

<b>Planning Committee Report LA01/2016/0482/O</b>	<b>27<sup>th</sup> September 2017</b>
<b>PLANNING COMMITTEE</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
<b>Cost: (If applicable)</b>	N/a

**27.5m South of 33 Shore Avenue,  
Limavady.**

**LA01/2016/0482/O  
Outline Application**

**27<sup>th</sup> May 2017**

<b><u>No:</u></b>	LA01/2016/0482/O	<b><u>Ward:</u></b>	Magilligan
<b><u>App Type:</u></b>	Outline Application		
<b><u>Address:</u></b>	27.5m South of 33 Shore Avenue, Limavady		
<b><u>Proposal:</u></b>	1 no. infill dwelling with detached double garage		
<b><u>Con Area:</u></b>	N/A	<b><u>Valid Date:</u></b>	15.04.2016
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	M K A Planning Ltd, 32 Clooney Terrace, Waterside, Derry, BT47 6AR		
<b><u>Applicant:</u></b>	Mr Stewart Dodds		
<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 sections 7 and 8 and resolves to **REFUSE** planning permission for the reasons set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The application site is immediately adjacent and south of No. 33 Shore Avenue, Carrowclare, Limavady. The site is located within and contrived from the western (roadside) section of an existing agricultural field. The field in which the site is located is relatively flat in the western half of the site with a rise towards the rear of the site with a slight undulation throughout. The northern boundary adjacent No. 33 is defined by post and wire fencing and by mature hedgerow which is approximately 5.5-6m. The roadside boundary is defined by a mature

hedge which is approximately 1.8-2m in height, behind which is a drain and post and wire fence. The remaining two site boundaries are undefined.

- 2.2 The site is located within the rural area as defined in the Northern Area Plan 2016. The site does not fall within any environmental designations. Lough Foyle SPA, Ramsar and ASSI site are situated almost 1km west of the application site. There are a number of properties/buildings within the vicinity of the application site. Immediately North of the site is No. 33 which has an associated farm yard containing a number of sheds, with two dwellings, Nos. 35 and 37 located further north at a bend in the road. Further west of No. 37 is three more dwellings consisting of Nos. 43, 45 & 47. Approximately 50m south of the site is No. 29 Shore Avenue which is a storey and a half dwelling. The surrounding area is characterised mainly by agricultural lands with a lawn nursery and railway line also present in the vicinity of the site.

### **3 RELEVANT HISTORY**

LA01/2016/0473/O - 1No. infill dwelling with detached double garage - 21.6m North by North West of No.29 Shore Avenue, Carrowclare, Limavady, Co. Derry – Current Application

B/2009/0447/F - Erection of side extension to existing building, incorporating machinery storage and maintenance, training area, display area, product and maintenance equipment - Adjacent to 29 Shore Avenue, Carrowclare, Limavady - Approved 20.10.2011

### **4 THE APPLICATION**

- 4.1 Outline Planning Permission is sought for an infill dwelling 27.5m South of 33 Shore Avenue, Limavady. As this is an outline application no detailed drawings relating to the scale and design of the dwelling have been submitted. For information purposes a separate planning application is currently under consideration on the adjacent site for the same applicant as indicated in section 3.

## **5 PUBLICITY & CONSULTATIONS**

### **5.1 External**

Neighbours: There are no objections to the proposal

### **5.2 Internal**

DFI Roads: No objections

Rivers Agency: Site within Coastal Floodplain. PPS15 applies. Refer to Paragraph 8.16

Environmental Health Department: No objections

NI Water: No objections

DAERA Water Management Unit: No objections

Shared Environmental Services: No objections

Loughs Agency: No objections

## **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 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 (NAP)

6.3 The Regional Development Strategy (RDS) is a material consideration.

6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as 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.

## **7.0 RELEVANT POLICIES & GUIDANCE**

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 15: Planning and Flood Risk

Planning Policy Statement 21: Sustainable Development in the Countryside

## **8.0 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relates to the principle of development, integration and impact on rural character, access and flooding.

### **Principle of Development**

- 8.2 The principle of development must be considered having regard to the SPPS and PPS policy documents before mentioned. Paragraph 6.73 of the SPPS and Policy CTY1 of PPS21 both outline the range of types of development that may be acceptable in principle in the countryside. In the case of infill development, Policy CTY1 refers to Policy CTY8.
- 8.3 Policy CTY 8 entitled Ribbon Development states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting

and plot size and meets other planning and environmental requirements. The definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. This is reiterated by paragraph 6.73 of SPPS.

