

<b>Planning Committee Report</b> <b>LA01/2019/0923/O</b>	<b>28th April 2021</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>	<b>LA01/2019/0923/O</b>	<b><u>Ward:</u></b>	<b>Ballykelly</b>
<b><u>App Type:</u></b>	<b>Outline Planning</b>		
<b><u>Address:</u></b>	<b>Land 80m North West of No. 100 Glenhead Road, Ballykelly</b>		
<b><u>Proposal:</u></b>	<b>Site for single storey dwelling in accordance with Policy CTY 6 - personal and domestic circumstances</b>		
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Valid Date:</u></b>	<b>23.08.2019</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>		
<b>Applicant:</b>	<b>Vivian White, 33A Glenhead Road, Ballykelly, BT49 9JS</b>		
<b>Agent:</b>	<b>GM Design Associates Ltd, 22 Lodge Road, Coleraine, BT52 1NB</b>		
<b>Objections:</b>	<b>0</b>	<b>Petitions of Objection:</b>	<b>0</b>
<b>Support:</b>	<b>0</b>	<b>Petitions of Support:</b>	<b>0</b>

## Executive Summary

- Outline planning permission is sought for a site for single storey dwelling in accordance with Policy CTY 6 - personal and domestic circumstances
- The site is located within the countryside, outside of any defined settlement development limits as defined in the Northern Area Plan 2016.
- The principle of development is considered unacceptable in regard to the SPPS and PPS21 as it has not been demonstrated that the proposed dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused and that the application site is the only feasible option available to permit the applicant to have independence and to continue with the current level of interaction with their family and horses. The applicant has not demonstrated why a dwelling/accommodation within a nearby settlement or dwelling in the vicinity cannot meet with their needs and maintain their lifestyle.
- No overriding reasons have been forthcoming as to why the development is essential and cannot be facilitated within the development limit.
- DFI Roads, Environmental Health, DAERA, Historic Environment Division, Northern Ireland Water, Health and Safety Executive and the Gas Pipeline operator all raised no objection to the proposal.
- No objections have been received
- The application is recommended for Refusal as it is contrary to Paragraph 6.73 of the SPPS and Policies CTY1 and CTY6 of PPS21

Drawings and additional information are available to view on the Planning Portal- <http://epicpublic.planningni.gov.uk/publicaccess/>

## 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 subject to the reasons set out in section 10.

## 2.0 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located approximately 80 west of No. 100 Glenhead Rd, Ballykelly. The application site is within the western side of a roadside agricultural field with the extent of the red line forming a narrow linear strip running the length of the western field boundary, and to the south of what appear to be redundant sheep pens. The application site is defined along the western field boundary by a hedgerow which is approximately 3m in height. The southern boundary is defined by post and wire fence and some spare hedgerow. The eastern boundary is undefined along its entirety, while the roadside boundary is defined by hedgerow approximately 2m in height which would require removal to facilitate access. The narrow portion of the site in the northern section, adjacent the sheep pen is defined by post and wire fencing and a hedge approximately 1.5m in height.
- 2.2 The application site is located within the rural area outside of any settlement as defined in the Northern Area Plan 2016. The application site is located approximately 2.5km south of Ballykelly in an area which is dominated by agricultural land. Within the immediate vicinity of the application site there are two detached dwellings approximately 130m and 140m east of the site boundary. There are large overhead powerlines and a main gas pipeline running across the site. The application site is not located within any environmental designations.

### **3.0 RELEVANT HISTORY**

3.1 No relevant planning history on application site

### **4.0 THE APPLICATION**

4.1 Outline Planning Permission is sought for a site for a single storey dwelling in accordance with Policy CTY6 of PPS21. The application site is located within a roadside field with the dwelling to be sited in the southern portion of the site. No plans relating to the scale and design of the dwelling have been submitted.

### **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.

DAERA Water Management Unit: No objections.

Health and Safety Executive: No objections.

Gas Pipeline Operator: No objections.

Historic Environment Division: No objections.

### **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

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 and rural character, access, proximity to gas pipeline, impact on archaeological site and Habitat Regulations Assessment.

### **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 to meet the personal and domestic circumstances of the applicant and therefore falls to be assessed against Policy CTY 6.
- 8.3 Policy CTY6 of PPS21 states that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met.
- (a) the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and
- (b) there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

- 8.4 The applicant currently resides at No. 33A Glenhead Rd which is approximately 1 mile north of the application site, at the family home. The applicant has a keen interest in horses and owns 4, which she interacts with and tends to daily. There were stables and a paddock area for the horses located at the applicant's residence, but these have been removed in relatively recent times, with new buildings erected in their place. There is no record of planning permission being obtained for these buildings. The horses graze on the land at the application site, which is noted as the only lands owned by the applicant's father outside of the property at No. 33a. The applicant currently travels to the field to visit the horses. It is unclear where the horses are currently stabled since the removal of the stables at the applicant's current residence. Medical information submitted outlines the applicant's personal circumstances and testifies that the horses appear to have a positive impact on the applicant's well-being.
- 8.5 A vehicle repairs business operates from No.33a and the agent has advised that some of the buildings associated with the business have already been signed over to the applicant's brother. The information submitted outlines that given family commitments to sign the dwelling at 33a and business over to the applicant's brother, who has a family of his own, it is not feasible to provide a purpose-built extension or annex which is DDA/OT compliant accommodation at the applicant's current address.
- 8.6 It has also been outlined that the existing use of the buildings and associated traffic circulation areas which surround the dwelling are associated with the vehicle repair business which operates from this location, which therefore leaves no scope for the provision of a purpose built extension or annex within the existing buildings or within the yard.
- 8.7 No details have been provided to outline any specific level of care required by the applicant or indeed who provides primary care. Going forward it has not been demonstrated how any current level of care will be provided/maintained when the premises at No.33a is vacated by the applicant and their parents. The supporting information outlines that the proposed dwelling will allow for the applicant to avail of independent living.

