countryside

8 CONSIDERATIONS & ASSESSMENT

8.1 The main consideration in the determination of this application relate to the principle of development, Integration, Rural Character, Sperrin AONB, Wastewater disposal, Access, Movement and Parking, Natural Heritage and Habitat Regulation Assessment.

Planning Policy

8.2 The principle of the development proposed must be considered having regard to the Northern Area Plan and PPS policy documents specified above and the supplementary guidance.

Northern Area Plan

8.3 The site falls outside any settlement limits and is in the rural Countryside within the Sperrin AONB as defined by the NAP 2016.

Principle of Development

8.4 The policies outlined in paragraph 6.73 of the SPPS and Policy CTY 1 of PPS 21 state that there are a range of types of development which are considered acceptable in principle in the countryside. 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.

8.5 The application was submitted for a dwelling on a farm so this is considered below under policy CTY 10. Policy CTY 10 of PPS 21 states that permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

a) the farm business is currently active and has been established for at least 6 years; DAERA were consulted and have confirmed that the farm Business ID has been in existence for more than 6 years. The farm business claims either single farm payment, less favoured area Compensatory allowance or Agric Environment Schemes in the last 6 years. The proposal complies with criteria `a` the active and established test of policy.

8.6 b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; It appears that no dwellings or development opportunities have been sold off and there is no history of approvals on the farm lands identified on the farm maps. The proposal complies with criteria `b` as no dwellings or development opportunities have been sold off.

8.7 c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group(s).

8.8 The proposed site is positioned by itself and fails to visually link and is not sited to cluster, with an established group of buildings on the farm. The farm buildings are located adjacent No 17 Birren Road which is 2.73 km to the west of the site so the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm. The agent has submitted a design and access statement and a supporting letter by way of justification for its location on the farm as an alternative

site. The Design and access statement states the proposal is to facilitate the farmer's son who is responsible for day to day running of the farm. If, approved the dwelling would enable the applicant's son to live on the holding.

- 8.9 The supporting letter states the applicant Mr Dairmuid McLaughlin is responsible for running the family farm and this is his full time occupation. The farm is owned by his father Mr Patrick McLaughlin, who is not actively involved in the running of the holding. The holding will be transferred to Dairmuid McLaughlin and in order to facilitate this process he requires a new dwelling on the farm at a location to meet the need of the farm. The farm is spread over 2 locations approximately 2.5 miles apart. The smaller part of the holding comprises 7 ha, this land includes the existing farm yard and buildings at No 17 Birren Road.
- 8.10 The larger part of the holding where the proposed site is located comprises 116 ha and is more intensively farmed. There are no buildings on this part of the farm on the Glenshane Road and the site takes access from an existing farm lane. This existing lane on Glenshane Road is preferable by the applicant to intensifying a sub-standard access at No 17 Birren Road. The access at No 17 is intensively used in connection with the family home, a B&B and for visitors to the fishing lake. The agent states that a safe and satisfactory access to a site adjacent to an existing group of buildings at 17 Birren Road is not achievable due to the road geometry, constraints regarding visibility from the existing access to Birren Road and health and safety associated with vehicular traffic using the existing yard.
- 8.11 The applicant Mr Diarmuid McLaughlin aims to take ownership of the farm and plans to develop the farming operations at the site location on Glenshane Road. The site is where the majority of the agricultural activity (hill sheep farming) takes place and the application is a response to the applicant's specific needs and circumstances specifically during lambing season without the inconvenience of having to travel from No 17 Birren Road a distance of approximately 2.5km away.
- 8.12 Criterion (c) of Policy CTY 10 requires that the new building is visually linked or sited to cluster with an established group of buildings on the farm. The farm business farmed by Mr McLaughlin include the farm buildings at No 17 Birren Road. The supporting statement confirms that the applicant resides at No 17 Birren Road, which is a few minutes drive from the application site.
- 8.13 Criterion (c) provides for exceptional circumstances where consideration may be given to an alternative site elsewhere on the farm,

provided there are no other sites available at another group of buildings on the farm or out-farm and where there are either demonstrable health and safety reasons; or verifiable plans to expand the farm business at the existing building group(s).

Paragraph 5.42 of the justification and amplification states that if this is the case, the applicant will be required to submit appropriate and demonstrable evidence from a competent and independent authority such as the Health and Safety Executive or Environmental Health Department to justify the siting. Evidence relating to the future expansion of the farm business may include valid planning permissions, building control approvals or contractual obligations to supply farm produce. No such evidence has been put forward.