- 8.4 The application site lies within a gap between No. 29 Shore Avenue to the south and No. 33 Shore Avenue to the north. No 33 has a residential curtilage which is defined to its northern end by a hedgerow along an agricultural shed. Immediately adjacent No. 33 is the farm yard associated with No. 33 which contains a number of farm buildings. Further north of No. 33 is a large two storey dwelling (No. 37), which also includes a detached garage. All of the above buildings are sited on plots which have a common frontage onto Shore Avenue. Therefore for the purposes of the policy there is a line of more than three buildings along a road frontage at this location which constitutes a substantial and continuously built up frontage.
- 8.5 However in order to fully comply with the requirements of CTY8 the application site is required to meet the additional requirements to ensure the site proposal respects the existing development pattern along the frontage such as size, scale, siting and plot size.
- 8.6 The plot width of the application site is 51m and sits within the gap between the buildings at No. 29 and No. 33 which is approximately 114m. The plot width of the adjacent application site LA01/2016/0473/O is also 51m. The plot width of No. 29 is approximately 26m. The plot width at No. 33 is approximately 34.5m (residential curtilage), and the adjacent farm yard has a frontage of approximately 21m. The dwelling and yard have their own individual accesses and although there is a link between the two they do have the characteristics of separate entities with the shed which sits gable end to the road forming a natural boundary between the two. There is a small paddock area which separates some of the farm yard from the road and therefore only the portion of the yard which has a frontage onto the road can be considered. The plot width of No. 37 is approximately 62 metres.
- 8.7 The average plot width of the four plots is approximately 36m which is considerably smaller than the plot width of the application site at 51m. If you consider the plot widths of the dwellings further west along Shore Avenue which have frontages of approximately 35m (No. 45) and 28m (No. 43), the average plot width is reduced further to approximately 34.5m.

- 8.8 Considering the plot sizes indicated above and the average plot size of the dwellings within the vicinity of the application site the proposed gap does not represent an appropriate small gap site. The gap site is 102m when measured from the boundary of No. 29 to the boundary of No.33, which is almost 4 times the size of the plot width of No. 29 and 3 times the plot width of No. 33. Given the size of the gap between Nos. 29 and 33 the gap which it is sought to infill is capable of accommodating more than two dwellings when assessing the proposal against the surrounding residential character, and therefore fails to respect the surrounding pattern of development and therefore is contrary to Policy CTY 8 and the Paragraph 6.73 of the SPPS.
- 8.9 The plot size of the application site measures approximately 0.346Ha. The adjacent plot LA01/2016/0473/O has a similar plot size of 0.325Ha. With the exception of the plot at No. 37 which measures approximately 0.434Ha, the application site is significantly larger than the surrounding plots. Even including the farm yard and dwelling as the one plot the application site is 0.067Ha (670m<sup>2</sup>) larger. The plot size of the residential curtilage of No. 33 is approximately 0.12Ha. The plot size of No.43 is 0.217Ha and the plot size of No. 45 is 0.09Ha which are significantly smaller than the application site. The proposed plot size therefore is considered to be larger than the established residential character in the area and out of keeping with the plot sizes within the curtilage.
- 8.10 Policy CTY 8 requires dwellings to be located within a substantial and continuously built up frontage which is defined as a line of three or more buildings along a road frontage. While ribbon development can include buildings set back, staggered or at angles, the same cannot be acceptable for an infill. As such proposals for infill development are required to respect the established building line within the frontage. No. 29 is set back approximately 40m from the road, while No. 33 and the associated farm buildings occupy a more roadside location. No. 37 is set back from the road by approximately 35.5m but occupies a similar building line to the buildings at No. 33. As such the proposed dwelling should respect this pattern of development and should be sited within the parameters of the aforementioned plots. Initially the proposed dwelling was proposed to the front of the site in line with No. 33, however due to the issues surrounding flooding which will be discussed below in paragraph 8.16, the dwelling is now proposed to be set back to the extreme rear of the site, sitting behind No. 29, which does not respect the existing pattern of development along the frontage, and therefore contrary to Policy CTY8.



8.11 The applicant/agent submitted additional information 22/05/2017 which indicated that the proposed dwelling could be brought forward if required to better align with the dwellings in the frontage. While this may address one of the issues relating to the proposal, the consequences of moving the dwelling forward in the site will have further impacts on the visual amenity and rural character which will be further discussed below in paragraph 8.12. Given the failure to comply with Policy CTY8 it follows that the proposal fails to comply with Policy CTY in that it does not meet any of the types of development considered acceptable under CTY1 and there are no overriding reasons why this development is essential in this location. For the reasons stated above the proposal is contrary to Paragraph 6.73 of the SPPS and Policies CTY1 and 8 of PPS21.

