

**PLANNING COMMITTEE MEETING HELD WEDNESDAY 24 NOVEMBER 2021**

**Table of Key Adoptions**

<b>No.</b>	<b>Item</b>	<b>Summary of Decisions</b>
1.	Apologies	<i>Nil</i>
2.	Declarations of Interest	<b><i>Councillor Scott in LA01/2020/0550/F, Approx. 30m SW of 147 Mountsandel Road, Coleraine.</i></b>
3.	Minutes of Planning Committee meeting held Wednesday 27 October 2021	<b><i>Confirmed</i></b>
4.	Order of Items and Confirmation of Registered Speakers	<p><b><i>Application LA01/2021/0418F, Land approx. 38m east of the junction of Churchfield Road and Ballynagard Road (Losset Corner) Ballycastle, deferred for a Site Visit.</i></b></p> <p><b><i>Application LA01/2021/0023/O, Adjoining No 37 Dunlade Road, Greysteel deferred for a Site Visit, deferred for a Site Visit.</i></b></p>
5.	Schedule of Applications:	
5.1	LA01/2019/0890/F, Existing Rigged Hill Windfarm site, 6km East/South of Limavady	<b><i>Deferred pending the response from the consultees and for consideration of the matters raised within the most recent objections;</i></b>

		<b><i>That Planning Committee write to DfI Minister urgently to look at the part of the Act in relation to last minute objections, holding Planning Committee back from determining Planning Applications</i></b>
<b>5.2</b>	LA01/2021/0813/F, Lands to the rear and north of 191 Coleraine Road 19-45 Cappaghmore Manor and the south of 12-14 Cromlech Park Portstewart	<b><i>Approve planning permission subject to the conditions set out in section 10</i></b>
<b>5.3</b>	LA01/2021/0563/F Council Multi-Use Games Area (M.U.G.A) ,Playing Fields behind 171 Kings Lane, Ballykelly	<b><i>Approve planning permission subject to the conditions set out in section 10</i></b>
<b>5.4</b>	LA01/2020/0550/F, Approx. 30m SW of 147 Mountsandel Road, Coleraine	<b><i>Deferred to allow the Applicant/Agent to submit further plans.</i></b>
<b>5.5</b>	LA01/2020/1295/F, 36 Ballyrogan Road, Garvagh	<b><i>Refuse planning permission for the reasons set out in section 10</i></b>
<b>5.6</b>	LA01/2020/0966//F, Unit 4, Ballybrakes Business Park, Ballymoney	<b><i>Deferred and allow the Agent one month to submit a sequential test report</i></b>
<b>5.7</b>	LA01/2020/0687/F, Approx 70m NE of No 81 Coolagh Road, Greysteel	<b><i>Refuse planning permission subject to the conditions set out in section 10</i></b>
<b>5.8</b>	LA01/2020/1154/F, Unit 2, 25 Ballymena Road, Ballymoney	<b><i>Deferred and allow the Agent one month to submit a sequential test report</i></b>
<b>6.</b>	Development Plan:	
<b>6.1</b>	Local Development Plan – 6 Month LDP Work Programme (June - December 2021)	<b><i>Note the content of this report and agree to the 6-month (indicative) work programme attached at Appendix 1 (circulated)</i></b>
<b>7.</b>	Correspondence:	

<b>7.1</b>	DAERA – Actions to improve Planning Consultations delays and temporary impact on caseload management practices	<b><i>That Planning Committee write to Minister to outline dissatisfaction at imposed restrictions on communication and the impact on processing planning applications.</i></b>
<b>7.2</b>	DAERA – License for repair to Beach Palisade – Portballintrae	<b><i>Noted</i></b>
<b>7.3</b>	Dalradian Gold Ltd – Invitation to visit site at Tara Mine in Navan, Co Meath	<b><i>Planning Committee send a delegation, subject to clarification from the Head of Planning on venue and timing of event.</i></b>
<b>7.4</b>	Response to BT re: Permanent removal of public telephone - Portballintrae	<b><i>Noted</i></b>
<b>7.5</b>	Response to BT re: Removal of public telephone service (to install defibrillator) – Bann Road, Bendooragh	<b><i>Noted</i></b>
<b>7.6</b>	Dfl Letter to Council re: Withdrawal of Planning Advice Notice	<b><i>Noted</i></b>
<b>7.7</b>	Council's response to Dfl re: PAN	<b><i>Noted</i></b>
<b>7.8</b>	Response to Dfl - LTWS – Council's Implementation Update as of 31.09.21	<b><i>Noted</i></b>
<b>7.9</b>	LTWS – Annual Report	<b><i>Noted</i></b>
	<b><i>'In Committee' (Item 8 inclusive)</i></b>	
<b>8</b>	Confidential Items:	
<b>8.1</b>	Report for Noting Finance Period 1-6 2021 22 Update	<b><i>Noted</i></b>
<b>8.2</b>	Legal Update on JR Decision	<b><i>That subject to the agreement of K Morgan BL, a further Planning training session be organised in the New Year.</i></b>
<b>9.</b>	Any Other Relevant Business (Notified in accordance with Standing Order 12 (o))	<b><i>Nil</i></b>

**MINUTES OF THE PROCEEDINGS OF THE MEETING OF THE PLANNING  
COMMITTEE HELD IN THE COUNCIL CHAMBER, CIVIC HEADQUARTERS AND  
VIA VIDEO CONFERENCE  
ON WEDNESDAY 24 NOVEMBER 2021 AT 10.30AM**

**Chair:** Alderman Baird (C)

**Committee Members Present:** Alderman Boyle (C), Duddy (C), Finlay (C),  
McKeown (R)

Councillors Anderson (C), Dallat O'Driscoll (R), Hunter (R), McGurk (R), MA McKillop (R), McMullan (R), McLaughlin (R), Nicholl (R) and Scott (C)

**Non Committee Members Present:** Alderman Robinson (R)

**Officers Present:** D Dickson, Head of Planning (C)  
S Mulhern, Development Plan Manager (R)  
E Hudson, Senior Planning Officer (R)  
J McMath, Senior Planning Officer (R)  
M Wilson, Senior Planning Officer (R)  
J Lundy, Senior Planning Officer (R)  
N Linnegan, Council Solicitor (R)  
D Hunter, Council Solicitor (R)  
S Duggan, Civic Support & Committee & Member Services Officer (C)  
I Owens, Committee & Member Services Officer (C)

A Lennox, Mobile Operations Officer (C)  
C Ballentine, ICT Officer (C)

Press (1 no.) (R)  
Public (16 No. including Speakers) (R)

**Key** R = Remote                      C = Chamber

**Registered Speakers in Attendance (R):**

<b>LA01/2019/0890/F</b>	L McLaughlin V Ferry, SPR– Applicant D Smith, SPR- Applicant P Phillips, Arcus O Kirk, JUNO – Agent M Bradley MLA
<b>LA01/2020/0550/F</b>	M Howe – Agent C Black
<b>LA01/2020/1295/F</b>	Mr O’Kane – Applicant
<b>LA01/2021/0023/O</b>	A Tate – Agent A McGurk – Applicant
<b>LA01/2020/0687/F</b>	C Gourley – Agent
<b>LA01/2021/0418/O</b>	S McHenry – Agent

The Head of Planning undertook a roll call of Committee Members and speakers in attendance.

The Chair read the following in connection with the Remote Meetings Protocol and Local Government Code of Conduct:

*‘Welcome to the Planning Committee Meeting.*

*I extend a welcome to members of the press and public in attendance. You will be required to leave the meeting when Council goes into committee. You will be readmitted by Democratic Services Officers as soon as the meeting comes out of committee. I would also remind you that the taking of photographs of proceedings or the recording of proceedings for others to see or hear is prohibited.*

*If you are having technical difficulties try dialling in to the meeting on the telephone number supplied and then Conference ID code which is on the chat feature.*

*If you continue to have difficulties please contact the number provided on the chat at the beginning of the meeting for Democratic Services staff and ICT staff depending on your query.*

*The meeting will pause to try to reconnect you.*

*Once you are connected:*

- *Mute your microphone when not speaking.*
- *Use the chat facility to indicate to that you wish to speak. The chat should not be used to propose or second.*

- *Please also use the chat to indicate when you are leaving the meeting if you are leaving before the meeting ends.*
- *Unmute your microphone and turn your camera on when you are invited to speak.*
- *Only speak when invited to do so.*
- *Members are reminded that you must be heard and where possible be seen to all others in attendance to be considered present and voting or your vote cannot be counted.'*

## **Local Government Code of Conduct**

The Chair reminded the Planning Committee of their obligations under the Local Government Code of Conduct.

