

Aileen McGarry

From: Lee Kennedy <[REDACTED]>
Sent: 17 August 2023 09:23
To: Denise Dickson; Planning
Cc: Rachel Callaghan; Martin Canning
Subject: LA01/2020/0683/O - Moneyrannel Road, Limavady.
Attachments: Aug 23 - PS -Canning - Moneyrannel Road.pdf; Diamond Surveyors Letter.pdf; pao_b_2009_0036_f_signed decision notice_76619_001(1)(1)(1).pdf; PAO30875_NE-Protecting Historic Monuments_Consultation Response_222011121222.doc; Solicitors Letter.pdf

Good Morning Denise,

We have been instructed by the Applicant- Mr Martin Canning to review this planning application and provide a response to Council's proposed committee report. Please find attached a detailed report and supporting evidence for the above planning application.

In summary,

- Officers incorrectly suggest an alternative site is available to cluster with the existing farm building in Fields 4&5
- Solicitors letter confirms Fields 4&5 cannot be accessed for a residential dwelling and are effectively 'landlocked'
- Council has not fully considered the H&S concerns associated with a site beside the existing farm buildings using the existing substandard laneway.
- Officers fail to determine in the report that any dwelling using the existing laneway will have a significant effect on the Rough Fort, a protected monument of regional importance requiring visibility splays to be upgraded across its frontage requiring the removal of vegetation and lowering of an earth bank.
- Officers fail to acknowledge the planning history on the application site with approval for a farm yard and large agricultural building. This proposed dwelling has a significantly lesser visual or physical impact on the surrounding host environment than the approved development.
- The proposed approved farm yard and agricultural building was fully supported by HED in 2011, what has changed in the interim? No change to planning policy or legislation and the Applicants have provided additional supporting information in the form of AIA for this current planning application.
- The provision of a new laneway from Moneyrannel Road to service Fields 4 & 5 has been deemed financially unviable as set out in Diamond Surveyors Costings
- The application site is the only viable site on the applicant's farm holding that can be developed without any restriction.

I trust this is satisfactory and that this site will be reviewed prior to the committee meeting.

Regards,

[REDACTED]

On Behalf of:



LEEKENNEDYPLANNING
CHARTERED PLANNERS & DEVELOPMENT CONSULTANTS

17th August 2023

Ms. Denise Dickson
Head of Planning
Causeway Coast & Glens BC.
Cloonavin,
66 Portstewart Road,
Coleraine, BT52 1EY

Dear Madam,

RE: PLANNING APPLICATION – PROPOSED DWELLING HOUSE AND DETACHED GARAGE ON A FARM. PROPOSAL INCLUDES UPGRADE TO EXISTING ACCESS, PROPOSED DRIVEWAY, LANDSCAPING & ALL ASSOCIATED SITE WORKS ON LAND APPROXIMATELY 120M SOUTHWEST OF 37 MONEYRANNEL ROAD, LIMAVADY.

PLANNING REF: LA01/2020/0683/O.

I refer to the above development proposal and understand this application has been presented to June's Planning Committee and deferred for a site visit by Committee Members.

This Practice has been instructed by the Applicant – Mr. Martin Canning to review the proposed refusal reasons and provide a supporting statement to Council.

After reviewing the committee report and all relevant planning information on the portal, it is my professional opinion that Council Officers have taken a very biased and negative approach to the determination of this planning application.

Council Officers have failed to properly assess and/or provide weight to any of the 'material considerations' associated with this proposal as required by current planning legislation.

We do not accept the report of the Council and would advise that it is compulsory under the legislation as set out in the 2011 Planning (NI) Act and a pertinent duty of Council Officers to determine all planning applications having regard to the local development plan (LDP), so far as material to the application and, to 'any other material planning consideration' as set out under Article 45 of the 2011 Planning Act.

It is encumbered on the decisionmaker through legislation to assess this planning application against the local development plan and to....'any other material considerations' and, it is the role of Council officers to assess if the material considerations outweigh policy and planning guidance or if the proposal is of overriding regional or sub-regional economic importance.

In support of this planning application, I provide the following comments which clearly need to be fully determined and assessed against the merits of this proposal, namely:-

- Policy CTY 10 of Planning Policy Statement 21 (PPS 21) - Dwelling on Farm has three key criteria (a) – (c) that all planning applications for farm dwellings have to comply with in order to obtain planning approval.

