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| <b>Planning Committee Report<br/>LA01/2016/1230/O</b> | <b>28<sup>th</sup> August 2019</b> |
| <b>PLANNING COMMITTEE</b>                             |                                    |

| <b>Linkage to Council Strategy (2015-19)</b> |  |
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| <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>                          | Development Management & Enforcement Manager   |
| <b>Cost: (If applicable)</b>                 | N/a  |

**No: LA01/2016/1230/O                      Ward: DUNDOOAN**

**App Type: Outline Planning Permission**

**Address: 60m NE of 32 Newmills Road, Coleraine.**

**Proposal: Site for replacement dwelling and garage.**

**Con Area:                      No                                      Valid Date: 11.10.2016**

**Listed Building Grade: No**

**Agent: Bell Architects Ltd**

**Applicant: Mr and Mrs Edwin Irwin, 62 Newmills Road, Coleraine**

**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](http://www.planningni.gov.uk)**

## **1 RECOMMENDATION**

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

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The dwelling to be replaced is accessed via a laneway off Newmills Road Coleraine. A new access from Newmills Road has been proposed as part of the application. The current site houses an old mill, a former dwelling and outbuilding. These buildings are red brick and are currently derelict. This proposal involves the replacement of the former dwelling which was originally two storey. Although the external and internal walls are intact there is no roof. To the north the site is bounded by an existing hedgerow which abuts Newmills Nursery. To the south the site is bounded by a 1 metre high wall and watercourse. To the east the site is bounded by a section of hedgerow and to the west the site is bounded by a section of hedgerow and the access laneway to the site.
- 2.2 Development around this site is mixed with lands used for agricultural purposes, dwellings, a nursery and commercial premises. The commercial premises include Timber Garden Products, a timber yard and Council Nursery. The dwelling to be replaced is two storey and other dwellings include a bungalow, two storey detached property and 1.5 storey semi-detached dwellings.
- 2.3 The proposed dwelling is located in the rural area as designated in the Northern Area Plan 2016.

## **3 RELEVANT HISTORY**

C/2012/0131/F, Site Adjacent to 32 Newmills Road, Coleraine, Retention and conversion of former mill to provide 1 no dwelling. Granted 08.08.2012

C/2010/0068/RM, Site adjacent to 32 Newmills Road, Coleraine, Retention and conversion of former mill to provide one dwelling. Granted 28.5.2010

C/2005/0607/O, Site adjacent to 32 Newmills Road, Coleraine, Retention and conversion of former mill to provide 1 no. dwelling. Granted 20.02.2007

## **4 THE APPLICATION**

4.1 Site for replacement dwelling and garage.

## **5 PUBLICITY & CONSULTATIONS**

### **5.1 External**

No objections.

### **5.2 Internal**

**DAERA Drainage and Water:** No objection.

**DFI Roads:** No objection.

**Environmental Health:** Has no objection to the proposal.

**Rivers Agency:** The existing site access crosses the strategic fluvial floodplain.

## **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 both a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

The Northern Area Plan 2016

The Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2 – Natural Heritage

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

Planning Policy Statement 15 – Planning and Flood Risk

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

### **Supplementary Planning Guidance**

Building on Tradition – A Sustainable Design Guide for the NI Countryside

## **8 CONSIDERATIONS & ASSESSMENT**

### **Planning Policy**

- 8.1 The main considerations in the determination of this application relate to the principle, access, integration and rural character, flood risk and other matters.
- 8.2 The site is located within the rural remainder as identified in the Northern Area Plan 2016.

- 8.3 The proposal must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above.
- 8.4 Paragraph 6.73 bullet point 2 of the SPPS in relation to replacement dwellings echoes policy CTY 3 of PPS 21 with regards to the visual impact of the proposal not being significantly greater than the existing building.