*'I would remind Members of your obligation under the Northern Ireland Local Government Code of Conduct for Councillors in relation to Planning matters.*

*Under Part 9 of the Code I would remind you of your obligation with regard to the disclosure of interests, lobbying and decision-making, which are of particular relevance to your role as a Member of this Planning Committee.*

*You should also bear in mind that other rules such as those relating to the improper use of your position, compromising impartiality or your behaviour towards other people, also apply to your conduct in relation to your role in planning matters.*

*If you declare an interest on a planning application you must leave the Chamber for the duration of the discussion and decision-making on that application'.*

### **1. APOLOGIES**

There were no apologies recorded.

Alderman Duddy advised Councillor Anderson would join later in the meeting.

### **2. DECLARATIONS OF INTEREST**

Declarations of Interest were recorded for Councillor Scott in LA01/2020/0550/F, Approx. 30m SW of 147 Mountsandel Road, Coleraine. Councillor Scott left The Chamber during consideration of the Item and did not vote.

### 3. **MINUTES OF PLANNING COMMITTEE MEETING HELD WEDNESDAY 27 OCTOBER 2021**

Copy, previously circulated.

Proposed by Alderman Duddy  
Seconded by Councillor Hunter and

**AGREED:** that the Minutes of Planning Committee meeting held Wednesday 27 October 2021 are confirmed as a correct record.

The Chair put the motion to the Committee to vote.

14 Members voted For.

The Chair declared the motion carried unanimously.

### 4. **ORDER OF ITEMS AND CONFIRMATION OF REGISTERED SPEAKERS**

Proposed by Councillor MA McKillop  
Seconded by Alderman Finlay and

**AGREED** – that LA01/2021/0418F, Land approx. 38m east of the junction of Churchfield Road and Ballynagard Road (Losset Corner) Ballycastle is deferred and Site Visit held; in order to see the layout of the land.

The Chair put the motion to the Committee to vote.

14 Members voted For.

The Chair declared the motion carried unanimously.

Proposed by Councillor Nicholl  
Seconded by Councillor McMullan and

**AGREED** – that LA01/2021/0023/O, Adjoining No 37 Dunlade Road, Greysteel is deferred and Site Visit held; in order to see the site in the context of the refusal reason CTY8 2a, to understand how the site sits within that.

The Chair put the motion to the Committee to vote.

14 Members voted For.

The Chair declared the motion carried unanimously.

Alderman S McKillop stated she had been made aware the Agent for Application LA01/2020/0966//F, Unit 4, Ballybrakes Business Park,

Ballymoney and Application LA01/2020/1154/F, Unit 2, 25 Ballymena Road, Ballymoney had not been granted Speaking Rights and requested a deferral.

The Chair advised there was no record of Speaking Rights and asked whether there were exceptional circumstances for the Agent to submit.

Alderman Duddy suggested the individual forward the email correspondence initially sent and continue the business of the meeting in the interim period, whilst records were checked.

The Head of Planning cited from the Council's Standing Orders, Protocol for the Operation of the Planning Committee, Paragraphs 6.4, 6.7 and 6.8.

The Chair advised Alderman S McKillop to enquire with the Agent to provide evidence to Committee of the Speaking Rights request submitted.

The Chair confirmed the Order of Business would be as set out on the Agenda.

## **5. SCHEDULE OF APPLICATIONS:**

### **5.1 LA01/2019/0890/F, Existing Rigged Hill Windfarm site, 6km East/South of Limavady**

Reports, previously circulated, presented by Senior Planning Officer C McKeary.

**App Type:** Full Planning

**Proposal:** The Repower of the existing Rigged Hill Windfarm comprising the following main components; (i) Decommissioning of the existing 10 turbines (ii) Removal and restoration of the existing substation building and compound (iii) Removal and restoration of other redundant infrastructure (iv) 7 No. wind turbines with an output of around 29MW (v) Construction of approximately 4.82km of new access tracks; (vi) Upgrade of approximately 1.75km of existing access tracks; (vii) Construction of temporary and permanent hardstanding areas for each turbine to accommodate turbine component laydown areas, crane hardstanding areas and external transformers and/or switchgears; (viii) Temporary construction compound/laydown areas; (ix) Turning heads and passing places incorporated within the site access infrastructure; (x) New Road Junction with Terrydoo Road; (xi) Meteorological Mast; (xii) Substation with



roof mounted solar panels, and associated compound (xiii) Removal of self-seeded trees in East of the Site and (xiv) all associated ancillary works.

**Recommendation**

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 **APPROVE** planning permission subject to the conditions set out in section 10.

**Addendum Recommendation**

That the Committee note the contents of this Addendum and agree with the recommendation to approve the application in accordance with Paragraph 1.1 of the Planning Committee report.

**Erratum Recommendation**

That the Committee note the contents of this Erratum and agree with the recommendation to approve the application in accordance with Paragraph 1.1 of the Planning Committee report.

**Erratum 2 Recommendation**

That the Committee note the contents of this Erratum 2 and agree with the recommendation to approve the application in accordance with Paragraph 1.1 of the Planning Committee report.

**Addendum 2 Recommendation**

That the Committee notes the contents of this addendum and agree to defer the application pending the response from the consultees.

Senior Planning Officer presented as follows:

This application is for the repowering of the windfarm known as Rigged Hill to the east of Limavady. The proposal is for the 10 existing turbines to be replaced with 7 turbines of 137m tip height along with the provision of ancillary development as detailed and the restoration of the site.

The application was presented to the Committee at the October meeting along with a report and an erratum. The Committee was also made aware of late objections as 2 verbal addenda. Since then further objections have been submitted which are considered in the addendum and addendum 2 which have been provided to the Committee.

Addendum 1 raised issues regarding the red lighting system and house values which are addressed within the addendum and make no change to the overall recommendation.

Addendum 2 raises the matter of deficiencies within the Habitats Regulation Assessment which the objector considers to be in contravention of a European Court of Justice judgement.

The Planning Department needs to seek comment regarding this from Shared Environmental Services who provide Habitat Regulation Assessments on behalf of the Council. Other consultations may also be required depending on their comments.

Until Shared Environmental Services responds, the Planning Department cannot confirm that all matters within the objection have been adequately addressed and a recommendation cannot be made.

A further objection was received yesterday 23rd November 2021 along with a neutral comment on 22nd November 2021. This brings the total number of objections to 9, with 5 letters of support and 1 non committal comment.

This latest objection also raises the substantial issues of the Habitat Regulation Assessment being deficient.

Again the detail of this objection needs considered by Shared Environmental Services who provide Habitat Regulation Assessments on behalf of the Council and a recommendation cannot be made until they have had the opportunity to comment.

The non committal comment provides a commentary on the current electricity supply in NI in relation to wind energy. The submission refers to 4 news items which the writer comments on. This document was also submitted by Councillor Schenning this morning who requested that the documents were put forward to the Committee. These news items relate to a much wider conversation about windfarms that is not within the remit of the current planning policy. This is why they were not addressed within the original report and why they can only be given very limited weight in any consideration of the application.

The recommendation is that the Committee notes the contents of the report, the erratum, the addendum, the addendum 2 and this verbal addendum and agree to defer the application pending the response from the consultees and for consideration of the matters raised within the most recent objections.

The Chair invited L McLaughlin to speak in objection to the application.

L McLaughlin advised he was from Drumsurn and speaking on behalf of the local community in objection for four reasons.

L McLaughlin stated the height of the turbine and rotor blades too big for the Benbradagh area. Rigged Hill is the second highest peak in the Sperrins. Section 6.3 of the report states there will be a high – medium landscape sensitivity. There are over saturation of wind farms in the Roe Valley. Planning are not considering the cumulative impact on the Roe Valley landscape and sensitivity to the environment and whether this is a viable energy production. This would be the highest turbine in Ireland, seen from everywhere. Every hilltop surrounding the wind farm landscape is saturated, over the walking trail, heritage, and questioned the appeal to tourists. L McLaughlin stated there should be a site visit before the application is decided.

L McLaughlin stated consultation with the residents of Drumsurn was inadequate. Information days were held in Garvagh and Limavady and queried why they had not been held in Drumsurn, as it has 3 Community Halls. Advertisements were placed in the local newspapers, however, these newspapers are not read by locals. Leaflet drops were made in 2019 and is debatable as he cannot remember receiving it. An information day was cancelled. Drumsurn should be kept up to date and Planning should facilitate representation; less than 10 people submitted representation. The applicant has made changes. Last year 2 wind farms have been put up in the vicinity of the village and 1 is awaiting construction.

