

Planning Committee Report Item 5.2	28th September 2016
PLANNING COMMITTEE	

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

ITEM 5.2

**Lands approx 120m North East of
118a Coolkeeran Road
Loughguile**

**LA01/2015/1065/O
Outline Planning**

28th September 2016

App No: LA01/2015/1065/O **Ward:** LOUGHGUILLE and STRANOCUM
App Type: Outline Planning
Address: Lands approx 120m North East of 118a Coolkeeran Road
Loughgiel
Proposal: Proposed Single Dwelling House and Access
Con Area: N/A **Valid Date:** 23rd December 2015
Listed Building Grade: N/A

Applicant: Mr Martin Lavery, 118a Coolkeeran Road, Loughguile, BT53
8YD

Agent: Vision Design, 31 Rainey Street, Magherafelt, BT45 5DA

Objections: 0 **Petitions of Objection:** 0

Support: 0 **Petitions of Support:** 0

**Drawings and additional information are available to view on the
Planning Portal- 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 and resolves to **REFUSE** planning permission for the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is accessed via a private laneway off the Coolkeeran Road and set back some 700m from the public road. The land rises steeply from the public road before levelling out approximately 500 metres from the public road and falling away towards the north.
- 2.2 The proposed site is to the north east of the applicants' End of Life Vehicle (ELV) business on the opposite side of the laneway. The site itself is part of a larger agricultural field. The

field falls steeply west to east. The site has three defined boundaries consisting of a post and wire fence.

- 2.3 A farm holding is located north of the site and appears to be outside of the control of the applicant.
- 2.4 The applicant's brother lives in a log cabin to the north of the ELV facility. This was approved as a dwelling on a farm under policy CTY 10 of PPS 21. In addition, there is a detached bungalow to the south of the application site.
- 2.5 The site is located within the rural area as set out in the Northern Area Plan 2016.

3.0 RELEVANT HISTORY

D/2012/0105/F

140m North of 118a Coolkeeran Road, Loughguile,
Retrospective Application for the Retention of Log Cabin on site
for dwelling on a farm under CTY10.

Permission Granted 22.10.2012

4.0 THE APPLICATION

- 4.1 The application is for a dwelling under Policy CTY 7 of PPS 21 related to an ELVF.

5.0 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours:** There are no objections to the proposal.

Internal

- 5.2 **Transport NI:** No objection.

Environmental Health: No objection.

Northern Ireland Water: No objection.

NI Water: No objection.

6.0 MATERIAL CONSIDERATIONS

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local 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 (SPPS)

Planning Policy Statement 21 (PPS 21) Sustainable Development in the Countryside

Planning Policy Statement 3 (PPS 3) Access, Movement and Parking

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to: planning policy context; the principle of development in the rural area and access arrangements.

Planning Policy Context

- 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 associated with a non-agricultural business enterprises that lies within the rural area as identified in the Northern Area Plan 2016. As such the main policy consideration is PPS21 Sustainable Development in the Countryside. The main policy consideration within this PPS relating to this application are CTY 1 and CTY 7.

The principle of development in the rural area

- 8.3 Policies CTY 1 and CTY 7 permit a dwelling in connection with an established non-agricultural business enterprise where a site specific need can be clearly demonstrated that makes it essential for one of the firm's employees to live at the site of their work.
- 8.4 The applicant owns an end of life vehicle facility. He also has a licence for the sale of pyrotechnics (fireworks) from the business. The Agent has stated that the applicant requires a dwelling at the site to provide continued surveillance and security. Information submitted with the application states that the applicant currently lives with his parents beside the business. However, it is argued that as he has just married and he requires his own house. His father and brother that reside either side of the business are not available to provide site security. The father suffered from ill health and the brother works away. Furthermore, the Agent points out that they are not ELV skilled and trained to deal with an incident on the site. The Agent argues that there is a potential health and safety matter

specific to a hybrid business of the ELV and firework business. In addition, it is argued that emergency services are located in Ballymoney and Ballycastle and would take considerable time to get to the site if required. Therefore the case presented is that the proposal is to continue security and mitigate against any health and safety issues through the applicant being there as a “first response” to any potential incident. The Agent indicates that fire (with explosion risk) is such a potential incident. However, the Agent has not provided details regarding the likelihood of the incident occurring relative to other businesses or how the applicant would be able to effectively deal with such incidents.

