

<b>Planning Committee Report Item - LA01/2016/0246/O</b>	<b>26<sup>th</sup> October 2016</b>
<b>Address: Site 80m south of 261 Ballyquin Road, Limavady</b>	
<b>PLANNING COMMITTEE</b>	<b>FOR DECISION</b>

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

<b><u>No:</u></b>	LA01/2016/0246/O	<b><u>Ward:</u></b>	Drumsumn
<b><u>App Type:</u></b>	Outline Application		
<b><u>Address:</u></b>	80m south of 261 Ballyquin Road, Limavady		
<b><u>Proposal:</u></b>	Two storey farm dwelling with garage / stores.		
<b><u>Con Area:</u></b>	N/A	<b><u>Valid Date:</u></b>	24 <sup>th</sup> February 2016
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	Mr W J Dickson, 76 Seacoast Road, Limavady, BT49 9DW		
<b><u>Applicant:</u></b>	Mr and Mrs Buchanan		
<b><u>Objections:</u></b>	<b>0</b>	<b><u>Petitions of Objection:</u></b>	<b>0</b>
<b><u>Support:</u></b>	<b>0</b>	<b><u>Petitions of Support:</u></b>	<b>0</b>

**Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)**

## **1 RECOMMENDATION**

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in section 7 & 8 and resolves to **REFUSE** outline planning permission for the reason set out in section 10.

## **2 SITE LOCATION & DESCRIPTION & CHARACTER OF AREA**

- 2.1 This site comprises a small group of single storey farm buildings located on a laneway off Ballyquin Road. There is a belt of trees to the north east and south east boundaries. There are three buildings within the site and the ruins of a fourth which is heavily overgrown. The proposal involves the construction of a new access onto the Ballyquin Road. The access point is approximately 80m south of 265 Ballyquin Road.

The site is located in the open countryside as defined by the Northern Area Plan 2016. There is a Rath to the north and the River Roe is located 250m to the west.

### **3 RELEVANT HISTORY**

B/2005/0138/O - 70 metres south west of 261 Ballyquin Road, Limavady - Site for replacement dwelling – Withdrawn  
05.09.2005

B/2005/0769/O - 70 metres south west of 261 Ballyquin Road, Limavady - Site for dwelling – Withdrawn 16.02.2006

B/2014/0121/O - 80m south of 261 Ballyquin Road, Limavady - Two storey rural dwelling with garage / store - Withdrawn  
28.01.2016

### **4 THE APPLICATION**

- 4.1 This proposal is for outline permission for a two storey dwelling with garage / stores on a farm. The proposal involves the construction of a new access onto the Ballyquin Road which is positioned approximately 80m south of 265 Ballyquin Road.

### **5 PUBLICITY & CONSULTATIONS**

#### **External:**

- 5.1 **Neighbours:** No objections.

#### **Internal:**

- 5.2 **NIEA- Protecting Historic Monuments** – No objection.

**NIEA – Water management Unit** – No objection.

**DARDNI** – Confirm active farm and claims Single Farm Payment.

**TransportNI** – Recommend refusal (see below for refusal reason).

**NIWater** – No objection.

**Environmental Health** – No objection.

## **6 MATERIAL CONSIDERATIONS**

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local development plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The development plan is:
- Northern Area Plan 2016
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

Northern Area Plan 2016

Strategic Planning Policy Statement

PPS 3 - Access, Movement and Parking

PPS 3 – Access, Movement and Parking & Annex 1 to PPS 21  
Consequential amendment to Policy AMP3 of PPS 3

PPS 21 – Sustainable Development in the Countryside

## DCAN 15 – Vehicular Access Standards

### **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this outline application is whether the proposal meets the requirements for a dwelling on a farm; impact on archaeology; the access onto a Protected Route and precedent cases.
- 8.2 The main policy consideration is contained within the Northern Area Plan 2016, the Strategic Planning Policy Statement and the relevant Planning Policy Statements. This is a proposal for a dwelling on a farm that lies within the rural area as identified in the Northern Area Plan 2016. As such the main policy consideration is PPS 21: Sustainable Development in the Countryside. The main policy considerations within this policy are CTY 1 and CTY 10.