L McLaughlin referred to the viability of the newly proposed wind farm. NI latest figures state that almost 50% of energy from renewable sources are from wind yet electricity prices increase. Why? There are direct links to four other issues of infrastructure, capacity, storage and local habitats that need to be resolved before a decision is made. L McLaughlin referred to Terry Waugh, Chief Executive of Action Renewables, that consideration does need to focus on other renewables.

In response to questions from Elected Members, L McLaughlin clarified he was a local resident and had studied Geography and Environmental Studies, worked on a range of consultation projects and in the Tourism sector in Limavady. He stated he is not opposed to renewable energy but this application is a step too far. He advised the Drumsurn population warranted consultation and neighbours did not have knowledge of the wind farm. Information days were held in 2018/19. Within this time period, two wind farms have been erected in the vicinity of the village, another passed and awaiting construction. The Roe Valley is surrounded by wind farms, electricity prices are rising, there is a flaw in the system, issues need to be addressed. L McLaughlin cited from the Utilities Regulator, an interview with SONI in March – two main problems the nature of renewable power unreliable, the right infrastructure is not in place. For example in the Roe Valley two wind farms have yet to be connected to the

grid; there are issues with infrastructure and capacity. L McLaughlin advised SONI have stated NI Electricity Renewable Energy comes from the North of Belfast yet most of the population is in the East. There is a problem with transporting renewable energy long distances that cannot be resolved. Within the Roe Valley supply, the grid is too full, wind farms are turned off, and there is an issue of constraint payments.

L McLaughlin quoted statistics from Dr John Constable. He further advised wind farms are located in areas where there is not much demand and electricity needs transported out. There is too much supply in the Roe Valley and are clear issues for the grid capacity to grow.

L McLaughlin referred to the Planning Committee Report and huge population of bats in the vicinity of wind farms. Mitigation effort is to turn off wind farms during peak periods of bat activity from dusk to dawn; turned off half the time it is going to be producing electricity and queried if it was going to be producing constraint payments.

The Chair invited O Kirk and P Philips to present in support of the application and V Ferry to answer any questions.

O Kirk referred to the recommendation to defer to reconsult with statutory consultees due to a further objection in Habitat Regulations SES. She stated confidence in the project team Environmental Statement and planning application and stated disappointment regarding the receipt of objections late in the process which had undermined the process. O Kirk stated it remained their view that the development continues to be compliant with regional policy and offers environmental, economic and social benefits to the area. She referred to the Planning Committee report stating that the proposal is in line with the statutory requirements and the viability of the wind farms is not a material planning consideration.

P Phillips advised the Environmental Impact Assessment had been undertaken by Environmental Landscape Architects. He advised that turbines have been a feature of the Rigg Hill landscape for over 25 years. The landscape assessment is supported by viewpoints from the roads. He advised that Drumsurn is approximately 4km from the nearest turbine. It is common for a wind farm to be separated by fields. Nearby residential properties will have no overbearing impact on residential amenity. He referred to the widely recognised 'Lavender test' on visual effect and advised that residential and visual amenity threshold will not be exceeded. Cumulative assessment with other wind farms has been undertaken in area and there are no significant effects on the landscape character beyond 2km. The Environmental Statement addresses all the points raised by L McLaughlin.

In response to Elected Member queries L McLaughlin clarified information days were held during the week in Limavady and Garvagh. Drumsurn have a population that does warrant consultation. The days were held two years ago and things change over time with two wind farms built. An information day was scheduled to be held last year and had been cancelled because of Covid. L McLaughlin stated there should be up to date information describing all conditions, and Planning should facilitate their representations. Everyone in Drumsurn has an opinion but there has been no consultation in 2021.

In response to Elected Member queries, V Ferry clarified upgrade to the current infrastructure would require a separate planning application if necessary and consulted upon with statutory consultees in its own right. Grid connection application can only be submitted on certainty of approval. V Ferry advised there was a danger of discussing the viability of a wind farm; it was not a material planning consideration but viability would be determined by Central Government energy policy. The role for onshore wind is to contribute to 70% target for renewable energy. Repowering the existing wind farm site by increasing output by replacing existing turbines. This will be a high performing site and larger turbines would help increase the output of the site. On shore wind technology eg solar all deployable in the next decade and will be instrumental to tackle climate action. Need to seek out ways to deploy more renewables onto the system, not less. Reliance on coal and gas increases costs of electricity and need to get to a place of hybrid mechanism.

In relation to bats, V ferry advised that mitigations will increase when wind is likely to be at its lowest; bats will only be active during low wind speeds.

V Ferry invited P Philips to respond. Climate Change has a huge impact on us and the eco system. Climate change impact on bats is unclear at present with weather locally likely to be more extreme, average temperature rise, how this affects bats is unclear. Environmental Statement proposes monitoring bats and will be implemented on an adaptive basis enabling impacts on bats to be avoided with curtailment required only for a very limited period when bats are active and the wind is not particularly strong, it's not raining, temperature around 10°C, and only from dusk to dawn. Impact on generation will therefore be minimal.

The Chair invited M Bradley MLA to address Committee in support of the application. M Bradley stated he was in favour of the proposal. Climate change and its effects had been recently publicised at COP 26; fossil fuels could not be continued to be produced. Wind turbines work well with evolving technology and could meet half of Northern Ireland's energy needs. Hampered with the high cost of coal, gas and oil; the more renewable energy that is put into the

grid, the more costs will come down. Few people read published newspapers. There should be a review of how statutory organisations engage through the use of smart phones, social media communications. The information has been freely widely available to benefit applicants and objectors. As technology develops wind energy could develop a significant proportion of electricity needs, emissions free, clean and renewable. This application is more efficient use reducing the number of turbines which is a good thing. M Bradley stated that he is in favour of the application progressing.

No questions were put to M Bradley MLA.

\* **Councillor Anderson arrived at the meeting at 11.47am at this point.**

In response to a request for clarification, the Head of Planning advised that assessment of each application is based on development plan, planning policy and material issues; should not diverge off into issues outside of Planning.

Senior Planning Officer addressed Committee she advised of correspondence received from Helen Harris, Applicant's Agent and cited from the email for Committee's information.

The Head of Planning clarified she would respond directly to the Agent. The Head of Planning referred to the Planning Act 2011 and the requirement to consider of all material considerations in reaching a decision.

Alderman Finlay proposed the officer recommendation and stated his dissatisfaction objections being received minutes before determination.

The Head of Planning advised of the latest information from members of the public, and recommendation of planning officers to defer for consideration of Habitats Regulations assessment issue raised.

The Chair clarified Planning Committee have to consider all material issues that come in late. The recommendation subject to a satisfactory response from consultees in light of the additional information.

Alderman Duddy noted frustration that after having made a decision, a late objection can be made and tied to the Planning Act and cited from it, 'must'. Alderman Duddy advised the matter to be raised with the Partnership Panel, a huge expense to those making applications to Committee and to staff. The matter to be raised with Department for Infrastructure to amend the Planning Act.

Alderman Duddy proposed that Planning Committee defer for one month, make a decision and draw the line.

Senior Planning Officer advised due to the complicated nature of the objection it would be unlikely Shared Environmental Services would provide an answer within 2½ weeks and returned to Committee, that January would be a reasonable period.

Alderman S McKillop supported Alderman Duddy's proposal with the caveat that having received consultation responses, the Planning Officer continue to deal with and release the green slip, when satisfied to do so, stating frustration.

Alderman Finlay voiced concern, the situation could arise again at that point. Councillor Hunter, Councillor Scott stated respective frustrations with process.

Alderman Duddy advised that following the advice, he supported deferring the application for two months, also supported by Alderman Boyle.

The Head of Planning suggested seeking legal advice on the issue of the late representations.

#### **MOTION TO PROCEED 'IN COMMITTEE'**

Proposed by Councillor Scott  
Seconded by Alderman Duddy and

**AGREED** – that Planning Committee move '*In Committee*'.

\* **Press and public were disconnected from the meeting at 12.19pm.**

***The information contained in the following items is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.***

Council Solicitor provided advice on new Planning material considerations, Statutory Consultee responses, documentation of reasoning and responded to questions from Elected Members.

#### **MOTION TO PROCEED 'IN PUBLIC'**

Proposed by Councillor Scott  
Seconded by Alderman Boyle and

**AGREED** – that Planning Committee move '*In Public*'.

\* **Press and Public were admitted to the meeting at 12.38pm.**

Alderman Finlay withdrew his proposal, in light of the legal opinion.