### **Integration and Rural Character**

8.12 In terms of integration and the impact on the rural character the location of the proposed dwelling to the extreme rear of the site would result in a suburban type development with a large formal front garden whilst leaving very little private amenity space to the rear. The siting of the dwelling at the very rear of the site will see the proposed dwelling located on the most elevated portion of the site, and given the lack of established boundaries to the site, with the roadside hedge needing to be removed to provide visibility splays, the proposed site will be readily visible when passing the site frontage which in connection with the adjacent LA01/2016/0473/O will equate to over 100m of hedge removal, and from the north west of the site in the vicinity of Nos. 43 and 45. Given the lack of boundary definition to the site and the elevated nature of the dwelling in the site. The proposed dwelling would fail to suitably integrate within the site and wider landscape. The proposal is therefore contrary to Policy CTY 13 in that the site lacks long established natural boundaries and would rely primarily on new landscaping for integration.

8.13 The agent indicates that the proposed siting of the dwelling can be moved forward in line with the adjacent No. 29, however in order to achieve this, the proposal will require additional infilling to provide a raised platform and proposed freeboard as identified within the Flood Risk Assessment which would have a further negative visual impact. Paragraph 5.64 of PPS21 and the Building on Tradition document both outline that sites which rely on significant earthworks such as mounding for integration will generally be unacceptable. While the

works required are not for the purposes of assisting with integration they will have an adverse visual impact and a dwelling on the application site would fail to integrate and appear prominent in the landscape. With the dwelling sitting circa 2.5m above road level to provide the required freeboard the dwelling would appear somewhat prominent and would also therefore be contrary to CTY 13 and CTY 14.

### **Access**

- 8.14 The proposal seeks to have an independent access directly onto Shore Avenue. The proposal will require the culverting of the existing open ditch/sheugh to the rear of the roadside hedgerow, as well as the removal of a large portion of the roadside hedgerow in order to facilitate the required visibility splays.
- 8.15 The current submitted plans have failed to indicate the necessary visibility splays on the submitted plans and TransportNI have requested that the proposed access be moved to the northern part of the site and paired with the access of the adjacent application LA01/2016/0473/O, in line with Paragraph 5.14 of PPS 3. It has not therefore been demonstrated that the proposal can provide a satisfactory form of access onto Shore Avenue and is therefore contrary to Paragraph 6.303 of the Strategic Planning Policy Statement for Northern Ireland and Policy AMP 2 of PPS3.

### **Flooding**

- 8.16 The Strategic Flood Map (NI) indicate that part of the application site lies within the 1 in 200 year Coastal Floodplain. As such the proposal must be considered against the relevant section within the SPPS and PPS 15– Planning and Flood Risk. The site is classified as being defended by virtue of the Myroe Sea defences located approximately 1km west of the site.
- 8.17 The SPPS states that built development must not be permitted within the flood plains of rivers or the sea unless the following circumstances apply:
- the development proposal constitutes a valid exception to the general presumption against development in flood plains (Figure 1, Page 64)
  - the development proposal is of overriding regional or sub-regional economic importance; and

- the development proposal is considered as minor development in the context of flood risk.

8.18 Figure 1- Page 64 of the SPPS defines the exceptions to the general presumption against development in a Defended Area as:

- Previously developed land protected by flood defences, provided that the proposed development does not fall into any of the following categories:
- essential infrastructure such as power supply and emergency services;
- development for the storage of hazardous substances;
- bespoke accommodation for vulnerable groups, such as schools, residential / nursing homes, sheltered housing;
- any development located close to flood defences.

8.19 PPS 15 – Planning and Flood Risk, Policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains states that Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy.

8.20 When considering the above policies the proposed development does not merit being considered an exception to the presumption against development in the floodplain. In relation to defended areas the exception relates to the development of previously developed land protected by flood defences that are confirmed by DARD (now Department for infrastructure) as structurally adequate. As the application site relates to undeveloped lands/greenfield site, the proposal does not fall within this exception and is therefore contrary to Paragraph 6.107 of the SPPS and Planning Policy Statement 15 - Planning and Flood Risk policy FLD1 in that the site lies within the Lough Foyle coastal flood plain and is not considered an exception to this policy, the proposal is not of overriding regional importance and is not considered to be minor development.