### **Principle of development**

- 8.5 The building to be replaced exhibits all the characteristics of a dwelling with all external and some internal walls still in place. There is also a chimney stack and evidence of a fireplace which is still intact. Externally there are window and door openings with some wooden window and door frames still intact. The proposal meets with the first part of the Policy CTY 3.
- 8.6 The proposed dwelling will be sited within the existing curtilage of dwelling to be replaced. Although this proposal is for outline approval, conditions would be placed on any approval to restrict the size of the proposed development to ensure it effectively integrates into the landscape.
- 8.7 Conditions will also be used to influence the design of the proposed development. These would restrict the ridge height, gable depth and site frontage. The overall design will be assessed further at the reserved matters stage.
- 8.8 All necessary services are available. The applicant proposes to discharge foul sewage to a septic tank and use a mains water supply.

### **Access**

- 8.9 The proposal is for a replacement dwelling. Due to the state of dereliction the full Roads standards apply due to the intensification of the existing laneway. Policy CTY 1 states that access arrangements for new developments must be in accordance with the Departments published guidance.

- 8.10 The previous planning history at the site, application reference C/2012/0131/F was approved for the retention and conversion of the former mill to provide a new dwelling. As part of this application improved visibility spays were included with the bridge parapet to be set back 6 metres from the edge of the road behind the visibility splay. DFI Roads have advised that the same standards are still required for this application.
- 8.11 Following DFI Roads consultation amended plans seeking an alternative access were submitted. The proposed access will be located approximately 100 metres south east of the existing entrance. DFI Roads were consulted in relation to this and are content with the new access and the provision for adequate visibility splays. Given this the proposed access will not have a detrimental impact on road safety or significantly inconvenience the flow of traffic, the proposal meets Policy Amp 2 of PPS 3.

### **Integration and Rural Character**

- 8.12 The proposed dwelling is not considered a prominent feature on the landscape given its location set back off Newmills Road. Views from Newmills Road will be restricted by the existing built form and the existing vegetation located around the site which will screen the proposed development. Further to this the proposed dwelling would integrate with existing buildings located on the site and the buildings associated with the Council Nursery. These buildings and vegetation will provide a backdrop to the site and reduce its visual impact.
- 8.13 In regard to design this is an outline application and no detailed designs have been provided. The design of the proposed dwelling and garage will be considered further at reserved matters stage if this application was to be granted permission. Also consideration will be given to the provision of further vegetation as part of any reserved matters application if permission is granted.
- 8.14 Policy CTY 1 states that all development in the countryside must be sited and designed to integrate sympathetically with their surroundings. Policy CTY 13 of PPS 21 states that a new building will be unacceptable where ancillary works do not integrate with their surroundings. The justification and amplification of CTY 13 refers in paragraph 5.71 to a new access. It states that on

occasion a new access can be more obtrusive than the building itself. It is considered that the visual impact of the proposed access would be extensive and be detrimental to rural character.

- 8.15 The proposed new access will run along the road frontage for approximately 100 metres and then runs along an existing watercourse for another 100 metres before accessing the site over a culvert. Approximately 80m of road side vegetation is required to be removed to provide the adequate visibility splays. Due to the limited vegetation along the frontage of the site there will be open views of the proposed access laneway. It is considered that due to the extent of the new access it would fail to integrate with the surrounding landscape as it would have a detrimental visual impact. Furthermore, the extent of the driveway running parallel to the Newbridge Road would appear as an obtrusive suburban feature in the rural landscape and damage rural character.
- 8.16 The PAC have recently dismissed two appeals where the proposed access did not integrate and was detrimental to the rural character:  
**Appeal Reference 2018/A0153** at 182m south east of 86 Lisboy Roads, Dunloy. The refusal was against a new access to a proposed dwelling and was refused on integration and rural character.  
**Appeal Reference 2018/A0043** at 160m SE of No 109 Highlands Road, Limavady. Was also dismissed by the PAC for a new access that would have been detrimental to rural character and fail to integrate.
- 8.17 The proposed access would be contrary to Policy CTY 1, CTY 13 and CTY 14 of PPS 21.