Proposed by Alderman Duddy

Seconded by Alderman S McKillop

- That Planning Committee defer the application for 2 months pending the response from the consultees and for consideration of the matters raised within the most recent objections;
- That Planning Committee write to DfI Minister urgently to look at the part of the Planning Act in relation to last minute objections, holding Planning Committee back from determining Planning Applications, when they are in the system for some time.

The Chair put the motion to the Committee to vote.

13 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the motion carried.

The Chair declared a recess at 12.45pm for 10 minutes.

\* **The meeting reconvened at 1.04pm.**

\* **Alderman Boyle did not re-join the meeting.**

The Head of Planning undertook a roll call.

Proposed by Councillor McMullan

Seconded by Councillor McLaughlin

- That Planning Committee hold lunch between 1pm and 2pm, where feasible, with immediate effect.

The Chair put the motion to the Committee to vote.

11 Members voted For; 2 Members voted Against; 0 Members Abstained.

The Chair declared the motion carried.

The Chair declared a lunch break at 1.10pm until 2.00pm.

\* **The meeting reconvened at 2.08pm.**

The Chair advised there had been a technical glitch.



## 5.2 LA01/2021/0813/F, Lands to the rear and north of 191 Coleraine Road 19-45 Cappaghmore Manor and the south of 12-14 Cromlech Park Portstewart

Report, previously circulated, presented by Senior Planning Officer J Lundy.

**App Type:** Full Planning

**Proposal:** This Section 54 application seeks to vary the wording of condition 9 and 12 of LA01/2018/1272/F and LA01/2020/0882/F to include additional hard and soft landscaping within the central area of approved amenity space to enhance the community facilities. The variations sought would read; (9) All areas of open space , as indicated on approved plan Landscape Proposal No03 Rev 07 bearing the date 18thSept 2019 shall be implemented before 31st Jan 2022 in accordance with the approved Landscape Proposal No03 Rev 08 dated 25th June 2021 and drawing DCL-LP-03 dated 9th June 2021 and the Landscape Management and Maintenance Plan Doc 08, bearing the date stamp 29th May 2019 and the Planting Details Plan drawing No 02 and Addendum to Detailed Planting Plan Drawing 03 and Plant Schedule Doc 01.

(12) Details of the maintenance and management of the open space communal areas and landscape areas shall be carried out in accordance Landscape Management and Maintenance Plan Doc 08, bearing the date stamp 29th May 2019, Drawing No03 Rev 08 date 25th June 2021 and associated Schedule Doc 1B date stamped 23rd July 2019 and the central area of open space shall be carried out in accordance with the drawing and Planting schedule provided in Drawing DCL-LP-03 dated 6th June 2021

### **Recommendation**

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 **APPROVE** planning permission subject to the conditions set out in section 10.

Senior Planning Officer presented as follows:

- This is a Section 54 application seeking to vary the wording of condition 9 and 12 of LA01/2018/1272/F and LA01/2020/0882/F. The history referred to relates to a housing development for 87 units on zoned housing land in Portstewart. The housing development was approved by Committee in September 2019. This development is at an advanced state of completion with the final phase to be completed by the end of January 2022. As this was a major application an EIA determination was carried out and determined that the proposal would not have any likely significant effects.

- Members may recall the layout previously approved at Committee. The s54 application refers to the central open space. The drawing on screen shows a green space with some planting.
- This slide shows the open space as it is currently.
- Due to additional funding Radius Housing wishes to upgrade the existing open space to a more user friendly space for all residents.
- The changes involve some additional planting, a path with some hard surfacing and seating and are considered as an improvement that will encourage all residents to make use of the area.
- The changes to the proposed open space have been considered in light of the relevant planning policies namely PPS 7 and PPS 8 and are considered to be acceptable.

Proposed by Alderman S McKillop  
 Seconded by Councillor Anderson

- 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 **Approve** planning permission subject to the conditions set out in section 10.

The Chair put the motion to the Committee to vote.  
 14 Members voted For; 0 Members voted Against; 0 Members Abstained.  
 The Chair declared the motion carried.

### 5.3 LA01/2021/0563/F Council Multi-Use Games Area (M.U.G.A) ,Playing Fields behind 171 Kings Lane, Ballykelly

Report, previously circulated, presented by Senior Planning Officer, M Wilson.

**App Type:** Full

**Proposal:** Installation of 6no. 8m Floodlighting Columns to illuminate the existing M.U.G.A along with 6no. 5.2m Pathway Lighting Columns

#### **Recommendation**

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 **APPROVE** planning permission subject to the conditions set out in section 10.

Senior Planning Officer presented as follows:

- Full planning permission is sought for the installation of 6no. 8m floodlighting columns to illuminate the existing M.U.G.A. along with 6no. 5.2m pathway lighting columns.
- This is a Local application and is being presented to the Planning Committee on the basis that the Council is the applicant. Planning Committee report is in the packs.
- The site is located within the development limit of Ballykelly as defined in the Northern Area Plan 2016. Slide showing an image of the site in relation to Ballykelly and another slide showing a plan of the site. The MUGA and the wider area around it are designated as a Major Area of Existing Open Space within the Northern Area Plan 2016.
- The floodlighting columns will be located at intervals around the perimeter of the playing field. The lighting columns are positioned along the pathway leading from King's Lane to the playing field.
- When assessed against policy OS 7, it is considered that there will be no unacceptable impact on the amenities of people living nearby, there will be no adverse impact on the visual amenity or character of the locality and the proposal will not prejudice public safety.
- Slide showing photographs of the site – the site looking from Kings Lane and another slide showing a closer view of the existing MUGA.
- Slide showing the site and pathway where the lighting columns will go.
- Slide showing the plan detailing the lighting columns and their position around the MUGA and pathway. Details of the specific lighting columns are also shown on this drawing.
- The proposal complies with all relevant planning policies including the Northern Area Plan, SPPS, and PPS 8.
- No objections were received for this proposal.
- Consultations were issued to the following consultees and no objections were raised:
  - Environmental Health
  - DfI Roads.
  - Approval is recommended.

Proposed by Councillor Nicholl  
 Seconded by Councillor Scott and

- 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 **Approve** planning permission subject to the conditions set out in section 10.

The Chair put the motion to the Committee to vote.

14 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the motion carried.

#### **5.4 LA01/2020/0550/F, Approx. 30m SW of 147 Mountsandel Road, Coleraine**

\* **Councillor Scott, having declared an interest, left the Chamber at 2.21pm.**

Report and site visit report, previously circulated, presented by Senior Planning Officer, J Lundy.

**App Type: Full Planning**

**Proposal: Proposed split level dwelling and garage**

#### **Recommendation**

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.

Senior Planning Officer presented as follows:

A site visit was carried out on Monday and the report of the meeting has been circulated.

Further information was also submitted after 10am on Friday and circulated to members and presented via a verbal addendum. The information details a proposed re-siting of the dwelling and redesign of the building. No full details were provided to allow for a full consideration to the principle of the proposal. The agent has sought deferral to pursue this avenue stating that the proposed design can fit inside the development boundary, as defined by the Planning Appeals Commission as the outer edge of the development boundary line

In response clarification was sought from the Council's Development Plan team. They advised that the Larne Area Plan was prepared in 1998 when, as the appeal decision notes, the drawing of the line was crude. The Northern Area Plan was prepared on a much more accurate map base at a much larger scale and with a thinner line using the principle that the Settlement Development Limit was aligned to a physical feature on the ground, normally a curtilage. The Development Plan team also advised that it was a deliberate decision to exclude the rear gardens of the dwellings in this location due to the

prevailing wooded character of the River Bann which presented a cohesive and highly attractive landscape, and tied into the Mountsandel Fort and Open Space, and the river environment upstream towards Loughan. Inclusion in the Settlement Development Limit would have signalled that development in principle was acceptable in this area when an overriding public objective was to maintain this highly attractive and continuous riverside landscape, which contributes to the setting of the town (and Castleroe and Loughan) hence the LLPA designation.

To further consider the additional information would require the appropriate plans to be submitted to review the location within the red line boundary, the position relative to the Settlement Development Limit and the impact on the amenity of the existing dwelling in accordance with the principle set out in PPS7. On this basis it is the recommendation that the application is deferred.

Slides showing:

- The site as shown in the red line is located to the rear of No 147. The image on the right is the Northern Area Plan extract.

The site for the dwelling is located outside of the Settlement Development Limit as designated in the NAP.