8.14 The agent states that the reason for the siting is because a safe and satisfactory access is not achievable to lands around 17 Birren Road this is due to the road geometry, constraints regarding visibility from the existing access to No 17 Birren Road, the B&B and the fishing pond and health and safety issues associated with vehicular traffic using the existing yard. The health and safety exception in Policy CTY 10 of PPS 21 implies reference to agricultural operations being the justification to allow alternative siting rather than the alleged inability to achieve a safe means of access. In the planning approval for the fishing pond B/2003/0143/F the applicant Mrs McLaughlin was able to demonstrate a safe means of access. For the applications B/1995/0041/O and B/1996/0033/RM for the replacement of No 17 Birren Road the applicant was able to demonstrate a safe access to the public road. The B&B at No. 17 mentioned by the agent does not benefit from any planning permission.

8.15 Having considered the health and safety reason put forward by the agent relating to the access, officials cannot give determining weight because a safe means of access has been demonstrated for No 17 Birren Road in the previous planning applications and intensification of the access caused by a B&B at No. 17 that does not have planning permission is given less merit as a planning justification, as the applicant has not carried out due process in this instance to gain the necessary planning permission for this building or use. The off-site replacement dwelling is now identified as No.19 Birren Road while the original dwelling has been rebuilt and is identified as No.17 the B & B. No verifiable expansion plans have been identified. Regarding health and safety concerns within the farm yard itself, a potential dwelling at the group of buildings at Birren Road could be accommodated without its means of access running through the farm yard. The agent has failed to

satisfy the requirements of criterion (c) of Policy CTY 10 in the particular evidential context of this application. In the round, the proposal is at odds with Policy CTY 10 of PPS 21.

8.16 The existing lane is proposed to be used which is in accordance with the policy however the proposal fails to comply with criteria 'c' of policy CTY10 and paragraph 6.73 of the SPPS. As it is not one of the types of residential development that are acceptable in principle in the countryside and there are no overriding reasons why it is essential and could not be located in a settlement, the proposal is contrary to Policy CTY 1 of PPS 21. CTY 10 states that dwellings on a farm should also comply with CTY 13 (a-f), CTY 14 and CTY 16. This will be considered below.

Integration

8.17 Policy CTY 1 of PPS 21 and paragraph 6.70 of the SPPS state that all proposals must be sited and designed to integrate into its setting, respect rural character, and be appropriately designed. 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.

8.18 The dwelling is located on an elevated site 190 metres north of the Glenshane Road accessed off an existing lane which accesses the Glenshane Road. The site is open on 2 boundaries to the north and east so lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and it relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.

8.19 The site is screened from the south west by dwellings on the Glenshane Road and by mature vegetation. The topography of the site is a steep slope rising in a northerly direction which acts as a back drop. Due to the slope on which the proposed site is located above the Glenshane Road, there are long distance critical views from the Glenshane Road to the south east. The issue here is that the siting would be prominent and would stand out at this location. Given the site characteristics being elevated above the Glenshane Road with 2 undefined boundaries in an elevated position, the proposal will be unduly prominent in the landscape. The proposal fails to comply with Policy CTY 13.

Rural Character

8.20 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. Among the circumstances where a new building will be unacceptable is where:

(a) it is unduly prominent in the landscape.

The proposal is unduly prominent in the landscape as demonstrated above under section CTY 13 consideration. The proposal fails to comply with criteria `a`. The proposal fails to comply with criteria `a` integration so will erode rural character of the area so does not comply with Policy CTY 14 and paragraph 6.70 of the SPPS.

Sperrin AONB

8.21 Planning Policy Statement 2, Policy NH6 - Areas of Outstanding Natural Beauty and Paragraph 6.187 of the Strategic Planning Policy Statement states that planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality. Among the criteria for acceptable development in the AONB are (a) and (b) set out below.

(a) the siting and scale of the proposal is sympathetic to the special character of the Outstanding Natural Beauty in general and in particular locality; The siting of the proposal within Sperrin AONB is on an elevated site above the Glenshane Road, it has 2 undefined boundaries and does not cluster or is visually linked with any buildings on the farm. The design of the building could be conditioned to an acceptable size and design which would be appropriate for this site and locality add, although the issue here is that the siting at this location would be conspicuous and would stand out at this elevated location. The siting of the dwelling is considered inappropriate for the site. The proposal fails to comply with criteria `a`.

8.22 (b) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape. The site is currently used for grazing and is set back 190m from the main road. The proposed site does not cluster or is visually linked with buildings on the farm. The proposal does not respect the integrity of the AONB. The proposal fails to comply with criteria `b`.

8.23 Overall the proposal fails to comply with criteria `a` and `b` of Policy NH6 - Areas of Outstanding Natural Beauty and Paragraph 6.187 of the Strategic Planning Policy Statement.

Wastewater disposal

8.24 Policy CTY 16 of PPS 21 - Development Relying on non-mains sewerage, applies and states planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.

8.25 Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made. In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances.