8.21 The applicant/agent was advised of the position of the proposal in relation to PPS15 and was given the opportunity to demonstrate how they felt the proposal fell within the exceptions test. The applicant subsequently submitted a Flood Risk Assessment (FRA) for the application site and adjacent LA01/2016/0473/O, to indicate how the site could be developed rather than demonstrate how the site met the

exceptions test. The FRA indicates that a large portion of the application site lies within the identified floodplain. However positioning of the dwellings to the extreme rear of the sites would see the dwelling located outside the potential floodplain, however the majority of the amenity space and access remaining within. The proposal also seeks to provide a freeboard of 600mm above the predicted flood level, through the raising of land within the rear section of the site, providing a raised platform in which the dwelling and garage would be located. This raised platform would allow the access and front garden to flood within a flood event but the dwellings would be elevated above the flood water. However there would be no safe access or egress in times of flooding from the public road.

8.22 Rivers Agency were consulted with the FRA and have responded to indicate that Rivers Agency accepts the logic of the FRA and has no reason to disagree with the conclusions and consequently they cannot sustain a reason for refusal. Further discussions with Rivers Agency have confirmed that while the raising of the land would safeguard the dwelling from flooding it would not be considered to be removed from the floodplain. The planning authority that the scheme was not deemed to be an exception and that the applicant had forwarded the FRA on their own merits. Rivers Agency advised that if a proposal does not meet one of the exceptions permitted the proposal is contrary to Policy FLD 1 of PPS 15 and the SPPS in respect of flooding.

8.23 The applicant/agent outlined that land raising is permissible within the coastal floodplain as outlined in the SPPS, and therefore the proposal could be acceptable in that the site could be raised above the floodplain. However the SPPS states that land raising may be possible however this should normally be restricted to settlements. PPS15 provides a more detailed appraisal of flooding policy and is still a material consideration in assessing the application. PPS 15 outlines that in a coastal floodplain only the development of previously developed land will be considered an exception, and acceptable for development. PPS 15 outlines that there are still risks to developing within a defended area, and that there is a presumption against the development of green field sites, which could remove valuable flood storage space if the defences are breached, and potentially expose more people to residual flood risk.

8.24 The agent cited an example of a planning approval near the application site which is also in the floodplain. This proposal (B/2009/0447/F) was for an extension to an existing building which

was considered to be one of the permissible exceptions within a floodplain at the time of processing. A FRA was submitted by the applicant as per the policy requirement to which Rivers Agency had no objections. As such this example is not comparable to the proposal in that it was considered to meet the exceptions test and provided suitable evidence to demonstrate no significant risk.

8.25 Given the precautionary approach which must be taken to flooding the Planning Authority must act in an appropriate manner. The proposal is not acceptable in principle as it does not meet one of the exceptions permitted under the SPPS or Policy FLD1 of PPS15.

## **9.0 CONCLUSION**

9.1 Having regard to the development plan and other material considerations the proposal is considered unacceptable. Refusal is recommended. The proposal does not represent a small gap site which is capable of accommodating a maximum of two dwelling when considered against the prevailing character along the existing frontage in which the site sits. As such the proposal is not considered to meet one of the permissible types of development in the countryside and is therefore contrary to Paragraph 6.73 of the SPPS and Policies CTY1 and CTY8 of PPS21. The proposed site would not allow the proposed dwelling to successfully integrate into the landscape due to the lack of existing mature vegetation on the site. Additionally the proposed infilling of land required to raise the proposed dwelling above the floodplain would leave the dwelling unduly conspicuous. The proposal is therefore contrary to Paragraph 6.70 of the SPPS and Policies CTY13 and CTY14 of PPS21. Given that suitable access details have not been received to date the proposal is contrary Paragraph 6.303 of the SPPS and Policy AMP2 PPS3.

## **10 Reasons for Refusal**

### **10.1 Reasons for Refusal:**

1. The proposal is contrary to SPPS - Planning for Sustainable Development 6.73 and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 8 of Planning Policy Statement 21 in that the proposal does not represent a small gap site within a substantial and continuously built up frontage and does not respect the existing pattern of development along the frontage.
3. The proposal is contrary to Paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and the proposed building would be a prominent feature in the landscape and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Paragraph 6.77 of the Strategic Planning Policy for Northern Ireland (SPPS) and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and would not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to the rural character of the countryside.
5. The proposal is contrary to paragraph 6.303 of the Strategic Planning Policy Statement and Planning Policy Statement 3 Access, Movement and Parking Policy AMP 2 in that adequate access arrangements have not been provided.
6. This proposal is contrary to Paragraph 6.107 of the Strategic Planning Policy for Northern Ireland (SPPS) and Planning Policy Statement 15 - Planning and Flood Risk policy FLD1 in that the site lies within the Lough Foyle coastal flood plain and is not considered an exception to this policy nor has it been demonstrated that the proposal of overriding regional importance.

# Site location