The green hatch relates to LLPA CEL 13 designated in the Plan and detailed on page 8 paragraph 8.11 of the Report. This sets out the features of the designation namely the SLNCI to the east and the lower density housing and extensive and visually significant woodland on the steep slopes rising from the River Bann.

- The Settlement Development Limit shown in black is to show clearly the location of the Settlement Development Limit. It is in fact a narrow line that runs along the features of the base map. This was provided by the Development Plan team. The black line runs to the rear of the curtilages on Kylebeg Avenue and then across the rear gardens of the dwellings on Mountsandel Road. As the site is located within the countryside Policy CTY 1 of PPS 21 is applicable.
- The design and access statement refers to No.155a, located to the east which is also partially on the line. The statement also refers to a boat house on the river and a CLUD approved on the application site.
- No.155a was approved by the PAC 17 years ago when the land was within the Settlement Development Limit of the North East Area Plan 2002. These dwellings were considered under a different planning context. The draft NAP was prepared in 2004 and the dwelling was most

likely not built at that time hence the error in the line dissecting the property.

- We have been unable to find any history for the boat house to the rear of No's 173 to 175 referred to by the agent.
- The submitted block plan. Shows the site in context with No.147, the vegetation and contours of the land falling to the River Bann. The site falls 5m from the proposed retaining wall to the front of the dwelling. A 2m retaining wall is proposed to the rear along the shared boundary of No.147 with 3m high retaining walls extending beyond the east and west gables.
- The existing access from Mountsandel Road. The building in the fore of the garage to be demolished to make way for a new dwelling.

Photograph of the front of the site and the ridge of No.147 is just seen in the tree line.

- Part of the dwelling will be sited in these grounds 10m from the rear of No.147
- Views from the path to the Mounstandel forest into the site (2 slides)  
From here there will be some views of the western elevation, the 2-storey dwelling and extensive grounds works.
- Views of the site and slope towards the River Bann
- Looking up at the existing house
- Looking across the site west to east. A preliminary ecological assessment was submitted and NIEA NED and SES have no objection subject to conditions if approved.
- 2 storey dwelling built on a platform with 3m high retaining walls. Though views are limited we still have concern with the dominance of the proposed dwelling in this rural area extending beyond the Settlement Development Limit.
- A section of the site detailing the levels of cut required.

The application has been recommended for refusal in that the proposal would also be liable to adversely affect the features of the LLPA and the design of the building is inappropriate for the site and fails to blend with the landform contrary to policy CTY 13. It does not meet with the exceptions of policy CTY 1 for a house in the countryside and would if approved result in urban sprawl and contrary to policy CTY 15 of PPS 21.

The agent has submitted a draft plan with an indicative re-siting and footprint. It is the recommendation that the application is deferred to allow full plans to be submitted for consideration.

Proposed by Alderman Duddy  
Seconded by Alderman Finlay

- That Planning Committee defer consideration and allow the Applicant/Agent to submit additional plans for consideration at a later date.

The Chair put the motion to the Committee to vote.  
13 Members voted For; 0 Members voted Against; 0 Members Abstained.  
The Chair declared the motion carried.

\* **Councillor Scott re-joined the meeting.**

### **5.5 LA01/2020/1295/F, 36 Ballyrogan Road, Garvagh**

Report, previously circulated, presented by Senior Planning Officer, M Wilson.

**App Type:** Full

**Proposal:** Construction of new garage and retention of Borehole Pumphouse, Extension and alterations of curtilage for domestic use associated with the dwelling

#### **Recommendation**

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.

Senior Planning Officer presented as follows:

- Full planning permission is sought for the construction of a new garage, the retention of an existing borehole pumphouse, and the extension and alterations of the site curtilage for domestic use associated with the dwelling at 36 Ballyrogan Road.
- This is a Local application and is being presented to the Planning Committee on the basis that this has been referred to the Planning Committee for determination. The Planning Committee report is in the packs.
- The site is located outside of any settlement limits as defined in the Northern Area Plan 2016 and is located in the rural area. A slide showing the location of the site.
- The subject dwelling was granted under LA01/2016/1157/F, which was to reposition the dwelling and garage from another field, with an increase in curtilage, from a previous approval where a material start had been made. This approval was subject to a Section 76 Planning Agreement.

- Slide showing the approved curtilage and the existing dwelling.
- Under that approval, permission was granted for a triple garage to the rear of the proposed dwelling. That garage measures similar to the garage currently under consideration, having a footprint similar to the approved dwelling. As the garage formed part of planning approval LA01/2016/1157/F, and development has commenced on site, the triple garage approved can be constructed at any time.
- Slide showing the extent of the curtilage extension. The existing curtilage is shown within the green boundary with the extension outlined in red – this is a substantial increase to that previously approved. The proposed curtilage extension essentially involves the amalgamation of two separate pieces of land which are dissected by a lane.
- This proposal seeks to locate a further triple garage on this field opposite the applicant’s dwelling, by extending the curtilage to include this field. As mentioned the proposed garage measures similar to the size of a modest dwelling. This slide shows the garage.
- The proposal also seeks permission to retain a borehole pumphouse. Slide – A picture of the pumphouse as constructed on site. It is not a particularly large structure. It is considered that the retention of the existing borehole pumphouse element, with a small curtilage extension is considered acceptable under Policy EXT 1.
- However, when assessing the totality of the development against Policy EXT 1, the proposed curtilage extension and garage are both considered to be unacceptable and are also considered unacceptable under Policy CTY 14 as the proposal is considered to be detrimental to the rural character.
- Slide - Some photographs of the site. A picture looking towards recently approved stables and shows the approximate siting of the proposed garage.
- Slide – A further photograph showing the extent of land to be included within the extension of curtilage and existing stables on this land.
- Slide – A photograph looking back from the land subject to the curtilage extension also showing the subject dwelling.
- There are no third party representations to this proposal.
- As the proposal fails to meet policy, refusal is recommended.

In response to a comment, Senior Planning Officer clarified Section 3 detailed the relevant planning history.



The Chair invited J O'Kane to present in support of the application. J O'Kane advised that in terms of public view points of the site, he owns the land at the bottom of the lane. Planning had accepted the pump house, and could not understand why the garage unacceptable as was not viewable from any public viewpoint. Change in rural character assessment is only taken from the public viewpoint and the site is hidden from public view. There is current approval for a triple garage and septic tank but there is dispute with the neighbours. To the west is a watercourse and requires a 10m buffer so it is ruled out. The equestrian house and borehole house are acceptable. He has looked at other options in close proximity to the dwelling and this is the best option closest to the dwelling and 300m down laneway with no objections.

No questions were put.

\* **Councillor Dallat O'Driscoll left the meeting at 2.46pm.**

Proposed by Alderman Duddy

Seconded by Councillor Anderson (withdrawn by the Chair due to not being put through the MS Teams chat facility)

- 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.

Amendment

Proposed by Councillor McGurk

Seconded by Alderman Boyle (withdrawn by the Chair due to not being put through the MS Teams chat facility)

- That Planning Committee defer consideration and hold a Site Visit, in order to see the lay out of the land.

Alderman Duddy felt his motion should be considered and sought a legal opinion.

**MOTION TO PROCEED 'IN COMMITTEE'.**

Proposed by Alderman Duddy

Seconded by Alderman S McKillop

- That Planning Committee move '*In Committee*'.

\* **Press and public were disconnected from the meeting at 2.51pm.**

***The information contained in the following items is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.***

Council Solicitor sought a five minute recess.

Councillor McGurk stated she had wished to speak prior to Councillor Anderson whom had seconded Alderman Duddy's motion.

Councillor Nicholl felt Councillors were disadvantaged remotely.

The Chair clarified both seconders to the proposals were present in The Chamber.

The Chair declared a recess at 2.55pm.

- \* **Civic Support & Committee & Member Services Officer left The Chamber.**
- \* **Committee & Member Services Officer arrived at the meeting.**
- \* **The meeting reconvened at 3.00pm.**

Council Solicitor advised the Chair on the Standing Orders.

The Chair provided clarity for a member on the timing of the request to speak within the MS Teams chat from Alderman Duddy and Councillor McGurk.

At the request of Elected Members, Council Solicitor provided advice surrounding conflicts of interest, new planning material information and voting.

**MOTION TO PROCEED 'IN PUBLIC'**

Proposed by Councillor McGurk  
Seconded by Alderman Boyle and

**AGREED** – that Planning Committee move *'In Public'*.

- \* **Public were reconnected to the meeting at 3.40pm.**

The Chair clarified the Councillors who had placed the two previous proposals by stating they wished to speak within the MS Teams chat facility, the Chair withdrew acceptance of the Councillors who had seconded the proposals that had been made from the floor of The Chamber, rather than indicating they wished to speak via the MS Teams chat facility.