#### **Principle of development**

- 8.3 Policy CTY1 of PPS21 states that there are a range of types of development that may be acceptable in principle in the countryside. In the case of a dwelling on a farm, Policy CTY1 refers to Policy CTY10.
- 8.4 In terms of CTY 10 there are three policy tests which proposals for a dwelling must pass in order to be acceptable on a farm.
- a) The farm business is currently active and has been established for at least 6 years;
  - b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding since 25th November 2008;
  - c) The new building is visually linked to an established group of buildings on the farm and where practical utilises an existing laneway.
- 8.5 Through consultation, DARD have verified that the applicant's farm business has been registered for longer than the required 6 years and that his farm is currently active. As the farm business has been active and established for the required period the proposal complies with criteria a of CTY10.

- 8.6 No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding since 25th November 2008 therefore the proposal complies with criteria b of CTY10.
- 8.7 The proposed site is situated within an existing complex of farm buildings and as the applicant has demonstrated that the new dwelling can be accommodated while retaining all but one of the farm buildings, the Authority is satisfied that the proposal visually links and is sited to cluster with an established group of buildings on the farm. There is an existing laneway to the site. However, visibility is substandard and the applicant does not control the adjacent land. A site for a farm dwelling utilising the existing access lane was submitted under B/2014/0121/O but was subsequently withdrawn because the intensification of an existing substandard access was not acceptable under PPS3 Policy AMP 2. As a result, a new access is proposed in this application.
- 8.8 CTY 10 also states that dwellings on a farm should also comply with CTY 13 a-f, CTY 14 and CTY 16, these refer mainly to the ability of the proposal to integrate into the surrounding landscape with minimal impact and the effect which the proposal has on rural character. The proposed site benefits from a significant amount of natural screening along the southern, western and eastern boundaries which serve to screen the site from public view on approach northwards and while the site is partially visible on approach southwards, these natural features serve to provide a backdrop for the development. The proposal replaces an existing milking parlour and as such is replacing an existing commitment in the landscape. As such, the site is capable of absorbing the dwelling proposed without detrimental impact upon the visual amenity of the surrounding area or indeed the rural character of the area.

### **Impact on Archaeology**

- 8.9 A Rath is evident to the north of the application site. NIEA were consulted and have raised no archaeological concerns regarding this proposal.

### **Access onto a Protected Route**

- 8.10 As previously stated, an application for a dwelling on a farm at the same site was considered under B/2014/0121/O. The access proposed under B/2014/0121/O was from the existing access lane. However, as the intensification of an existing substandard access was not acceptable under PPS3 Policy AMP 2, the refusal of the application was endorsed by Committee and the application was subsequently withdrawn.
- 8.11 The current application site proposes a new access onto Ballyquin Road (B68) which is a Protected Route. The regional strategic objectives for transportation and land use planning in Paragraph 6.297 of the SPPS restricts the number of new accesses and controls the level of use of existing accesses onto Protected Routes. Annex 1 of PPS21 is a consequential amendment to Policy AMP3 of PPS3 Access, Movement and Parking. This Annex supersedes previous versions of Policy AMP 3. Annex 1 makes provision for access to a farm dwelling *where access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.* Therefore relevant to this application, this policy does not permit new direct accesses onto Protected Routes for dwellings on farms. Furthermore, the policy continues, in all cases access arrangements must be in accordance with the Department's published guidance.
- 8.12 The proposal fails the test of the SPPS, Annex 1 of PPS21 and Policy AMP 3 in that it involves the creation of a new direct access onto a Protected Route.
- 8.13 As outlined previously the proposal meets the policy test for a dwelling on a farm as provided for under CTY10. However, the farm maps include farm land and extensive farm buildings (diary unit) which access off a minor road. In such cases, a site for a dwelling could be located on other farm lands which could comply with both PPS3 and PPS21 requirements by ensuring visual linkage / clustering with another established group of buildings on the farm and which would access from an existing access onto a minor road. However, the applicant has not demonstrated that consideration has been given to all other lands which access from a minor road.
- 8.14 The case put forward by McIlmoyle and Associates Animal Nutrition and Agricultural Consultants on behalf of the applicant

is that the Ballyquin farm (72.9 ha) was purchased in 2005 with the intention of relocating the dairy enterprise from the home farm which is 7 miles away at 59 Magheramore Road to Ballyquin. In 2012 a new dairy unit with the potential of housing up to 300 cows was created on the Ballyquin Farm. The original dairy herd of 100 cows was transferred to the new unit and the herd numbers were expanded to 250. It is the intention of the applicant that the Ballyquin farm is managed by his son and it is intended that he would live on the Ballyquin farm for the efficient working of the farm. Mr McIlmoyle has analysed the traffic movements associated with managing the dairy farm and has concluded that traffic movements to the proposed dwelling would be limited to household movements only equating to 3 – 5 per day because all movements associated with the farm from the dwelling could be taken via a private laneway and bridge over the River Roe to the existing dairy unit.

