

<b>Planning Committee Report</b> <b>LA01/2018/1186/O</b>	<b>27<sup>th</sup> November 2019</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>	Development Management & Enforcement Manager
<b>Cost: (If applicable)</b>	N/a

<b><u>App No:</u></b> LA01/2018/1186/O	<b><u>Ward:</u></b> Route
<b><u>App Type:</u></b> Outline Planning	
<b><u>Address:</u></b> 113m SE of 94 Macfin Road, Ballymoney.	
<b><u>Proposal:</u></b> Proposed site for a dwelling on a Farm.	
<b><u>Con Area:</u></b> N/A	<b><u>Valid Date:</u></b> 03.10.2018
<b><u>Listed Building Grade:</u></b> N/A	
<b>Applicant:</b> Mr Johnny Brady, 94 Macfin Road, Ballymoney, BT53 7QW	
<b>Agent:</b> OJQ Architecture, 89 Main Street, Garvagh, BT51 5AB	
<b>Objections:</b> 0	<b>Petitions of Objection:</b> 0
<b>Support:</b> 0	<b>Petitions of Support:</b> 0

## EXECUTIVE SUMMARY

- Planning permission is sought for a site for a dwelling on a farm.
- The site is located within the rural area.
- The applicant has submitted out of date farm maps. Although the proposal complies with criteria (b) & (c) of Policy CTY 10, the applicant has failed to demonstrate that this is the existing active and establish farm business farming this land and therefore does not meet criterion (a). The proposal is contrary to Policy CTY 10.
- The site satisfactorily integrates into the countryside and is sited adjacent to a group of farm buildings and complies with CTY 13.
- The proposal will not have an unacceptable impact on the rural area and complies with the requirements of CTY 14.
- The site is located within the consultation zone of an archaeological site and monument. HED: HM has been consulted and raise no objection.
- DfI Roads has been consulted and raise no objection to the access arrangements.
- The site is located within the consultation zone of a gas pipeline. Both HSENI and the gas pipeline operator (GNI) have been contacted and no objections raised in terms of the safety or integrity of the pipeline.
- There have been no objections received to this application.
- The proposal does not comply with planning policy CTY 10 of PPS 21 and therefore the application should be refused.

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

## 1.0 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 reason set out in section 10.

## 2.0 SITE LOCATION & DESCRIPTION

- 2.1 The site is accessed via an existing laneway off the Macfin Road serving an existing dwelling and farm grouping which comprises a number of agricultural buildings including some older buildings in a poor state of repair. The site extends to approximately a 0.27ha site and consists of a cut out of a small irregular shaped agricultural field located to the immediate west of the existing farm grouping. The site slopes slightly from east to west before falling away much more steeply over the western quarter of the field and beyond. The site is currently utilised for grazing and does not incorporate any mature boundary vegetation. The northern and western boundaries are defined by a post and wire fence while the eastern boundary is defined by the existing agricultural buildings adjacent.
- 2.2 The site is located approximately 77m from the River Bann which lies at a much lower level to the west. NIE equipment (overhead power lines) also traverse the site.
- 2.3 The site is located within the rural area as identified by Map 2 of the Northern Area Plan 2016. The character of the area is generally defined by single dispersed dwellings and small farm holdings. The site is located within the consultation area of a known archaeological site and monument, and is also within the consultation zone of an existing gas pipeline.

### 3.0 RELEVANT HISTORY

D/2009/0101/O Proposed site for a dwelling on a farm. Dwelling to be occupied by the applicants daughter & son-in-law who work part time on the farm at lands Adj to 94 Macfin Road, Ballymoney Permission Granted 30.07.2009

LA01/2017/0937/O Proposed replacement dwelling in accordance with CTY3 of PPS 21 at Lands adjacent to 94 Macfin Road Ballymoney Appeal Dismissed 29.08.2018

### 4.0 THE APPLICATION

4.1 Outline planning permission is sought for a dwelling on a farm.

#### **Habitats Regulations Assessment**

4.2 The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features or conservation objectives of any European site.

### 5.0 PUBLICITY & CONSULTATIONS

#### 5.1 External:

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

#### 5.2 Internal:

DFI Roads: No objections

Environmental Health: No objections

NI Water: No objections.

NIEA WMU: No objections.

DAERA Countryside Management Inspectorate Branch: The farm business identified on the submitted P1C submitted claims

for 2005-2013. No claims have been submitted since 2013. The proposed site is located on lands associated with a separate farm business.