There is no clarification on where the applicant's parents will reside following departure from the current property or why an extension/ annex cannot be facilitated at their new place of residence to provide any required level of care while providing an element of independent living.

- 8.8 In assessing the information provided it appears that the need for a dwelling at the application site has come about primarily by the decision to sell/transfer the dwelling and associated buildings/business at which the applicant currently resides, rather than specifically to meet the applicant's personal and domestic needs. The current living arrangements allow for care to be provided to the applicant and allows for interaction with their horses which up until recently had been stabled at the place of residence.
- 8.9 The need for a new dwelling in this case, is not compelling and site specific, rather one of desire, over alternative options within a nearby settlement or purchasing a development site in the rural vicinity. Insufficient information has been provided to demonstrate that all alternative solutions have been fully explored with respect to other potential dwellings in the vicinity which would allow the applicant to maintain their interaction with the horses.
- 8.10 The Planning Department do not consider that refusal of the application would cause undue hardship to the applicant in that the day to day interaction with the applicant's horses could be maintained at a similar level to what currently exists from an alternative location. No overriding reason has been forthcoming as to why the development is essential in this location, the proposal is therefore contrary to Paragraph 6.73 of the SPPS and Policies CTY1 and CTY6 of PPS21.

### **Integration and Rural Character**

- 8.11 Both the SPPS and PPS21 outline that all development in the countryside is required to integrate into its setting, respect rural character and be appropriately designed.
- 8.12 Policy CTY13 of PPS21 states that a new building will be unacceptable where:  
(a) it is a prominent feature in the landscape; or

- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

8.13 Policy CTY14 of PPS21 states that a new building will be unacceptable where:

- (a) it is unduly prominent in the landscape; or
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

8.14 The dwelling is proposed to be sited in the southern portion of the site. Initially the dwelling was to be positioned towards the front of the site, adjacent to the sheep pens, however concerns were raised about the ability of a dwelling to suitably integrate at that location. The proposed siting was re-located to the southern end of the site which sits in a slight hollow within the field. The southern portion of the site is defined along the western boundary by post and wire fencing and mature hedgerow approximately 3-3.5m in height. The southern boundary is defined by post and wire fencing and is mainly devoid of any significant vegetation other than a few sparse clusters of hedgerow, which would be approximately 2.5-3m in height. From the road a dwelling would sit in the slight hollow. Despite the set-back only a modestly sized single storey dwelling would be capable of integrating into the landscape and would be reliant on a satisfactory landscaping scheme. Subject to strict restriction in terms of size in terms of floor area and ridge height and a satisfactory landscaping scheme along all site boundaries the

Planning Department would be satisfied that the proposal could meet the requirements of Paragraph 6.70 of the SPPS and CTY13 and CTY14 of PPS21.

### **Access**

8.15 Access to the site is proposed by creating a new access point onto Glenhead Road. DfI Roads were consulted on the proposal and following the submission of revised plans raise no objection subject to condition. Consequently, as the proposal is not considered to prejudice road safety or significantly inconvenience the flow of traffic, it is considered to comply with Policy AMP 2 of PPS 3 Access, Movement and Parking.

### **Proximity to Gas Pipeline**

8.16 There is a main gas pipeline which runs through the application site. Both the HSENI and the gas pipeline operator were consulted on the proposal. HSENI identify the site as being close to the gas pipeline but did not advise against the granting of approval. The gas line operator also commented that they would have no objection to the proposed dwelling in the southern section of the site, but will require notification when construction of the access is to take place to oversee the works as the access lane would pass over the pipeline.

### **Impact on Archaeological Site**

8.17 The application site was identified as being partially within the consultation zone for an archaeological site, with only the proposed access being within the consultation zone. Historic Environment Division were informally consulted via email to determine if consultation was necessary. Historic Environment Division responded via email to confirm that they had no archaeological concerns regarding the site and that formal consultation was not necessary. The proposal therefore meets with requirements of the Policies contained within the SPPS and PPS6 regarding impact on archaeological features.

### **Habitats Regulations Assessment**

8.18 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 of any European site.

## **9.0 CONCLUSION**

9.1 The application site fails to meet with the principle planning policies outlined within the SPPS and PPS21. The proposal does not meet with any of the permissive circumstances for development in the countryside, and as no over-riding reasons have been provided as to why development is necessary at this location, that genuine hardship would be caused by not locating a dwelling in this location and that there are no alternative solutions to meet the applicant's needs the proposal is subsequently contrary to Paragraph 6.73 of the SPPS and Policies CTY1 and CTY6 of PPS21.

## **10.0 REFUSAL REASONS**

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.73, and Planning Policy Statement 21, Policy CTY 1 in that there are no overriding reasons why the development is essential and could not be located in a settlement.
2. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

# Site Location Map