- 8.5 This information argues that the subject proposal will provide surveillance and supervision of the business.
- 8.6 The Agent has argued that the proposal is not to improve security but to continue security. The Agent states that though the previous attempted break-ins were not reported to the PSNI, on average there would be several forced and attempted break-ins in one calendar year.
- 8.7 The Agent has provided information from Department of Agriculture, Environment and Rural Affairs Licensing Department and their requirement for security systems. This does not require residential accommodation on site, only adequate security in terms of wall/ fence or palisade fencing. They recommend that fencing should be at a minimum of 1.8m high. It also states that the site should be kept locked and secure at all times when unattended and that the perimeter should be inspected daily. They also state that if the operator wishes to take further security measures such as CCTV, intruder alarms then that is at their own discretion. NIEA who grant the licence for ELV state that fencing with regular daily checks of the security system are sufficient for the purposes of licensing.
- 8.8 The laneway is quite some distance from the main road and serves three dwellings, two of which are related to the applicant. The furthest dwelling away is a farm dwelling and yard. A security fence exists round the site. Further measures such as the use of CCTV and security systems linked to a home could also be used or the provision of gates to the lane.

- 8.9 There are no site specific reasons presented that makes it essential for an employee to live at the site of their work.
- 8.10 The Justification and Amplification of Policy CTY 7 also states that the need to provide improved security from theft and/ or vandalism by having someone living on the site is unlikely on its own to warrant the grant of planning permission.
- 8.11 Appeal reference 2009/A0205 for a Managers dwelling 100m south-east of existing engineering works, 25 Corr Road, Dungannon, was dismissed at appeal. The applicant in this case required a dwelling for surveillance for his business which manufactures specialist metal cabins. The PAC concluded that where there is an existing dwelling the question of who occupies it is an operational business matter. In the Appeal case the father was retiring and the son was taking over the business and required an additional home for the son to move into to supervise the business and provide security.
- 8.12 The Agent argues that this is not relevant to the subject application as other than the applicant, no other family member is connected to the business. Furthermore, the Agent underlines the difference in that the subject application is also to provide incident response. The PAC set out that “Policy CTY 7 makes no provision for an additional dwelling to facilitate the retirement of an employee or proprietor of a business and the evidence does not establish there to now be a site specific need for a further dwelling. There is no policy support for the proposal in CTY7.” The Commission also dismissed this appeal on the grounds of integration due to the distance between the site and the business.
- 8.13 This case has similarities. It reinforces that a genuine site specific need is to be clearly demonstrated at a rural location as opposed to a dwelling in a settlement. In this case, the applicant already lives beside the application site where he can provide security and incident response. It has not been demonstrated other than a general preference to have his own dwelling separate from his parents, why a second dwelling is essential at this location. The nearest settlement is Xmiles from the site.

Visual Impact

- 8.14 The second part of Policy CTY 7 is to be addressed when the principle has been accepted. It requires that the dwelling house is sited beside, or within the boundaries of the business enterprise and that it integrates with the buildings on the site.
- 8.15 The proposed site is 60m north of the ELV on the opposite side of the lane. The site is prominent and lacks natural boundaries. Critical views are available from the lane. The proposed site is not located beside or within the boundaries of the business.

9 CONCLUSION

- 9.1 The proposal does not meet with Policies CTY 1 and CTY 7 of PPS21 in that there is no site specific reason for the applicant to live beside the business. Policy is clear on the matter that the need to provide improved security from theft and/or vandalism would not on its own warrant the grant of planning permission. Information regarding the likelihood of a potential incident has not been provided. Regardless of that, the applicant already lives beside the business and it has not been demonstrated why a new dwelling is essential. The proposed dwelling is not beside or within the boundary of the business. Refusal is recommended.

10 REASONS FOR REFUSAL

- 10.1 The proposal is contrary to the paragraph 6.73 of the SPPS and Policies CTY1 and CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that there is a site specific need for the proposed dwelling that makes it essential for an employee to live at the site of their work, and the dwelling house is not located beside, or within, the boundaries of the business enterprise and fails to integrate with the buildings on the site.
- 10.2 The proposal is contrary to the paragraphs 6.70 and 6.73 of the SPPS and Policies CTY7 and CTY 13 of Planning Policy

Statement 21, Sustainable Development in the Countryside, in that the proposal fails to integrate with the buildings on the site, and would, if permitted, be a prominent feature in the landscape.