- Sections 8.3 and 8.4 of the Committee Report confirm that officers accept this proposal meets both criteria **(a) & (b)** of Policy CTY 10.
- Sections 8.5 – 8.9 of the report suggest that the application does not comply with criteria (c) of Policy CTY 10 of PPS 21 in that the proposed site is not clustered or visually linked to existing buildings on the farm.
- Criteria (c) of Policy CTY 10 requires that...“*new building is visually linked or sited to cluster with an established group of buildings on the farm and **where practicable**, access to the building 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;

No Other Available Sites on the Farm holding:-

- Firstly, in terms of Criteria (c), there are no other sites available at another group of buildings on the farm. In section 8.5 of the report, Officers seem to suggest there is scope for a dwelling in Fields 4 or 5 as identified on the Farm Maps. See the extract of **Farm Map 2** below.



Figure 1: Extract of Farm Maps 2 – indicating Fields 4 & 5.

- Officers in the Committee Report, fail to acknowledge the Applicants Solicitor, by letter, dated 5th August 2022 (copy attached) confirms... ***“that the applicant cannot access this agricultural laneway for the purposes of any new dwelling and advise that any lending institutions will not consider mortgage applications for rural dwellings accessed via shared laneways, especially, an agricultural laneway in continuous use”***, my emphasis. This is a prominent issue that has previously come before the Planning Committee.
- Fundamentally, the committee report is misleading; *Fields 4 & 5* are ***‘inaccessible’*** for a dwelling house and effectively ***‘landlocked’***, therefore, there are no alternative sites on the land hence the submission of this current planning application.
- The applicant has considered the possibility of running a new lane from the public road along the western field boundary to service a dwelling on fields 4 or 5 but this is financially not a viable option. Please refer to letter from Diamond Surveyors attached.

Health & Safety Implications:-

- Officers also failed to properly consider the demonstrable health and safety concerns of a potential site in fields 4 & 5 using the existing laneway. Firstly, the existing laneway is very restricted in width and in poor physical condition. The applicant has no power to use the lane for residential purposes nor has he control to upgrade the lane. He only possesses an agricultural ROW over the lane. Historically, the restricted width, physical condition and poor forward sight distances have been a major bone of contention for all persons using this lane.



Figure 2: Photographs indicating the width and poor physical condition of the existing lane.



Figure 3: Google Map – indicating distance from Moneyrannel to Established Farm Buildings.

- Figure 3 demonstrates that the lane from the public road to the established farm buildings measures 848m or over 0.52 of a mile. Do Officers seriously consider it acceptable for any person, never mind a child, to walk this laneway from the public road to a potential dwelling in Field 4 or 5 considering its restricted width, poor FSD, poor physical condition, and is in regular use by large agricultural machinery.
- Note, many rural children use public transport to and from schools and its very likely children would be forced to use this substandard rural lane to reach any dwelling on Field 4 or 5. This will be more prevalent in the winter evenings when it's dark early evenings when agricultural machinery would be on the laneway harvesting.
- The possibility of a new private farm lane has been explored but financially its not a viable option.
- From the public road to the farm buildings, there is only one layby to allow traffic to pass on the lane. This results in traffic having to reverse along a substandard lane for a considerable distance putting every user of the lane at a serious safety risk.
- This laneway measures approximately **2.7m in width**, has a number of dangerous **'blind spots'**, and is in continuous use by heavy agricultural machinery making it dangerous and unacceptable for use by any vehicle never mind any pedestrians. The photographs below indicate how dangerous this lane is to use and puts any pedestrian usage life at serious risk. See attached photographs below:-



Figure 4: Photographs of Heavy Agricultural Vehicles on Lane. Note no space either side of tractor for pedestrians on the lane.

- Note the tractor on the lane has machinery attached to its rear and has very little movement space either side of it onto the laneway, it's impossible for a pedestrian or vehicle to pass on this lane. This is a serious health and safety consideration.
- In addition, Officers should be aware that any dwelling accessed off this existing substandard laneway would need to upgrade the existing entrance onto the public road to current DFI Roads standards providing visibility splays of 120m across the front of the protect fort. This would impact significantly on the protected Rough Fort; a protected monument of overriding regional or sub-regional economic importance and wouldn't be permitted but this has not been considered in the Committee Report. See the photograph below, no scope of entrance upgrade or any provision of visibility splays across frontage of protected monument.



Figure 5: Photograph of existing entrance and the Rough Fort – a protected monument.

Integration & Character:

Points 8.10 – 8.13 deal with the integration value of this site into the landscape. Firstly, it's important to acknowledge there are no views of this site from the Main Ballykelly Road and secondly, Moneyrannel Road is now a minor rural service road used by local traffic only. The only potential view of the site would be a 'glimpse' at the entrance, but consideration has to be given to any road user who is preoccupied with the junction onto the main Ballykelly than searching the landscape for a dwelling house on the application site at an oblique angle to view.