The Chair invited seconders to the proposals.

Proposed by Councillor McGurk  
Seconded by Alderman Boyle

- That consideration is deferred and a site visit held.

Amendment

Proposed by Alderman Duddy

Seconded by Councillor Anderson

- 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.

Alderman Duddy requested a Recorded Vote

The Chair put the motion to the Committee to vote.  
6 Members voted For; 5 members voted Against; 2 members Abstained.  
The Chair declared the motion carried.

Recorded Vote Table

For <b>(6)</b>	Alderman Baird, Duddy, S McKillop Councillors Anderson, Hunter, Scott
Against <b>(5)</b>	Alderman Boyle Councillors McGurk, McLaughlin, McMullan, Nicholl
Abstain <b>(2)</b>	Alderman Finlay, McKeown

**5.6 LA01/2020/0966//F, Unit 4, Ballybrakes Business Park, Ballymoney**

Report, previously circulated, presented by Senior Planning Officer E Hudson.

**App Type:** Full Planning

**Proposal:** Retrospective application for change of use from sales of kids toys to gym on ground floor with changing areas and offices on first floor.

**Recommendation**

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 subject to the reason set out in section 10.

Senior Planning Officer presented via PowerPoint presentation.

The Senior Planning Officer presented as follows:-

This is a retrospective application for the change of use from the sale of childrens' toys to a gym on the ground floor and offices on the first floor.

- Slide - The red line boundary of the site. The site is located within Ballybrakes Business Park in Ballymoney. The business park is located on the edge of the settlement development limits of Ballymoney. The unit subject to this application is located within a larger industrial type rectangular building. The surrounding area is characterised by a mix of commercial uses.
- Slide - The floor plans and elevations of the building. The ground floor is larger in area than the first floor and comprises the gym area and the first floor is used for office space as well as some storage and changing facilities.
- Slide - A view of the site frontage. The extent of the building is limited to that shown in black.
- Slide – The building in the context of the large industrial type building which hosts a number of other commercial uses.

The site is identified as being within an existing area of economic development in the Northern Area Plan 2016. The lawful use of the existing unit is unclear with the most recent use being described as retail (the sale of childrens' toys). No planning permission exists to this effect and the overall site appears to have been subject to sub division for a variety of uses including industrial and commercial uses, warehouse and distribution, leisure, recreation and retail. The original use on the site would appear to have been as a factory.

The SPSS is the prevailing policy consideration for this type of development. The SPSS promotes a town centre first approach for the location of retailing and other main town centre uses. Other main town centres uses include cultural and community facilities, retailing, leisure, entertainment and business. A gym is considered a leisure use and therefore meets the definition of a main town centre use.

The application site is located on the edge of the settlement development limit and almost 1 kilometre from the town centre boundary. The SPSS requires a sequential approach be applied to main town uses. As this site is considered an out of centre location it is considered the least sequentially preferable location. No supporting information was submitted by the agent to indicate that a sequentially preferable consideration has been undertaken. The last survey undertaken of Ballymoney Town Centre in 2019 indicated a high level of vacancies at around 20% in a range of different sized units and locations. The town centre is also designated partially as a Conservation Area and the occupation of vacant buildings could contribute to enhancing these areas and would also increase footfall within the town centre, allow for linked trips to other activities and create evening time activity benefitting the town as a whole. The proposal has also been considered under Policy PED 7 of PPS 4 which relates to the retention of zoned land and economic development uses. However as the proposal relates to a town centre use this takes precedence and the proposal is considered unacceptable and refusal is recommended.

The Chair provided clarity, the speaker did not request speaking rights within the given timeframe and there had been no mitigating circumstances brought to the attention of the Planning Committee and wished to proceed to determine the application.

Alderman Finlay asked if an email had been received from the agent. The Head of Planning advised a hand delivered hard copy of the request to speak was received on 24<sup>th</sup> November 2021 and dated 17<sup>th</sup> November 2021, with no proof of posting date provided. The Chair stressed she must adhere to the rules and had to proceed to determine the application.

The Chair invited questions from Elected Members to Officers.

At the request of Alderman Duddy, the Senior Planning Officer advised the size of the proposed gym was 897m<sup>2</sup> and that in 2019 the Development Plan survey identified a 20% vacancy rate in the Town Centre. The Senior Planning Officer further advised the agent had not undertaken a sequential approach to this application.

Alderman Duddy suggested that given the substantial area required and the passage of time since the survey was completed, it was likely that there would be no town centre accommodation available.

The Senior Planning Officer advised there had been a number of users in Ballybrakes historically and the Town Centre First approach since 2015 was relevant.

Alderman Finlay said it was likely 20% availability in the town centre would now be less than at the time the survey was undertaken and that the proposal would require car parking which would be costly in town centre and asked if the current proposal was a logical location, given the requirement for car parking.

The Senior Planning Officer advised that the SPPS required a sequential approach, with primarily consideration given to the town centre location.

Alderman S McKillop asked if Planning had requested a sequential report. The Senior Planning Officer advised the onus was on the Agent to undertake this. Alderman S McKillop requested sight of the survey to which the Officer related.

The Head of Planning confirmed the onus was on the applicant to consider premises in the town centre in the first instance and then consider other options.

Alderman S McKillop said it was unfortunate the speaker was unable to speak on this occasion.

Proposed by Alderman Finlay  
Seconded by Alderman S McKillop

- That Planning Committee defer consideration and allow the agent one month to submit a sequential test report.

The Chair put the motion to the Committee to vote.

14 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the motion carried.

## **5.7 LA01/2020/0687/F, Approx 70m NE of No 81 Coolagh Road, Greysteel**

Report, previously circulated, presented by Senior Planning Officer J McMath.

**App Type:** Full Planning

**Proposal:** Proposed first farm shed on holding

### **Recommendation**

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 subject to the conditions set out in section 10.

### **Addendum Recommendation**

That the Committee note the contents of this Addendum and agree with the recommendation to refuse the application in accordance with Paragraph 1.1 of the Planning Committee report. Given the clarification provided above refusal reason 2 in Section 10 is amended to state;

“The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.73, and Planning Policy Statement 21, Policy CTY 12 in that it has not been demonstrated that: the proposed building is located on the active and established agricultural holding; the shed is necessary for the efficient use of the agricultural holding and; the development visually integrates into the local landscape.” Reasons for refusal 1 and 3 remain unchanged.

The Chair invited Senior Planning Officer to present via powerpoint.

Senior Planning Officer presented as follows:

- Slide 1 - The site is located within the rural area outside any environmental designations. The surrounding area is agricultural in nature with an unrelated dwelling situated to the SW and a group of unrelated buildings including dwellings to the north.
- Slide 2 - Site is located on southern portion of a larger agricultural field. The topography falls away gently from the road to the eastern boundary.

- Slide 3 - The roadside boundary is defined with a post & wire fence set behind the grass verge, the southern boundary is defined by an earth bund with gorse.
- Slide 4 - The eastern boundary is defined by a post & wire fence and the northern boundary is undefined.
- Slide 5 - Proposal is for an agricultural shed at land approximately 70m NE of 81 Coolagh Road, Greysteel. A new access is proposed along with a hardstanding with drainage channels.

The proposed agricultural shed falls to be determined under the SPPS and policy CTY12. Both policies support development on an active and established holding provided various criteria are met. Firstly to comply with policy CTY12 the appellant needs to demonstrate that the holding is active and established, that is, set up and settled on a firm or permanent basis. It is the longevity of the holding that is important in that the holding must be established for a period of 6 years. These matters have been verified by various PAC decisions referenced and quoted in the Committee report.

To demonstrate an active and established holding the applicant provided details of the parcels of land currently farmed and previously rented. The only land owned by the applicant is that of the proposed site and amounts to 2.88 acres which was purchased in 2019 and therefore has only been part of the holding since 2019. The remaining land is rented. Only lands which have been farmed as part of the holding for more than 6 years are eligible for consideration under policy CTY12.