8.26 The applicant proposes to discharge to a septic tank. Environmental Health and DAERA Drainage and Water have been consulted and are content subject to standard conditions and informatives therefore the proposal complies with policy CTY 16.

Access, Movement and Parking

8.27 Policy AMP 2 of PPS 3 Access, Movement and Parking applies: Access to Public Roads states Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

8.28 a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and

b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

8.29 The applicant has demonstrated visibility splays of 2.4 metres by 160 metres which is acceptable. DFI Roads have been consulted and on 4th December 2018 they confirmed they had no objection to the proposal so the proposal complies with criteria `a`. The Glenshane Road (A6) is a protected route so this is considered below as unacceptable. The proposal fails to comply with criteria `b` and Policy AMP 2 of PPS 3 - Access, Movement and Parking.

8.30 Policy AMP 3 of Annex 1 - Consequential amendment to Policy AMP3 of PPS 3 Access, Movement and Parking, Access to Protected Routes

(Consequential revision) states that the Department will restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes as follows:

8.31 Other Protected Routes - Outside Settlement Limits states permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access in a number of specific cases:

8.32 A farm dwelling is covered by criteria b which states “A Farm Dwelling - where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route. The proposal is not considered acceptable as a farm dwelling as per Policy CTY 10 above so criteria `b` is not applicable.

8.33 It has been concluded above that the proposal contravenes Policies CTY 1, CTY 10, CTY 13 and CTY 14 of PPS 21 therefore as the principle of development is not acceptable the proposal also contravenes policy AMP 3. The proposal fails to comply with AMP 3 of Annex 1 - Consequential amendment to Policy AMP of PPS 3 Access, Movement and Parking.

Natural Heritage

8.34 PPS 2, Policy NH 5 - Habitats, Species or Features of Natural Heritage Importance states planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:

- priority habitats;
- priority species;
- active peatland;
- ancient and long-established woodland;
- features of earth science conservation importance;
- features of the landscape which are of major importance for wild flora and fauna;
- rare or threatened native species;
- wetlands (includes river corridors); or

- other natural heritage features worthy of protection.

8.35 A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature. In such cases, appropriate mitigation and/or compensatory measures will be required.

8.36 The proposal is within 10 metres of a hydrological link to the River Roe and Tributaries ASSI / SAC. Natural Environment Division have considered the proposal and require a biodiversity checklist to enable them to consider the impact on habitats, species or features of Natural Heritage Importance. As the principle of the development is unacceptable, the biodiversity checklist has not been requested as to not put the applicant to any unnecessary expense. On this basis the proposal fails to comply with NH5 of PPS2 as it has not been demonstrated that the development would not be harmful to habitat, species or features of Natural heritage importance.

Habitats Regulations Assessment

8.37 Habitat 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). The proposal has a stream on the western boundary and Shared Environmental Services have been consulted and subject to conditions have commented that the proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

Representations

8.38 There are no representations.

9 CONCLUSION

9.1 The proposal is considered unacceptable at this location having regard to the Northern Area Plan and other material considerations, the SPSS and Planning Policy Statements 2, 3 and 21. The proposal fails to meet the criteria for a dwelling on a farm given that the site does not visually link or site to cluster with a group of buildings on the farm. There are no

demonstrable health and safety reasons to justify the proposed location elsewhere on the farm. In addition, the proposed site is prominent and would have an adverse effect on rural character and the Sperrins AONB. The access for the proposal does not comply with the Protected Routes Policy. Refusal is recommended.

10 Reasons for Refusal

1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policies 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 Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and CTY 10 criteria C of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not visually link or site to cluster with an established group of buildings on the farm and it has not been demonstrated that there are demonstrable health and safety reasons to justify an alternative site elsewhere on the farm.
3. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal is a prominent feature in the landscape, the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and it relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.
5. The proposal is contrary to Policies AMP 2 and AMP 3 of Planning Policy Statement 3, Access, Movement and Parking and Annex 1 - Consequential amendment to Policy AMP 3 of Planning Policy Statement 3, Access, Movement and Parking in that, the applicant has failed to demonstrate that the proposal would not prejudice road safety onto Glenshane Road a Protected route.

6. The proposal is contrary to Paragraph 6.187 of the Strategic Planning Policy Statement and Planning Policy Statement 2, Policy NH6 (a) and (b) - Areas of Outstanding Natural Beauty, in that the applicant has failed to demonstrate that the proposal would not adversely affect the distinctive special character of the Sperrin Area of Outstanding Natural Beauty in terms of its siting and lack of enclosure.
7. The proposal is contrary to paragraph 6.192 of the SPPS and policy NH 5 of PPS 2 as it has not been demonstrated that the development would not be harmful to habitats, species or features of natural heritage importance.

Site Location Map

