

Implementation Date: 01 September 2023

Template for Requesting Speaking Rights at the Planning Committee

The Protocol for the Operation of the Planning Committee provides for interested person(s) to register to speak on a planning application that is scheduled to be determined at the next meeting of the Planning Committee. This request must be received by the Planning Department no later than 10am on the Monday before the Planning Committee meeting via email account planning@causewaycoastandglens.gov.uk.

Planning Reference	LA01/2021/0928/F
Name	DAVID DONALDSON
Contact Details	Tel: [REDACTED] Email: [REDACTED]
Support or Objection – please tick relevant box	Support <input type="checkbox"/> YES Objection <input type="checkbox"/>
<p>Written representation summarising key points to be addressed and supplementary information in support of your case (minimum font size 10 and maximum length two sides of A4 page).</p> <p>SEE OVER:</p>	

1. No 2 Ballygelagh Village is a semi-detached unit, which shares a common boundary with No 3.



No 2 Aerial Image



Nos 2 and 3.

2. The key planning permission to consider is **C/1996/0485**. This was granted in October 1996, and granted permission for **conversion of a bungalow to 2 holiday dwellings** and erection of 5no holiday dwellings:

Reference	C/1996/0485
Application Received	Tue 06 Aug 1996
Address	LAND AT 106 BALLYREAGH ROAD PORTSTEWART
Proposal	Conversion of bungalow to 2 holiday dwellings and erection of 5 no holiday dwellings (1 1/2 and 2 storey) (Amended scheme)
Status	Permission Granted
Authority Decision Date	Not Available
PAC Decision	Not Available
PAC Decision Date	Not Available

3. In 2016 Mr Jim Allister, the occupant of No 3 Ballygelagh Village, made an application to remove the holiday condition from his property (LA01/2016/1158/F). The Council initially considered this to be contrary to rural policy, but on reconsideration it was noted as follows:

'The original permission imposed a condition limiting the occupation of the buildings given the countryside location. The specified reason for this was 'the provision of groups of dwellings in the countryside within a Green Belt for permanent occupation is contrary to the Department's Rural Strategy'. This reason did not have cognisance of the existence of an established dwelling at this location.....'

On the basis of the above reasoning the proposal was not considered by Council to be contrary to Policy CTY1, but it determined that amenity space was inadequate. The subsequent appeal was allowed and the condition was varied to read:

'The units hereby approved, except for No 3 Ballygelagh Village, shall be used only for holiday accommodation and shall not be used as a permanent place of residence'.

4. The planning history is critical here. It is important to note that Nos 2 and 3 Ballygelagh Village were both created from the conversion of the previous dwelling. They are both clearly distinguishable from the 5 new build units which were granted under the same permission, and so **no precedent will be set.**

5. The key considerations for the Planning Committee are:

i) **the specific planning history for units 2 and 3. Unit 3 has now been excluded from the holiday condition, and so it would be inequitable not to similarly exclude unit 2, which benefits from an identical planning history.**

ii) It is noted from the COR on No 3 that the applicant indicated that the core elements of the original dwelling, including its kitchen and living accommodation, fell within the portion of the conversion which produced the holiday unit at No3. However this is not a relevant distinction in any case, as the original dwelling formed a single 'planning unit' and so the precise location of former kitchen or living areas is immaterial. The former cottage was permitted to become two new holiday units.

iii) As the Council accepted that No 3 should not be constrained by the condition it would be illogical (and unfair) not to make the same determination in relation to No 2 which was approved under precisely the same circumstances.

iv) the SPPS indicates (para 2.3) that 'fairness' is among the yardsticks against which development proposals will be measured.

v) The principles of fairness are discussed further in William Orbinson QC's book on 'Planning Appeals Principles' (5th edition). On page 73 Mr Orbinson sets out the key consideration as: ***'As the Commission said in appeal 1997/A192, the consistent application of planning policy is an important consideration. The planning authority must take planning decisions in a consistent way.....It can therefore be very important for the appellant to compare the way the planning authority has treated his proposal with the way it has handled other similar applications. Inconsistency can override strong planning objections to a proposal.'***

vi) Plainly, this is a case where fairness and consistency must prevail, especially in circumstances where there will be no harm whatsoever to the character or appearance of the rural area. Furthermore, no precedent will be set, as it is only Nos 2 and 3 which were approved as conversions of the original dwelling.

6. **The planning system must operate in a fair, consistent and impartial manner. As the condition has already been varied for No 3, the Planning Committee should have regard to the need for consistency in relation to this identical proposal for No2.**