### **Flood Risk**

- 8.18 Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 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.
- 8.19 Where the principle of development is accepted by the planning authority through meeting the 'Exceptions Test', as set out in Policy FLD 1, the applicant is required to submit a Flood Risk

Assessment for all proposals. Planning permission will only be granted if the Flood Risk Assessment demonstrates that:

- a) All sources of flood risk to and from the proposed development have been identified; and
- b) There are adequate measures to manage and mitigate any increase in flood risk arising from the development.

8.20 One of the exceptions to Policy FLD 1 is for the replacement of buildings. Even though the application meets with the exceptions test, Policy FLD 1 of PPS 15, is clear in that where the principle of development is accepted by the planning authority through meeting the 'Exceptions Test' the applicant is required to submit a Flood Risk Assessment for all proposals. SYNERGY Engineering and Environment on behalf of the agent and in direct response to a DFI Rivers consultation dated 7th January 2019 disagrees with the need for a Flood Risk Assessment.

8.21 Policy is clear that if a development meets with the exceptions test a Flood Risk assessment is required. The proposed new access traverses the flood zone. As no flood risk assessment has been provided as part of the application. The proposed development is therefore contrary to Policy FLD 1 of PPS 15 as it has not been demonstrated that the proposed development would not lead to an increase in flood risk.

### Culverting

8.22 Policy FLD 4 of PPS 15 will only permit the artificial modification of a watercourse, including culverting or canalisation operations, in either of the following exceptional circumstances:

- Where the culverting of short length of a watercourse is necessary to provide access to a development site or part thereof;
- Where it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action.

8.23 A section of the watercourse which runs along the proposed new access laneway has already been bridged with a culvert. This culvert will be used to gain access to the site. In this case the proposed development meets the 1st exception in that the

culverting is necessary to provide access to a development. The section of the site that has been culverted is less than 10 metres and is considered acceptable as part of this proposal and is in line with paragraph 6.54 of PPS 15 Flood Risk.

### **Habitats Regulations Assessment Screening**

- 8.24 The proposed development is located close to a watercourse and a consultation via email was sent to Shared Environmental Services. It was confirmed that any potential impacts would be temporary during the construction phase of the proposed development. It was also identified that the red line boundary of the proposal is adjacent to a watercourse, which flows for approximately 3.5km before entering the River Bann, which then flows for approx. 2.3km before reaching the boundary of Bann Estuary SAC. The site is also located approximately 30 metres from this watercourse. SES has considered that given the sites features and conservation objectives of Bann Estuary SAC, and the scale and location of the proposal, it is unlikely that there would be any significant effects on the site features/conservation objectives of Bann Estuary SAC or any other European site. This has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats) Regulations (Northern Ireland) 1995. Overall the proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

### **Other matters**

- 8.25 The agent has submitted examples in other Council areas in relation to using the existing access with no improvement to the visibility splays. In two of these the visibility splays were not shown and in another a consultation response from DFI Roads was provided. In this response it was stated that as this is a replacement dwelling DFI Roads cannot insist upon or condition access improvements, we would welcome any visibility improvements. However in these instances it is not known whether the dwellings to be replaced were in good condition or whether they had been lived in recently.
- 8.26 In this application the condition of the building to be replaced is derelict and that it is some considerable time since it was occupied. Therefore this would constitute an intensification of

traffic using the access and provision for adequate visibility splays should be provided.

- 8.27 The agent has also raised LA01/2017/1617/F Upgrade of site infrastructure to include formation of roadway, additional car parking, lighting, drainage, re-fueling facility and security fencing, - Parks Nursery New Mills Road, Coleraine. The application was approved by the Planning Committee 24<sup>th</sup> October 2018. The agent argues that the upgrade of the visibility splays were not required as part of this application. DFI Roads were consulted as part of the Parks Nursery application and found no intensification of use.