- 8.15 Mr McIlmoyle's report details that based on the dairy unit operating at maximum capacity of 300 cows, on site labour input would be estimated as follows

Milking - 730 annual visits

Calving – 450 annual visits

Herd replacements – 120 veterinary visits

Heat detection – 180 annual visits

Visits during grazing season – 500 – 700 annual visits

Lunch breaks – 260 – 365 annual movements

- 8.16 Mr McIlmoyle's report suggests that there would be a substantial reduction in traffic movements to the Protected Route if the proposed development were approved. However, his argument is reliant on existing traffic movements to and from the Ballyquin farm using the lane accessing onto the Protected Route. Evidence has not been provided to demonstrate that access to the main dairy unit is obtained via the existing lane onto the Ballyquin Road rather than the more direct access via Straw Road and Drumrane Road. The distance from the applicant's son's current residence at Magheramore Road, Dungiven to the main dairy unit is approximately the same using either the Ballyquin Road access



or the Straw Road/ Drumrane Road access. The argument presented rests on the principle of a reduction in the intensification of the use of an access onto a Protected Route. However, Policy AMP 3 allows for intensification of use of an access onto a Protected Route to serve a dwelling on a farm. Therefore, notwithstanding if there was certainty that traffic movements onto the Protected Route would be decisively reduced, the proposal for a new access onto a Protected Route for a dwelling on a farm remains contrary to policy.

8.17 The same report also adds that if Mr Buchanan continued to reside at the home farm at Magheramore Road he would have to travel a 14 mile round trip equating to 1200 miles per year which would generate CO2 emissions of 2100 litres per year and contribute to traffic congestion in Dungiven. While the environmental benefits of this are noted, this would not be sufficient reason to allow the development.

8.18 The Planning Authority in association with TransportNI appreciates the environmental impact of the documented traffic movements from the applicants son's current residence in Magheramore Road, Dungiven to the existing dairy unit at Ballyquin but this does not justify a relaxation in current policy. As the dairy unit is accessed off Straw Road, the documented traffic movements outlined in para 8.15 and 8.16 are predominantly to that address and not from or to the Ballyquin Road which is the Protected Route. Additionally, other land appears to be available on the Ballyquin farm which could offer a site to visually link or cluster which existing farm buildings and which would overcome the policy objections by accessing from a minor road (Straw Road). The proposal fails to comply with paragraph 6.301 of SPPS, Annex 1 of PPS21 and Policy AMP3 of PPS3.

### **Precedent case**

8.19 At the Planning Committee meeting on 28 September 2016, the applicant cited an application where an access had been permitted onto a Protected Route and felt that the precedent it set for a large company should also be applied to his case. The development cited was for a wind farm onto the Broad Road (A37). Having reviewed the case, the Planning Authority concludes that the case is not comparable and does not set a precedent for the following reasons

(i) During the processing of the application the Wind farm team in DOE found the proposal to be an exception to the protected routes policy expressed in policy AMP3 of PPS3 because the majority of the traffic generated would be for a short period during the construction phase only. Any service vehicles for the lifespan of the turbines would by comparison be very limited.

The application was subsequently refused but was allowed at appeal by the PAC. The appellant's statement of case explained that two accesses were necessary because to construct and service all 14 turbines from the one access would require a bridge/ford over or culvert of a section of the Curly River which is Special Area of Conservation (SAC). In the PAC decision the Commissioner stated "While Policy AMP3 of PPS3 states that the number of new accesses on to protected routes such as the A37 will be restricted, it would be difficult to develop this large site as a wind farm without two accesses on to the main road. However it is reasonable to restrict the SW access to use in conjunction with two specified turbines only".

In summary the DOE considered the proposal to be an exception to the Protected Routes policy and the final decision maker (PAC) permitted the two accesses due to the size and nature of the development and the specific environmental consideration of the site. The current proposal for a dwelling on a farm is not an exception to the Protected Routes policy as expressed in Annex1 of PPS21.

