

<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2020/0692/MDA</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>27<sup>th</sup> October 2021</b>
<b>For Decision or  For Information</b>	<b>For Decision</b>

<b>Linkage to Council Strategy (2021-25)</b>	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Senior Planning Officer

<b>Budgetary Considerations</b>	
Cost of Proposal	Nil
Included in Current Year Estimates	<b>N/A</b>
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
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:

<b><u>No:</u></b> LA01/2020/0692/MDA	<b><u>Ward:</u></b> Torr Head and Rathlin
<b><u>App Type:</u></b> Modification/Discharge of Planning Agreement	
<b><u>Address:</u></b> Rear of 33 Glenann Road, Cushendall	
<b><u>Proposal:</u></b> Original application reference E/1998/0238 dated 1/9/2000, Planning agreement restricting use of proposed holiday cottages to holiday letting accommodation.	
<b><u>Con Area:</u></b> n/a	<b><u>Valid Date:</u></b> 17.07.2020
<b><u>Listed Building Grade:</u></b> n/a	
<b>Agent:</b> ON, FA, JM Wheeler, 201 Garron Road, Glenariffe, Ballymena, BT44 0RA	
<b>Applicant:</b> Mr P Mitchell, 23 Glenariffe Road, Ballymena, BT4 0QJ	
<b>Objections:</b> 0	<b>Petitions of Objection:</b> 0
<b>Support:</b> 0	<b>Petitions of Support:</b> 0

## EXECUTIVE SUMMARY

- Consent is sought for the discharge of a planning agreement agreed under application E/1998/0238/O for 'Site for 3 holiday cottages'.
- An Article 40 Agreement (The Planning (Northern Ireland) Order 1991) made on 26<sup>th</sup> July 2000 stated the proposed holiday cottages shall be used as holiday letting accommodation only, the proposed application seeks to remove this agreement.
- The site is not located within any settlement limit as defined in Northern Area Plan 2016.
- The site lies within Antrim Coast and Glens AONB.
- The principle of the resulting development is considered unacceptable having regard to Policy CTY 1 in that it does not fall within the acceptable developments as specified in Policy CTY 1.
- The proposal is also considered unacceptable having regard to SPPS, PPS 7 and the Addendum to PPS 7.
- DFI Roads, NI Water and Environmental Health have been consulted on the application.
- There are no objections to the proposal.
- The application is recommended for refusal.

**Drawings and additional information are available to view on the Planning Portal- <https://epicpublic.planningni.gov.uk/publicaccess/>**

## **RECOMMENDATION**

- 1.1 That the Committee has taken into consideration and agrees with the reasons for recommendation set out in Section 9 and the policies and guidance in sections 7 and 8 and resolves to **REFUSE** the discharge of a planning agreement for the reasons set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The application site is set back from Glenann Road and is accessed via an existing lane.
- 2.2 The site is a rectangular shaped plot. The application site is relatively flat with the land to the north rising upwards. The existing holiday cottages face south-west. The cottages are in a terrace and are single storey in appearance. The finishes include white painted render walls, black roof tiles and brown window frames.
- 2.3 To the rear of each cottage is a small paved area, with a wooden fence between each cottage. To the front of the cottages there is a small paved area with a picnic table for each unit and beyond this is the gravel access road to serve the cottages. There is communal parking in the south-western part of the site. The cottages are currently being used for holiday lets.
- 2.4 The south-eastern boundary is defined by a fence and hedge, the south-western boundary is defined by a fence and trees, the north-western boundary is defined by a low wall and fence and the north-eastern boundary is defined by a wall and hedge.
- 2.5 The site is located within the open countryside and lies within the Antrim Coast and Glens AONB. The character of the area is

generally rural but does incorporate individual dwellings and farm holdings/buildings within the wider vicinity of the site.