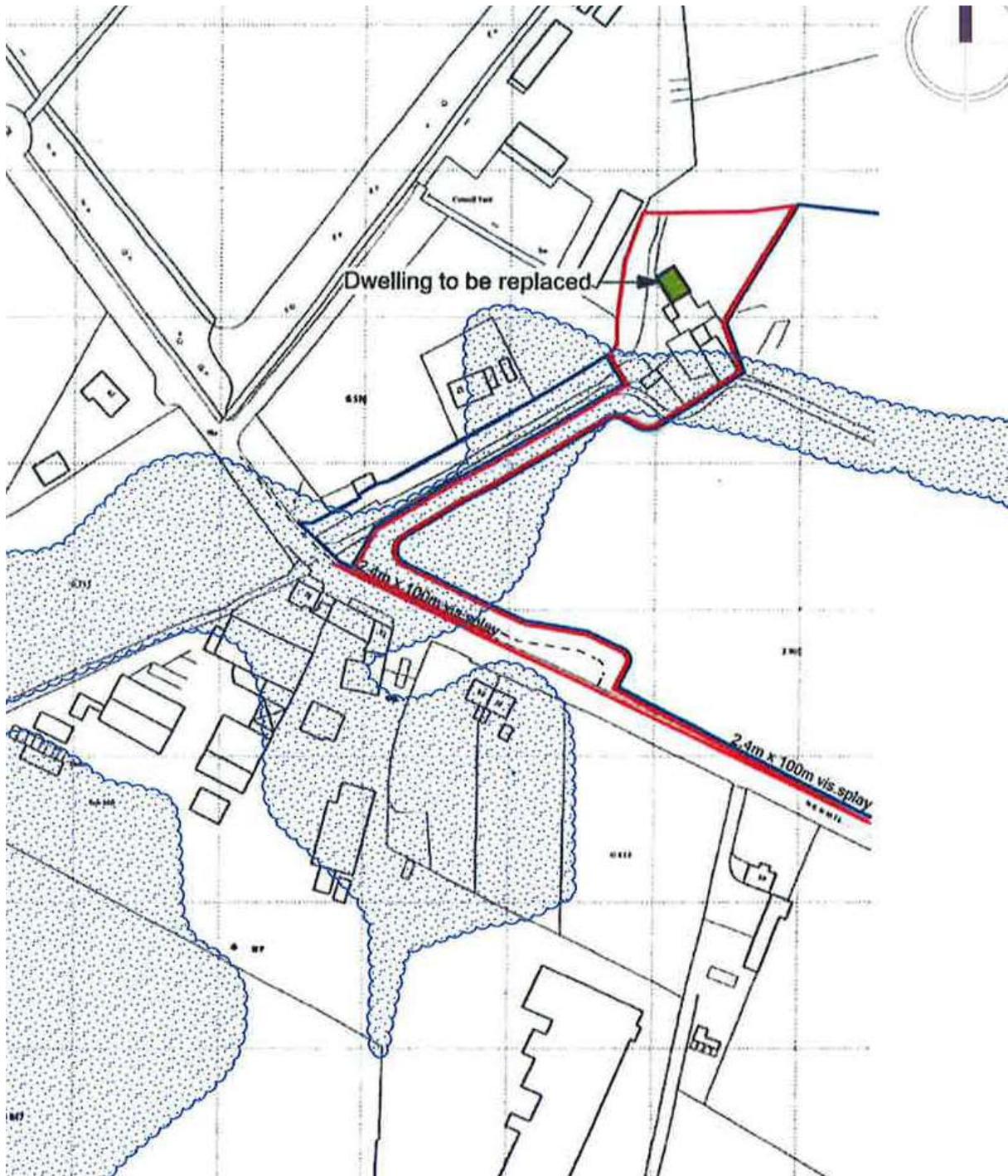
## **9 Conclusion**

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan, and other material considerations, including the SPPS, PPS 21 and PPS 15. The proposal fails to meet the tests of the SPPS, Policy CTY 1, CTY 13 and CTY 14 of PPS 21, and FLD 1 of PPS 15 in that the access fails to integrate and would be detrimental to rural character. It has also not been demonstrated that the the proposed development would not lead to an increase in flood risk. Refusal is recommended.