(ii) A wind farm by its nature is a form of development which generates the majority of its traffic during the construction phase and all other traffic during the life span of the turbines would be limited. The application for a dwelling would by contrast generate initial construction traffic and would generate a steady flow of traffic onto the Protected Route on a daily basis for the life span of the dwelling and would undermine the Protected Routes policy.

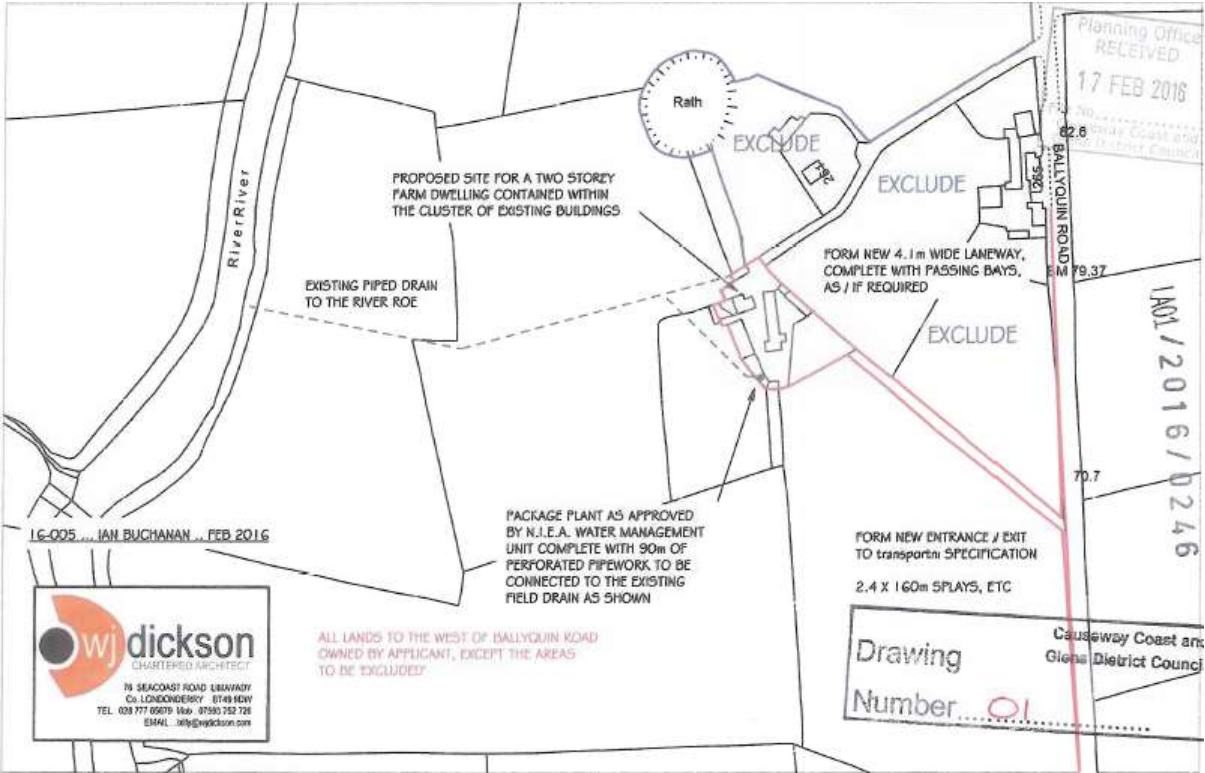
(iii) The precedent of an access onto a Protected Route for a windfarm is limited to similar development. By contrast to allow an access onto a Protected Route for a dwelling on a farm which is contrary to policy would be wide ranging.

## **9 CONCLUSION**

9.1 While the proposal meets the tests of policy CTY 10 of PPS 21 for a dwelling on a farm, it clearly fails the test of paragraph 6.297 of the SPPS, Annex 1 of PPS21 and Policy AMP 3. The proposal involves the creation of a new direct access onto a Protected Route which is prohibited by policy. Furthermore, other land exists within the farm holding on which a farm dwelling could be accommodated accessed onto a minor road. Refusal is recommended.

## **10 REFUSAL REASONS**

10.1 The proposal is contrary to paragraph 6.301 of the Strategic Planning Policy Statement and Annex 1 – consequential amendment to Policy AMP3 of Planning Policy Statement 3, Access, Movement and Parking, in that it would, if permitted, result in the creation of a new vehicular access onto B 68 Ballyquin Road a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.




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