During the processing of the application, the applicant advised that the only land which was part of land farmed by the applicant for a period of more than 6 years was land known as field 2 (Mr O'Connors land) which had been used for sheep from 2013. However the information did not show continuous use or what it was used for. In addition DARD advised that applicant had only claimed payments on land since 2020 despite being eligible to do so since 2017. However further information was received since the application was committed to the November agenda which confirms that the only land which has been part of the holding for 6 years is the one field at Dunlade Road (Mr O'Connors). Policy CTY12 requires the building to be sited on lands which has been part of the holding for at least 6 years as opposed to being recently bought into the holding. The lands at Coolagh Road would not support a building under policy CTY12 until it has been part of holding for 6 years (2025).

The Senior Planning Officer referred members to PAC 2018/A0164 where the appellant purchased land less than 6 years from when the application was submitted and had also farmed rented land for a period in excess of 6 years at an alternative location. The PAC concluded that despite the required period of agricultural activity being met the appeal site did not form a part of their farming activities until their purchase and there was no justification for allowing development on lands purchased less than 6 years ago.

It is accepted that the applicant has an active and established farm business, the agricultural holding as a unit has been active and established for 6 years on field 2 at Dunlade Road only but the lands on which the shed is proposed have not been part of the holding for at least 6 years as required by policy.

Turning to the other criteria of policy CTY12 - The applicant currently uses rented agricultural buildings, it is unclear where they are located, why the arrangement cannot be maintained, or that they have had adequate inquiry into availability of other buildings/facilities. Practically, the shed will use half of the land owned and the shed on owned lands is divorced from the majority of lands farmed. The planning officers are not persuaded that the shed is necessary for the efficient use of the holding.

The site is roadside and will be open, exposed with no enclosure and would fail to integrate when viewed on approach from the north. Views are possible for approximately 200m and will be reliant on new landscaping. The proposal is therefore contrary to policies CTY12 and 13 of PPS21.

No overriding reasons have been forthcoming as to why the development is essential.

The proposal is therefore contrary to SPSS and policies CTY1, CTY12 and CCTY13 of PPS21

The Chair invited questions from Elected Members to Officers.

Councillor McMullan asked if there was a compulsory criteria that single farm payment was required as part of the application. The Senior Planning Officer advised this was not the case. The Head of Planning further advised the single farm payment was only one example which demonstrated that a farm was an active and established business.

Alderman Duddy said the Committee should be giving consideration to all available evidence as part of an application. The Chair stated there should be an holistic approach.

The Chair invited C Gourley to speak in support of the application.



C Gourley stated Mr Brolly was in his 20's and started farming in 2013 raising sheep. The landlord from whom Mr Brolly leases land had provided a letter confirming his continuous farming on this land and Mr Brolly has also secured 50 acres of land, has Category One Business ID since 2017 and had acquired single farm payment.

C Gourley stated Mr Brolly purchased his own land in 2019 and has consistently grew stock levels since 2013 which proves he has continuously farmed for more than 6 years and if Mr Brolly had not managed holding where did his sheep graze? C Gourley stated the Policy does not ask that the same ground be grazed continually.

A lean-to which Mr Brolly currently rents is not economical and is too small and no other buildings are available to him at this time. To isolate sick animals and provide the level of care needed for lambing, Planning should support the needs of these types of enterprises and stated Planning was too restrictive.

The Chair invited questions from Elected Members for the Speaker, if any.

In response to questions from Members C Gourley advised that Mr Brolly had a Farm ID number for 6 years for rented holding but only recently bought the shed and the criteria for applications did not specify that the exact same field had to be included, referring to ground often being exhausted by grazing and the need for circulation of animals due to availability of grass.

C Gourley advised it was the intention to provide additional landscaping as necessary.

In response to further questions from Members, the Senior Planning Officer advised the Business ID Category 3 was updated to Category 1 in 2017 and the farming business was not in question.

The Senior Planning Officer clarified it was not the holding but the actual parcel of land which did not meet with the planning criteria and would not be eligible until 2025. The Officer advised that whilst parcels of land had been farmed by the applicant continuously since 2013 this parcel of land purchased in 2019 was only brought into the holding at that time and not compliant with policy CTY12.

The Senior Planning Officer advised that Category 3 referred to 'hobby' farming and was not eligibility for single farm payments with Category 1 farming eligible for single farm payment. The Head of Planning re-iterated the issue was the holding and not the business itself.

The Head of Planning advised that if the proposed site was on a field which was continually part of the farm holding for 6 years it would meet with criteria however, it was not.

Alderman Duddy asked for the distance between the Coolagh Road and Dunlade Road sites. The Senior Planning Officer advised of the distance between the Coolagh Road and Dunlade Road sites is approximately 1.5 miles.

Proposed by Councillor Nicholl  
Seconded by Councillor McGurk

- That the Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve planning permission for the following reasons:
  - There is clear reasons why the shed cannot be located in a settlement;
  - There is proof of active farming since 2013;
  - There is no other suitable ground and is the only land he owns;
  - 2 boundaries clear from the drawings and policy allows for further planting which can be conditioned
  - The Policy test is met.

The Chair put the motion to the Committee to vote.

6 Members voted For; 7 Members voted Against; 1 Members Abstained.

The Chair declared the application refused.

- 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 subject to the conditions set out in section 10.

### **5.8 LA01/2020/1154/F, Unit 2, 25 Ballymena Road, Ballymoney**

Report, previously circulated, was presented by the Senior Planning Officer, E Hudson.

**App Type:** Full Planning

**Proposal:** Change of use from existing commercial use to bakery to supply members of the public.

#### **Recommendation**

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 subject to the reason set out in section 10.

Senior Planning Officer presented via Powerpoint presentation.

- Slide 1 - Planning Application LA01/2020/1154. This is a full application for the Change Of Use from an existing commercial use to a bakery to supply embers of the public.
- Slide 2 - The red line boundary of the site. The site is located at 25 Ballymena Road, Ballymoney and is located in the north western corner of a larger building which comprises a variety of uses. The surrounding area comprises a mix of commercial and industrial type buildings with residential development sited opposite the site.
- Slide 3 - Within the red line this is the extent of the proposed unit.
- Slide 4 – A view of the site frontage. The extent of the proposed bakery is that indicated between the red lines.
- Slide 5 - A photo taken from the entrance and along Ballymena Road. It shows the site within its wider context and the mix of uses that exist. These include a kitchen design and fitting business, car parts supplies, and tyre sales business

The site is identified as being within an existing area of economic development in the Northern Area Plan 2016. The agent has clarified that the proposal relates to the on-site food preparation of baked goods with sales to the public. A telephone and pick up service would also be provided. No food consumption is proposed on site. As the predominate use is retail with no consumption on site it therefore falls under Class A1, Retailing, of the Use Classes Order and as such the SPPS approach of a town centre first approach applies.

The site is located around 1 km from the town centre. It has an out of town location and would have the least preferable option in terms of the sequential approach for this type of development as outlined in the SPPS. The proposal would make no contribution to the town centre and with vacant buildings available in Ballymoney town centre this type of development should be directed there and as such the proposal would does not comply with the SPPS.

No supporting information was submitted by the agent to indicate that a sequentially preferable consideration has been undertaken. The last survey undertaken of Ballymoney Town centre in 2019 indicated a high level of vacancies at around 20% in a range of different sized units and locations. The town centre is also designated partially as a Conservation Area and the occupation of vacant buildings could contribute to enhancing these areas and would also increase footfall within the town centre, allow for linked trips to other activities and create evening time activity benefitting the town as a whole. The proposal would also result in the loss of zoned economic development land and refusal is recommended.

The Chair provided clarity the Agent did not request speaking rights within the given timeframe and there had been no mitigating circumstances brought to the

attention of the committee so she wished to proceed to consider the application.

The Chair invited question from Elected Members from the Officers.

In response to questions from Members, the Senior Planning Officer advised the application was to sell directly to the public and that under SPPS the Town Centre First approach needed to be applied to this application.

Proposed by Alderman Finlay  
Seconded by Councillor Anderson

- That Planning Committee defer consideration and allow the Agent one month to submit a sequential test report.

The Chair put the motion to the Committee to vote.

14 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the motion carried.

## **6. DEVELOPMENT PLAN:**

### **6.1 Local Development Plan – 6 Month LDP Work Programme (June - December 2021)**

Report, previously circulated, presented by the Development Plan Manager.

#### Purpose of Report

To present the 6-month indicative LDP Work Programme (attached at Appendix 1) which outlines the work areas being carried out by the Council's Development Plan team within this programme (Jul-Dec 2021).

#### Background

##### Revised LDP Timetable

Members agreed a revised LDP Timetable at the 24<sup>th</sup> March 2021 Planning Committee. The indicative date for publication of the Draft Plan Strategy is spring/summer 2022. The timetable is kept under review and Members are updated regularly on progress.