### **3 RELEVANT HISTORY**

E/1998/0238 /O– Rear of 33 Glenann Road, Cushendall,  
Site for 3 holiday Cottages  
Permission Granted – 01.09.2000

E/2003/0001/RM – Rear of 33 Glenann Road, Cushendall  
3 No. Holiday Homes  
Application Withdrawn – 02.11.2004

E/2004/0227/RM – Land to the rear of 33 Glenann Road,  
Cushendall  
Erection of 3 No single storey holiday cottages  
Permission Granted – 27.06.2006

LA01/2019/0904/O – NW of 37, 37B and 37C Glenann Road,  
Cushendall  
Proposed Farm dwelling and garage.  
Permission Granted – 21.04.2021

### **4 THE APPLICATION**

- 4.1 The application proposed the discharge of a planning agreement associated with planning application E/1998/0238/O restricting the use of the approved holiday cottages to holiday letting accommodation only.

### **5 PUBLICITY & CONSULTATIONS**

#### **5.1 External**

Advertising: None

Neighbours: None

#### **5.2 Internal**

DFI Roads – No objections.

NI Water – No objections

Environmental Health – No concerns raised

## **6 MATERIAL CONSIDERATIONS**

- 6.1 Section 77 (7) of the Planning Act (Northern Ireland) 2011 states that where an application is made for a planning agreement to be discharged or modified, the Authority may determine if the agreement no longer serves a useful purpose that it can be discharged. 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 (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 both 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**

Regional Development Strategy (RDS) 2035

Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 7: Quality Residential Environments  
Addendum to Planning Policy Statement 7: Safeguarding the  
Amenity of Established Residential Areas

Planning Policy Statement 21: Sustainable Development in the  
Countryside

Planning Advice Note – Implementation of Strategic Planning  
Policy in the Countryside

Creating Places

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to: principle of development, rural character and natural heritage issues.

### **Planning Policy**

- 8.2 The Northern Area Plan identifies the site as being located within the countryside and outside any defined settlement limits.
- 8.3 The site is located within the open countryside as defined by Northern Area Plan 2016 and is located within Antrim Coast and Glens AONB.
- 8.4 The proposal must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above.

### **Principle of Development**

- 8.5 Planning Application Ref: E/1998/0238/O granted planning permission for 3no. holiday cottages. The planning permission was accompanied by an Article 40 Planning Agreement which stipulated that the use of the 3no. holiday cottages was solely for the purpose of holiday let accommodation. An Article 40

Planning Agreement (of 'The Planning (Northern Ireland) Order (1991') is a legally binding document which the owner/occupier of the land must comply with as part of the planning permission. Application E/1998/0238/O was approved solely on the basis that it was for holiday let accommodation and not for permanent residence. The planning application was only acceptable on this basis. Therefore, without the Planning Agreement, the application would have been refused.

- 8.6 This proposed application to discharge this planning agreement is seeking to remove this stipulation and by doing so this restriction for holiday letting only would be removed. This would allow the units to be used as dwellings, capable of fulltime occupation. Section 77 (7) of The Planning Act (Northern Ireland) 2011 states that if the planning agreement no longer serves a useful purpose it will be discharged. By 'useful purpose' this refers to it no longer being required in terms of current planning policy or other material considerations. Therefore, it is necessary to consider and assess if the current buildings would be considered acceptable under current planning policies.
- 8.7 Paragraph 6.73 of the Strategic Planning Policy Statement (SPPS) and Planning Policy Statement 21 – Sustainable Development in the Countryside, Policy CTY 1 states there are 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. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations. The proposed development fails to fall within the range of development considered acceptable as outlined in Policy CTY 1 of PPS 21.
- 8.8 Supporting documents submitted by the agent states that the resultant development would fully meet the aims and objectives of PPS 21. It states that the dwellings would meet the needs of the local community and would support local services such as the local primary school. Consideration has been given to the supporting information submitted. However, no evidence has been presented to demonstrate how the proposal for three permanent dwellings in the countryside complies with the policies outlined in Policy CTY 1 of PPS 21 and no other material considerations of determining weight.