Officers discuss critical views of the site, but these are not set out anywhere within the report. The only available view of the application site is from Moneyrannel Road at the existing entrance onto the public road. At this location, the site is set back behind strong existing roadside boundary vegetation on Moneyrannel Road which contains a 3-metre-high dense evergreen tree and hedging as indicated in the photograph below.

The decisionmaker should also acknowledge at the application site avails of two existing site boundaries (*roadside frontage & western*) which provide sufficient enclosure from critical views and also has a setback of 20 from the public road within a 'hallow' in the host field, 2 metres below road level which further aids the integration of the site into the surrounding landscape without any impact on visual amenity.



Figure 6 : Photograph of existing strong roadside vegetation and view of proposed siting.

This application site has no impact on rural character due to its lack of visibility in the landscape, if the site is visually absorbed into the surrounding landscape, it cannot adversely impact on rural character. A concept plan has been provided indicating an indicative site layout, but ridge height and dwelling size can be matter conditioned on any forthcoming approval.

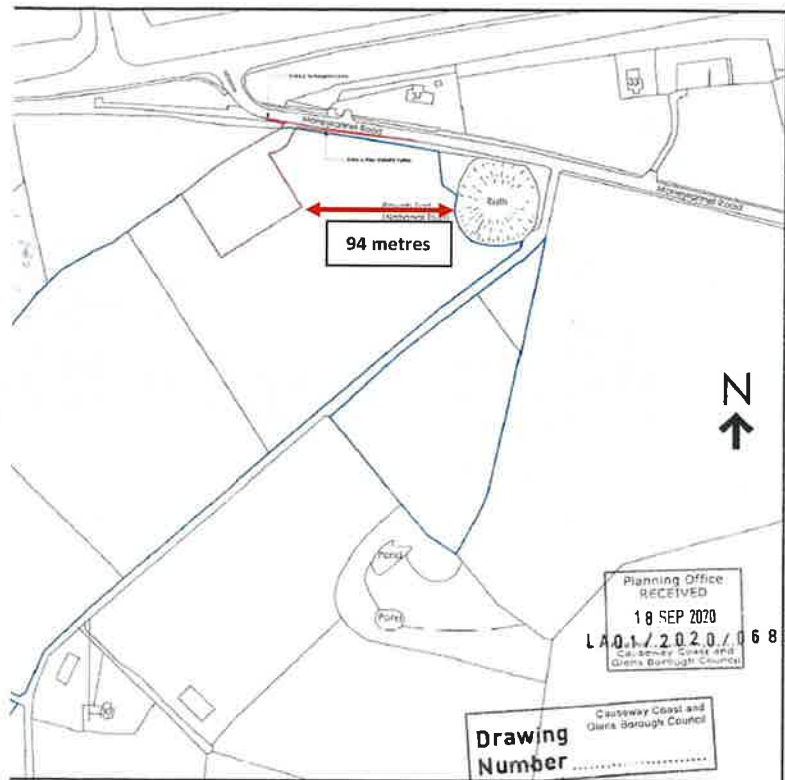
Archaeology – Previous Planning History of Application Site.

The applicant acknowledges that the application site is located within close proximity to a protected monument, and he has instructed an Archaeological and Cultural Impact Assessment Document. The nearest part of any new dwelling will be 94 metres at least from the Rath. The AIA report concludes that there will be no impact on the setting of this monument through the introduction of the new dwelling.

We understand the concern from HED to this application, but this raise concerns as to why they have issues with the setting of this proposed dwelling when there is planning history on this same very site for an agricultural barn and associated farmyard approved on the 28th of September 2011 under Planning Ref: B/2009/0036/F. ***Copy of Decision Notice attached.***

I also attach a consultation response from HED in October 2010 confirming they had no objection to the erection of the new barn and farmyard which significantly had a greater built footprint and visual impact on the surrounding landscape than this proposal for a single storey modest sized dwelling house.

PPS 6 – Planning, Archaeology & the Built Heritage was published in March 1999 and is still the document used for the determination of planning applications today. As nothing has changed in terms of planning policy or legislation, we would request that HED remove their objection to this scheme which is a lot less visually intensive than a large agricultural barn and farmyard.



I trust this is satisfactory and that this planning application will be reconsidered taking the above information into consideration prior to it being presented to the planning committee.

Yours faithfully,

[Redacted signature]

On behalf of:

Lee Kennedy Planning.