DFI Rivers Agency: No objection

Health and Safety Executive NI: No Objection.

GNI(UK): No objection

Historic Environment Division (Historic Monuments): No objection subject to dwelling is of a vernacular style with low ridge height and the access road is not altered or widened in any way.

## **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 (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)

PPS 3: Access, Movement and Parking

PPS 6 – Planning, Archaeology and the Built Heritage.

PPS15 – Planning and Flood Risk

PPS 21: Sustainable Development in the Countryside

### **Supplementary Planning Guidance**

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

Development Control Advice Note 15 Vehicular Access Standards

## **8.0 CONSIDERATIONS & ASSESSMENT**

### **Planning Policy**

- 8.1 The proposed dwelling must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above. The main considerations in the determination of this application relate to: principle of development, integration, rural character, archaeology, access, rivers/drainage and impact on gas pipeline.

### **Principle of Development**

- 8.2 The policies outlined in paragraph 6.73 of the SPPS and Policy CTY 1 of PPS 21 state that there are a range of types of development which are considered acceptable in principle in the countryside. Other types of development will only be permitted

where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. The application was submitted as a dwelling on a farm and therefore falls to be assessed against Policy CTY 10.

8.3 Policy CTY 10 states that permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

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 within 10 years of the date of the application. This provision will only apply from 25 November 2008; and

c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.

8.4 Farm maps have been submitted dated 21<sup>st</sup> December 2012 and are out of date. The submission of farm maps that are outdated means it is not possible to have a full and accurate assessment of the proposal against planning policy. The agent was contacted in this regard with up to date farm maps sought. The agent stated the applicant does not hold up to date farm maps and wishes the application to be assessed using the out of date farm maps provided.

8.5 DAERA has been consulted in relation to this application and confirm that the Farm Business identified has been in existence for more than 6 years. It also identifies claims were submitted for 2005-2013. No claims have been made since 2013. DAERA has also confirmed that the proposed site is located on lands associated with a separate farm business. The applicant has indicated farm lands including the proposed site are within his ownership and it therefore appears this land must be let out in conacre.

8.6 Paragraph 5.38 of the Justification and Amplification of Policy CTY10 states that new houses on farms will not be acceptable

unless the existing farming business is both established and active and that the applicant will be required to provide evidence to prove “active farming over the required period”. Additional information has been provided in support of the application in an attempt to demonstrate the farm business is active over the required period.

8.7 Information submitted includes numerous receipts relating to 2012, and three additional receipts relating to 2013 which are dated and mostly relate to Mr D Brady at 94 Macfin Road. These would appear to indicate that the farm business was active during 2012 and 2013. However, it should be noted that these dates are not in dispute as DAERA has already confirmed that single farm payments were claimed and made up to 2013.

8.8 The evidence submitted for 2014 includes the following:

- A receipt and invoices from a local Veterinary Clinic to Mr D Brady at 94 Macfin Road. Although the invoice is dated 14-OCT-2014 the payment appears to relate to an outstanding balance from 2012/2013 and would not appear to substantiate farming activity in 2014.
- A receipt for payment in relation to AI services. This forms one payment which relates to 2014 and was made for liquid nitrogen refilling. This in itself indicates very limited farming activity.
- A receipt of payment from NIE in relation to a wayleave has also been submitted but does not support or relate to a specific farming activity.
- The remaining document addressed to Mr D Brady is dated 17-NOV-2014 and is a letter from DARD advising that a TB test was due to be carried out on the applicant’s herd. This would appear to indicate that the business was actively farming in 2014.

8.9 The remaining evidence submitted is dated 30-NOV-2018 and relates to the purchase of two young bullocks. That said, unlike most of the supporting evidence, this purchase was by the planning applicant (Mr J Brady) who is also registered to 94 Macfin Road. No further evidence has been submitted covering the years 2015-2017.

8.10 Based on the information supplied as well as the consultation response from DAERA, very limited farming activity appears to



have occurred in the last number of years, with no evidence relating to three of the last six years. This position is confirmed by DAERA who advise that this land is actively farmed and claimed for as part of a separate established farm business. Policy is clear that new houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant has failed to demonstrate that this is the existing active and establish farm business farming this land.

8.11 In terms of criterion (b), a planning history search was carried out on the land within the farm maps provided which identified that a previous farm dwelling was granted on 30.07.2009 under D/2009/0101/O. The SPPS states that a dwelling on a farm will only be acceptable once every ten years. Although the current proposal remains within this 10 year period, following a site inspection it appears to indicate that the previous permission has not been implemented and this permission has expired. The proposal meets this requirement.