- 8.9 The agent has also suggested the applicant would be willing to offer the property to a Housing Association. No supporting evidence has been submitted to indicate that the development can comply with Policy CTY 5 of PPS 21.
- 8.10 As the proposed development consists of more than one dwelling consideration should be given to PPS 7, Quality Residential Environments and the suitability of the properties as individual permanent residences. Policy QD 1 of PPS 7 outlines the criteria which all residential development should conform to and will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. Taking into account criteria a – i of Policy QD 1 it is considered that the proposal would conflict with parts (c ), which refers to adequate provision of public and private open space and (h) which states there should be no unacceptable adverse effect on existing or proposed properties in terms of overlooking etc. The current use of the buildings as holiday cottages does not require the same level of private amenity space as would be required for permanent dwellings. Creating Places document advises that as an average private amenity space should be around 70 square metres and that those designed for families should be larger. Paragraph 4.31 of PPS 7 states that provision of adequate private garden space is particularly important for new family dwellings, generally dwellings with three or more bedrooms. As the properties are located in a rural location and marketed as family dwellings there is an expectation that the amenity level would be at the maximum level if not in excess of these when considering other rural dwelling sites in this locality. The building located at Site 1 has approximately 60.3 sq metres, Site 2 has approximately 60.8 sq m and Site 3 has approximately 64.4 sq m. The current amenity space to the rear of each of the properties comprises a small paved patio area which is below the required standards and considered unacceptable for this rural location. As such the proposal is contrary to part (c) of Policy QD1 and paragraph 4.9 of the SPPS.
- 8.11 The current site layout is open plan in nature with only an open timber fence separating the garden areas to the rear. The existing boundary treatments between the properties does not currently protect individual private amenity for each unit. Although this may be acceptable for holiday use it does not provide a suitable level of

privacy for the permanent residence and as such would be contrary to part (h) of QD1.

- 8.12 The agent has indicated the properties are three bedroom and measure approximately 78 sq metres in area. Based on the approved floor plans (approval E/2004/0227/RM) it is likely that the properties could accommodate five persons, although they are marketed to sleep seven as holiday lets. The Addendum to PPS 7 (Safeguarding the Character of Established Residential Areas), although referring to established residential areas, is a useful benchmark to assess the proposed properties for permanent residential living. According to space standards as laid out in Annex A of the Addendum to PPS 7, Safeguarding the Character of Established Residential Areas the properties would appear to be below the suggested minimum space standards (80/85 sq m) for a three bedroom (5 person) single storey property and as such would fail to meet Policy LC1 (c).

### **Non-Main Sewerage**

- 8.13 In relation to Policy CTY 16 of PPS 21, the service connections to the properties are already in place therefore it is considered the development complies with CTY 16.

### **Access**

- 8.14 The access to the development is via an existing lane onto Glenann Road. DFI Roads have been consulted and have no objection. The access is considered acceptable under PPS 3.

### **Habitats Regulation Assessment**

- 8.15 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.

## **9 CONCLUSION**

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations including Planning Policy Statement 21 – Sustainable Development in the Countryside. It has not been demonstrated that the proposal is one of the acceptable types of development permitted under Policy CTY1. Having considered the policy context the proposal fails to meet the policy requirements for three dwellings in the countryside.
- 9.2 The proposal would be contrary to Policy QD 1 of PPS 7 as there would be an inadequate level of private amenity space and lack of privacy for each of the three dwellings. The proposal would also be contrary to Policy LC 1 of the Addendum to PPS 7 as the dwellings fall below the required space standards for a dwelling of this scale. The recommendation is to refuse the discharge of the planning agreement associated with planning permission E/1998/0238/O. The agreement continues to serve a useful purpose and the recommendation is it shall not be discharged.

## **10 Refusal Reasons**

1. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland 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 paragraph 4.9 of Strategic Planning Policy Statement for Northern Ireland and Policy QD 1 of Planning Policy Statement 7, Quality Residential Environments criteria (c) and (h) in that an inadequate level of amenity private space has been provided and the layout will result in overlooking between properties.
3. The proposal is contrary to Policy LC 1 (c) of the Addendum to PPS 7, Safeguarding the Character of Established Residential Areas as the units of accommodation do not meet the minimum space standards.

## Site Location