Planning Service
Causeway Coast and Glens Borough Council
Cloonavin
66 Portstewart Road
Coleraine
County Londonderry
BT52 1EY

Date: 5th August 2022

Your Ref:

Our Ref: KL/BD/C648

Our client – Martin Canning
Planning Application LA/01/2020/0683/O – Moneyrannel Road, Limavady

Dear Sirs

We act for Mr Canning and are familiar with the title to his lands at Moneyrannel Road, Limavady comprising the site which is the subject of the above Application.

We have advised Mr Canning that his lands do not enjoy adequate express rights of access for the purposes of a new domestic dwelling, over the existing agricultural laneway which accesses the lands from Moneyrannel Road immediately to the east of the Rough Fort. It is therefore likely that title to the proposed site would not be marketable if it were reliant on vehicular access over this existing laneway.

We have also advised Mr Canning that many mainstream lending institutions will now not consider mortgage applications for rural dwellings which are accessed via shared laneways, particularly where the laneway is subject to continuous agricultural use, as is the case here.

We would respectfully request that these factors are given due consideration in dealing with this application.

Yours faithfully,

Martin King French & Ingram LLP
email: [REDACTED]

KEITH LEIGHTON, LL.B.
JENNY DUNLOP, LL.B.
PETER BROWN, LL.B. TEP

52 CATHERINE STREET
LIMAVADY
CO. LONDONDERRY
BT49 9DB

TELEPHONE (028) 777 62307
FAX (028) 777 66232
DX 3503 NR LIMAVADY



APPROVAL OF PLANNING PERMISSION

Planning (Northern Ireland) Order 1991

Application No: **B/2009/0036/F**

Date of Application: **29th January 2009**

Site of Proposed Development: **Approximately 190 metres south west of 37 Moneyrannel Road, Moneyrannel, Limavady**

Description of Proposal: **New agricultural barn and associated farmyard with upgraded access**

Applicant: **Mr M Canning**
Address: **C/o W.J.Dickson Architects**

Agent: **W.J. Dickson**
Address: **73 Catherine Street
Limavady
Co Londonderry
BT49 9DA**

Drawing Ref: **01 REVISION 01, 04 REVISION 02, 05,**

The Department of the Environment in pursuance of its powers under the above-mentioned Order hereby

GRANTS PLANNING PERMISSION

for the above-mentioned development in accordance with your application subject to compliance with the following conditions which are imposed for the reasons stated:

1. As required by Article 34 of the Planning (Northern Ireland) Order 1991, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Application No. B/2009/0036/F

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An Agency within the Department of the

Environment

Environment Agency





Reason: Time Limit.

2. The vehicular access, including visibility splays and any forward sight line, shall be provided in accordance with the approved plans, prior to the commencement of any works or other development hereby permitted.

REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby permitted becomes operational and shall be retained and kept clear thereafter.

REASON: To ensure there is a satisfactory means of access in the interest of road safety and the convenience of road users.

4. The gradient of the access shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

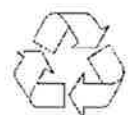
5. All hard and soft landscape works shall be carried out in accordance with the approved details shown on drawing 04 revision 02 which was received by the Department on the 18th Jan 2011. The works shall be carried out prior to the commencement of agricultural activity on the site or in accordance with a programme to be agreed with the Department.

REASON: To ensure the provision, establishment and maintenance of a high standard of landscape.

6. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Department, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Department gives its written consent to any variation.

REASON: To ensure the provision, establishment and maintenance of a high standard of landscape.

7. Notwithstanding the provisions of the Planning (General Development) Order (NI) 1993, or any Order revoking and re-enacting that Order, no building, structure, or hard standing shall be erected in conjunction with the agricultural business without prior written consent of the Department.





REASON: In order to protect the setting of the adjacent scheduled monument.

8. Subject to the above conditions, the development shall be carried out in accordance with the stamped approved drawings No 01 Revision 01 and 04 Revision 02 which were received on 18th Jan 2011 and drawing No 05 which was received on the 29th Jan 2009.

Reason: To ensure a satisfactory form of development.





Informatives

1. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent property for the removal of or building on the party wall or boundary whether or not defined.
2. This permission does not alter or extinguish or otherwise effect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Department or other statutory authority.
5. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
6. Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Article 71 - 83 inclusive of the Roads (NI) Order 1993 to be in possession of the DRD's consent before any work is commenced which involves making openings to any fence or hedge bounding the site. The consent is available on personal application to the Roads Service Section Engineer whose address is: 86 Main Street, Limavady. A deposit will be required.
7. All construction plant and materials shall be stored within the curtilage of the site.
8. It is the responsibility of the developer to ensure that:
 - (a) surface water does not flow from the site onto the public road;
 - (b) the existing roadside drainage is accommodated and no water flows from the public road onto the site.
 - (c) surface water from the roof of the development hereby approved does not flow onto the public road, including the footway.