## **10 Reasons for Refusal**

1. The proposal is contrary to paragraph 6.77 of the SPPS and Policy CTY 1, CTY13 and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the ancillary works to include access provision do not integrate with their surroundings and would damage rural character.
2. The proposal is contrary to paragraph 6.107 of the SPPS and Policy FLD 1 of Planning Policy Statement 15, Flood Risk as it has not been demonstrated that the proposed development would not lead to an increase in flood risk.

## Site Location and flood plain.



# Addendum

## LA01/2016/1230/O

### 1.0 Update

- 1.1 An amended plan was submitted on the 10<sup>th</sup> July 2019 which provided two access options to the proposed development site. Option A proposes to use the existing access to the site and option B proposes a new access onto Newmills Road. It was requested that the Planning Committee considers both options. This request is considered acceptable. Further neighbour notification and advertisement was carried out on the proposals. No representations have been received in relation to this amended plan.
- 1.2 On the 11<sup>th</sup> July 2019 further additional information from the agent was received. This has been uploaded onto the Planning Portal. The key matters raised are as follows.
- The re-use of the access does not represent any intensification at this site. A consultation response for another Council Area LA08/2016/1026/O has been provided to support this argument.
  - That the Council application at Park Nurseries yard was approved even though the use had intensified. Google imagery was also provided in an attempt to show an intensification of use at the site. An extract from the Environmental Services Committee minutes of the 3<sup>rd</sup> May 2016 was used to support this argument.

### 2.0 Consideration

- 2.1 A consideration of access option (B) has been completed within paragraphs 8.11 and 8.14 to 8.17 of the Planning Committee report. In regard to access option (A) a consideration has been made under paragraph 8.9 and 8.10 of the Planning Committee report. In terms of option (A) DFI Roads was previously consulted and in their response dated 24<sup>th</sup> April 2017 stated that the required visibility splays should be free of any obstruction. To enable this, on the south-eastern side of the access the bridge/culvert will have

to be extended and the parapet wall placed behind the visibility splays. The agent is not prepared to provide this. An email dated 5<sup>th</sup> October 2017 with attached photos was submitted for further consideration. DFI Roads in a consultation response dated 21<sup>st</sup> November 2017 advised that the dwelling to be replaced is in ruins, has not been occupied for some time considerable time and cannot be occupied in its current condition. It was stated that this replacement would increase the volume of traffic using the existing laneway and would therefore constitute an intensification of the existing sub-standard access and provide the potential for road safety to be compromised. To use the existing access without making the required improvements is therefore contrary to Policy AMP 2 of Planning Policy Statement 3.

- 2.2 The agent has provided an example in another Council area for a replacement dwelling in relation to using the existing access with no improvement to the visibility splays. In this response it was stated that as this is a replacement dwelling DFI Roads cannot insist upon or condition access improvements, we would welcome any visibility improvements. However, in this instance it is not known whether the dwelling to be replaced was in good condition or whether it had been lived in recently as it is outside our Council area.
- 2.3 In this current application the condition of the building to be replaced is derelict and that it is some considerable time since it was occupied. Therefore its redevelopment would constitute an intensification of traffic using the access and provision for adequate visibility splays should be provided to provide a safe and convenient access.
- 2.4 The agent has referred to an extract from the minutes of an Environmental Services Committee dated 3<sup>rd</sup> May 2016 relating to the Parks and Nursery site. The minutes stated that, “there now exists an opportunity to expand to accommodate the needs of other legacy Councils.” The agent stated that this indicated that there had been an intensification on the site. It is not clear whether the detailing discussed at this meeting relates to all of the development proposed under the previous Council application LA01/2017/1617/F.
- 2.5 As advised by the senior case officer in the Planning Committee minutes 24<sup>th</sup> October 2018 for the Parks Nursery application, “the

current application is for the redevelopment of the site: This will improve infrastructure provisions and health and safety aspects of the site and enhance the working conditions for the Council staff". Furthermore, Question 25 of the P1 form submitted with the Council application, indicated that there would be no expected increase in staff or visitors to the site.

### **3.0 Recommendation**

- 3.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse as set out in paragraph 9.1 of the Planning Committee Report.