8.12 Criterion (c) of Policy CTY10 states that the proposed new dwelling should be sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. The applicant is in ownership of a large group of agricultural buildings which the current application is sited immediately beside and access is taken from the existing laneway. The proposal meets this requirement.

### **Integration**

8.13 Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposed siting is immediately adjacent the existing group of farm buildings. Although the site does not incorporate any existing vegetation it has some sense of enclosure due to the existing buildings and the steep change in levels. The site is also set well back from the public road and will not appear prominent. Where critical views do exist from the surrounding public road network, these are long range and limited. The proposed access does not require removal of additional hedging in order to facilitate the necessary access arrangements / splays. The proposal satisfactorily integrates

into the countryside and is sited adjacent to a group of farm buildings and complies with CTY 13.

### **Rural Character**

- 8.14 Policy CTY14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed site is well grouped with the existing farm buildings and views of the site are limited; therefore it would be possible to develop the site without significantly altering the character of the area. The proposal complies with the requirements of CTY 14.

### **Archaeology**

- 8.15 The site is located within the consultation zone of a known archaeological site and monument. HED has been consulted and are content with the proposal on the proviso that no alterations take place to the access road (including widening) as well as an appropriate dwelling design which could be dealt with by way of appropriate conditions. The applicant has indicated that the access road is to remain unaltered and DfI Roads has confirmed that acceptable access arrangements exist with the exception of hedge facing to provide the necessary splays. Therefore the proposal complies with the requirements set out in PPS6.

### **Access**

- 8.16 DfI Roads has been consulted as the competent authority on road and traffic matters. DfI has no objection in relation to the proposed access arrangements and the proposal complies with PPS 3.

### **Rivers / Drainage**

- 8.17 The site is located within proximity of the River Bann but is significantly elevated above this level. DfI Rivers has indicated that the site does not lie within the fluvial flood plain although an undesignated watercourse flows along the northern boundary of the access lane. No amendments to the access are proposed.
- 8.18 The proposal involves a connection to the mains for water supply, the disposal of surface water via soakaways and the

use of a septic tank for disposal of foul sewage. DAERA Water Management Unit and NI Water were both consulted on this application and neither have made any specific comments out with the use of conditions and informatives for this type of development. A discharge consent will also be required should planning permission be granted.

### **Impact on Gas Pipeline**

- 8.19 The site is located within the consultation zone of a gas pipeline. Both HSENI and the gas pipeline operator (GNI) have been contacted and no objections raised in terms of the safety or integrity of the pipeline.

## **9.0 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 and PPS 21. The applicant has failed to demonstrate that the farm business is currently active and established for the required period, and the land is currently farmed under another farm business. Although the application satisfies other planning policies, the proposal does not meet the requirements of Policy CTY 10 criterion (a). Refusal is recommended.

## **10 REFUSAL REASON**

1. The proposal is contrary to 6.73 of the Strategic Planning Policy for Northern Ireland (SPPS) and Policies CTY1 and CTY10 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 the farm business is currently active and has been established for at least six years.

# SITE LOCATION PLAN



# **ADDENDUM**

## **LA01/2018/1186/O**

### **1.0 Update**

- 1.1 At the Planning Committee meeting on 23<sup>rd</sup> October 2019, this application was deferred to allow the consideration of further information submitted on 22<sup>nd</sup> October 2019.
- 1.2 Officials received additional information in the form of a letter from a Mr Keith Clyde from Woodbank Contracts.
- 1.3. In the letter Mr Clyde states that he has been providing Agricultural Contracting Services for Mr Johnny Brady, the planning applicant, on his farm from approximately Oct 14 to Oct 19, providing the following services:
  - Spreading slurry on Mr Brady's lands
  - Cutting hedges on Mr Brady's Farm,
  - Spreading lime on Mr Bradys lands.

### **2.0 Consideration**

- 2.1 DAERA has confirmed in its response that the land is being farmed by another farm business. A contractor states he has notionally been doing business for Mr Brady over the last 5 years. This is the only evidence submitted in this regard for the years 2015, 2016, 2017 & 2019, and it is insufficient. It fails to demonstrate that a separate farm business, independent of the farm business that is collecting single farm payments on this land, is also farming this land. There is no change of recommendation having regard to the additional information submitted on 22<sup>nd</sup> October 2019.

### **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