##### LDP Project Management Team & Steering Groups

Consultation with the LDP Project Management Team (key consultees and stakeholders) on the draft planning policies has continued electronically due to ongoing government guidance. This is also likely to remain in place for the duration of this work programme.

The LDP Steering Group (the Planning Committee) receives a regular verbal update on the LDP work programme. Steering Group meetings will be held throughout the programme, as required.

Member Workshops to agree the LDP draft Planning Policies are ongoing and will be throughout this programme.

#### Working Groups/Collaborative Working

Virtual meetings of the NI Development Plan Working Group continued during the previous work programme and will do so throughout this one. The next meeting is scheduled for 6<sup>th</sup> December 2021.

Collaborative work will also be undertaken on the following, as and when required:

- NI Coastal/Marine Group;
- Cross-Border Development Plan Group;
- Cross-Boundary Group (adjoining councils); and
- Sperrin AONB Group.

#### Sustainability Appraisal

A Sustainability Appraisal incorporating Strategic Environmental Assessment (SA/SEA) of the LDP is an iterative process, continuing throughout the entire Plan-making programme.

On 4<sup>th</sup> June 2020 SES issued a revised SLA to the Council. Members agreed to the revision at the 27<sup>th</sup> October 2021 Committee Meeting.

#### Settlement Appraisal

In line with the Evaluation Framework set out in the Regional Development Strategy (RDS) 2035, further work on this will continue throughout this work programme, to inform the LDP preparation.

Given the level of landscape and environmental designation covering the Borough (over 40% coverage), this study is a key piece of evidence required to inform our LDP policy approach. The Study will provide a robust 'sound' evidence base that will inform the draft LDP policies and proposals.

#### Reviews

Members will be aware of the recent update to the CC&GBC Retail & Leisure Capacity Study (2017) by Nexus, completed during the last work programme (Jul-Dec 2020). We have now also received an updated Public & Business Perception Study, presented and agreed at the 27<sup>th</sup> October 2021 Planning Committee.

#### Annual Monitors

Work will continue on the Council's annual retail, employment and housing monitors within this work programme.

### Building Preservation Notices (BPNs)

Ad hoc requests for BPNs will be processed throughout the work programme, as and when required.

### Trees

Ad hoc requests for Tree Preservation Orders (TPOs) and Works to Trees will be processed throughout the work programme, as and when required.

### Other work

In addition to the items above, the Development Plan team will continue to assist our Development Management colleagues with planning applications, LDP and Conservation Area consultation responses and duty planner rota duties, etc. Council consultations from other councils, as well as other ad-hoc papers etc will be processed and/or presented as and when required.

**IT IS RECOMMENDED** that the Planning Committee note the content of this report and agree to the 6-month (indicative) work programme attached at Appendix 1 (previously circulated).

The Development Plan Manager referred Elected Members to the appendix to the paper, previously circulated, which set out the high-level work programme for the Council's Local Development Plan Team up to the end of the calendar year, covering major work areas to be undertaken by the team in this programme period.

The Development Plan Manager advised a Quarterly verbal update on the Local Development Plan would be brought to the December Planning Committee meeting.

**AGREED** - that the Planning Committee note the content of this report and agree to the 6-month (indicative) work programme attached at Appendix 1 (circulated).

## **7. CORRESPONDENCE**

### **7.1 DAERA – Actions to improve Planning Consultations delays and temporary impact on caseload management practices**

Copy, previously circulated, was presented by The Head of Planning.

In response to questions from Members, the Head of Planning advised there would be an impact for applications subject to grant which could not be expedited and timeframes would no longer be provided for completion of processes, referring to habitat expertise which Council do not have.

Proposed by Alderman Duddy  
Seconded by Alderman Baird and

**AGREED** – That Planning Committee write to Minister to outline dissatisfaction at imposed restrictions on communication and the impact on processing planning applications.

## **7.2 DAERA – License for repair to Beach Palisade – Portballintrae**

Copy, previously circulated, for information, was presented by The Head of Planning for noting.

## **7.3 Dalradian Gold Ltd – Invitation to visit site at Tara Mine in Navan, Co Meath**

Copy, previously circulated, was presented by The Head of Planning.

In response from questions from Members, the Head of Planning advised that she would establish the exact location of the site visit but believed it was Greencastle, Co Tyrone. The Head of Planning advised that members had attended Code of Conduct training and could attend, listen but could not give their viewpoint or opinion on the matter and it would give the Elected Members the opportunity to gather evidence.

Proposed by Councillor McMullan  
Seconded by Alderman Duddy

**AGREED** - That Planning Committee send a delegation, subject to clarification from the Head of Planning on venue and timing of event.

The Chair put the motion to the Committee to vote.  
12 Members voted For; 0 Members voted Against; 1 Members Abstained.  
The Chair declared the motion carried.

## **7.4 Response to BT re: Permanent removal of public telephone – Portballintrae**

Copy, previously circulated was presented by The Development Plan Manager.

Council Response to permanent removal of BT public telephone (service and box) – Beach Road, Portballintrae which is one of the newer glass phone boxes, not a red one.

The Development Plan Manager advised that BT consultation applications come to planning committee and that a 42 day notice had been provided and yielded no comments or notification.

A Member referred to a vote taken on Council regarding retaining landmark red telephone boxes and the Development Plan Manager advised that the former red telephone boxes were subject to arrangement which ensured they were retained as landmark items.

#### **7.5 Response to BT re: Removal of public telephone service (to install defibrillator) – Bann Road, Bendooragh**

Copy, previously circulated was presented by The Development Plan Manager.

Council Response to: removal of BT service and retention of red box (to install community defibrillator) – Bann Road, Bendooragh.

In response to a question from Members, the Development Manager advised that permission to adopt a public telephone box was required from BT which would also involve removing the servicing.

#### **7.6 Dfl Letter to Council re: Withdrawal of Planning Advice Notice**

Copy, previously circulated, considered as read for noting.

#### **7.7 Council's response to Dfl re: PAN**

Copy, previously circulated, considered as read for noting.

#### **7.8 Response to Dfl - LTWS – Council's Implementation Update as of 31.09.21**

Copy, previously circulated, considered as read for noting.

Council Response to: Dfl re Long-term Water Strategy (update as of 31/09/21)

#### **7.9 LTWS – Annual Report**

Copy, previously circulated, considered as read for noting.

Dfl Long-term Water Strategy – Publication of Annual Report



## **MOTION TO PROCEED ‘IN COMMITTEE’**

Proposed by Councillor McMullan  
Seconded by Councillor McGurk and

**AGREED** – that Planning Committee move ‘*In Committee*’.

\* **Press/Public were disconnected from the meeting at 5.45 pm**

***The information contained in the following items is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.***

### **8. CONFIDENTIAL ITEMS**

#### **8.1 Report for Noting Finance Period 1-6 2021 22 Update**

Confidential report, previously circulated, presented by the Head of Planning for noting.

This Report is to provide Members with an update on the financial position of the Planning Department as of end Period 6 of the 2021/22 business year.

Further detail was provided within the confidential report.

The Head of Planning advised that she considered at the end of the financial year the Planning Department would remain in a favourable position.

**IT IS RECOMMENDED** that the Committee notes the update provided on the Planning budget as of end of period 6 of 2021/22 financial year.

#### **8.2 Legal Update on JR Decision**

Council Solicitor provided an update on the recent Hartlands case and in respect of the judgment, for which Legal Opinion from Counsel has been sought.

A further verbal update was provided on ongoing Judicial Reviews and Council continues to engage.

The Chair referred to recent planning training for Elected Members which had been both thorough and detailed and would enable the safeguarding of Elected Members. The Chair sought the view of the Head of Planning regarding providing another session for members who had been unable to attend.

The Head of Planning advised she was unaware of the associated cost of training and said she was in receipt of the slides provided by K Morgan, BL at the training which would be circulated to Members.

Proposed by Alderman Duddy  
Seconded by Councillor McMullan and

**AGREED** - That subject to the agreement of K Morgan BL, a further Planning training session be organised in the New Year.

**MOTION TO PROCEED 'IN PUBLIC'**

Proposed by Councillor McGurk  
Seconded by Councillor McLaughlin

**AGREED** – that Planning Committee move *'In Public'*.

**9. ANY OTHER RELEVANT BUSINESS (NOTIFIED IN ACCORDANCE WITH STANDING ORDER 12 (O))**

There were no matters of Any Other Relevant Business notified.

There being no further business, the Chair thanked everyone for their attendance and the meeting concluded at 6.05 pm.

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Chair