9. The onus is on the householder/developer to find out if there is existing water and sewer infrastructure within their property.
10. It is an offence under Article 236 of the water and Sewerage Services (Northern Ireland) Order 2006, to build over or near watermains, sewers, pipes and associated works owned and maintained by Northern Ireland Water unless with the prior consent by NI Water.
11. House owners and developers should obtain details of existing infrastructure from NI Water by requesting a copy of the water and sewer records. Copies of our records are supplied under Articles 257 and 258 of the 2006 Order. There is a nominal charge for this service.
12. Where existing water and sewer infrastructure is located within a property and proposed development of the site interferes with the public watermains, sewers and associated works, the householder/developer may make a Notice under Article 247 of the 2006 Order to have the public infrastructure diverted, realigned. Each diversion and realignment request is considered on its own merits and approval is at the discretion and sewer infrastructure, including full costs, company overheads, etc.
13. It is the responsibility of the house builder/builder/developer to establish if existing public watermains, foul/storm sewers, together with appropriate waste water treatment facilities, have adequate capacity to serve the proposal. To establish how best any development may be served by existing public water and sewerage infrastructure, a Pre Development Enquiry (PDE) would require to be submitted. There is a charge for this service.
14. If your proposed development is not near a public watermain, foul sewer or surface water sewer and you cannot discharge your surface water to a natural watercourse you may wish to consider making a requisition Notice asking NI Water to extend the public watermain or foul/storm sewer system to service your development. This can be done by requisitioning a watermain under Article 76 of the 2006 Order and sewers under Article 154 of the 2006 Order. House builders and developers may have to contribute to the cost of extending watermains and sewers.
15. The Environmental Health Department of Limavady Borough Council advises that the developer must have legal title in relation to lands used in connection with any septic tank/drainage arrangement associated with the development hereby approved. The developer must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the development hereby approved will have access to these lands for maintenance/improvement works as required.

Dated: 28th September 2011

Authorised Officer _____

Application No. B/2009/0036/F

CO _____



An Agency within the Department of the
Environment



NIEA: Historic Monuments Unit

Waterman House

5-33 Hill Street

Belfast

BT1 2LA

Planning Service Ref: B/2009/0036/F

NIEA: HMU ref.: SM 11/1 Ldy 9:5 S

Site: Approx. 190m SW of 37 Moneyrannel Road, Moneyrannel, Limavady

Date: 2/2/11

Please refer to our previous comments regarding this planning application, issued from this office on 21/10/10.

This development occurs close to a Scheduled counterscarp rath, a form of defensive farmstead enclosure dating to the Early Christian period (specifically AD 500-1000). This monument is Scheduled for protection under the Historic Monuments and Archaeological Objects (NI) Order 1995. **PPS 6 Policy BH 1** also refers in this instance and the Department will not normally permit development which would adversely affect such sites of regional importance or their settings.

We have now reviewed the revised site layout (Drawing No. PL 01 C) and are satisfied that this proposed development has been made archaeologically acceptable, as per **Policy BH 1 of PPS 6**.

Please note that NIEA: HMU would have concerns as to any further development in this area that would have a potential adverse visual impact upon the integrity of the setting of the nearby scheduled monument and would require consultation on any future planning applications for development in this area.

Issued on behalf of

NIEA: Historic Monuments Unit



An Agency within the Department of the
Environment
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Northern Ireland
Environment
Agency

DIAMOND SURVEYORS

QUANTITY SURVEYORS

KARL DIAMOND BSc. HONS (Q.S.)

Tendering & Construction Cost Consultants

4th August 2022

Martin Canning,
Ballykelly

Dear Martin,

Re: Lane for proposed dwelling at Moneyrannel Road, Limavady

Please note our cost estimate of [REDACTED] VAT for the new 500m lane to the proposed new farm dwelling in Ballykelly. Breakdown enclosed:

Excavation and disposal	969m3 @	[REDACTED]
Hardcore	969m3 @	[REDACTED]
Kerbing	1018m @	[REDACTED]
Drainage	510m @ £	[REDACTED]
Gullies	20Nr @ £	[REDACTED]
Fencing	1000m @	[REDACTED]
Tarmac	2154m2 @	[REDACTED]

Total Costs

Concrete in lieu of tarmac

saving (£ [REDACTED])

Should you have any queries or require any further information please contact myself.

Yours Sincerely,

[REDACTED]

61 Deerpark Road,
Bellaghy,
Magherafelt.
BT45 8LB

Tel: 02879 386616
Email: diamond.surveyor@btconnect.com