



<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2020/0683/O</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>23<sup>rd</sup> August 2023</b>
<b>For Decision or For Information</b>	<b>For Decision</b>

<b>Linkage to Council Strategy (2021-25)</b>	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Senior Planning Officer

<b>Budgetary Considerations</b>	
Cost of Proposal	Nil
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:

Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

**No:** LA01/2020/0683/O

**Ward:** Ballykelly

**App Type:** Outline Planning

**Address:** Lands approximately 120m South West of 37 Moneyrannel Road, Limavady

**Proposal:** Proposed dwelling house and detached garage on a farm. Proposal includes upgrade to existing access, proposed driveway, landscaping & all associated site works

**Con Area:** n/a

**Valid Date:** 16.07.2020

**Listed Building Grade:** n/a

**Agent:** HERE Architects, 4-6 Linenhall Street, Ballymoney  
BT53 6DP

**Applicant:** Mr Martin Canning, 3 Riverview, Ballykelly, BT49 9NW

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

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

## **Executive Summary**

- Outline planning permission is sought for a proposed dwelling house and detached garage on a farm. The proposal includes upgrade to existing access, proposed driveway, landscaping & all associated site works.
- The application site falls within the open countryside as indicated within the NAP 2016, a Rough Fort, a scheduled monument is located 110 metres to the east and the site is located on a former brick field which is recorded on the industrial site register.
- There are no overriding reasons why this development is essential in this rural location and could not be located within a settlement and is contrary to policy CTY1 of PPS21.
- The proposal is not visually linked or sited to cluster with an established group of buildings on the farm and is contrary to policy CTY10 of PPS21.
- The proposal is a prominent feature in the landscape, the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, it relies primarily on the use of new landscaping for integration, it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop therefore it would not visually integrate into the surrounding landscape. The proposal is contrary to policies CTY13 and 14 of PPS21.
- The site does not respect the traditional pattern of settlement exhibited in the area and would therefore result in a detrimental change to the rural character of the countryside, the proposal is contrary to policy CTY14 of PPS21.
- The site would result in adverse impacts upon the integrity and intrinsic character of the setting of the Rough Fort a regionally important scheduled monument. The proposal is contrary to Policy BH1 of PPS6.
- There have been no representations made on the file.

- The proposal is contrary to the relevant planning policies including the Northern Area Plan, SPPS, PPS 6 and PPS 21.
- The application is recommended for refusal.
- Reasons for Referral by the elected member are attached as an annex to this report.

**Drawings and additional information are available to view on the Planning Portal -**

**<https://planningregister.planningsystemni.gov.uk/simple-search>**

## **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 and description**

2.1 The site is a rectangular shaped plot of land measuring 0.38 hectares, artificially cut out from a larger field, set back from the Moneyrannel Road by 20 metres. The topography of the land is flat and is positioned 2m lower than Moneyrannel Road as there is a drop from the field boundary hedge into the field. The site is laid out in grass. The site access is via the existing field gate to the north east of the site direct to Moneyrannel Road. The site encapsulates part of a large field. The farm sheds are located 510 metres to the south west of the site. There are no other farm buildings relating to the applicant's farm business in the vicinity of the proposal. The site is isolated from other buildings

2.2 The north western boundary is defined by a 2 metre high hedge which is set on top of a 2 metre high bank. The other 3 site boundaries are undefined. The road side boundary is defined by a 3 metre high hedge set on a 2 metre bank.

2.3 There are no watercourses in the vicinity of the proposal. The critical views are from the existing lane to the south east or from Moneyrannel Road to the north east.

2.4 The local area is characterised by agricultural farm land and some detached dwellings. The site is located outside any settlement limit and is in the countryside as shown in the Northern Area Plan 2016. There is a Rough Fort, a scheduled monument located 110 metres to the east and the site is located on a former brick field which is recorded on the industrial site register.

### **3 RELEVANT HISTORY**

3.1 B/2006/0140/O – Off Moneyrannel Road, Limavady (95m southwest of 37 Moneyrannel Road) – Site for retirement farm dwelling – Withdrawn – 10.03.2006

B/2009/0013/O – Approximately 135m south west of 37 Moneyrannel Road, Limavady – Traditional two storey farm dwelling with detached domestic garage – Withdrawn – 12.01.2009

B/2009/0036/F - Approximately 190 metres south west of 37 Moneyrannel Road, Limavady - New agricultural barn and associated farmyard with upgraded access - Permission Granted - 28.09.201  
No commencement has occurred therefore this permission has expired.

### **4 THE APPLICATION**

4.1 This application seeks outline permission for a proposed dwelling house and detached garage on a farm. The proposal includes an upgrade to the existing access, proposed driveway, landscaping & all associated site works.

### **5 PUBLICITY & CONSULTATIONS**

#### **5.1 External**

All neighbours identified for notification within the terms of the legislation where notified on 10th August 2020. The application was advertised on 28th July 2020.

#### **5.2 Internal**

Environmental Health: No objection to the proposal.

DFI Roads: No objection to the proposal.

NI Water - No objection to the proposal.

Historic Environment Division - Archaeology and Built Heritage - Object to the proposal.

DAERA (NIEA) Drainage and Water - No objection to proposal

DAERA - No objection to proposal. Advised that farm business number has been established for more than 6 years, it has claimed subsidies in each of the last 6 years and the site is on land for which payments are currently being claimed by the farm business.

## **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 development 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) 2015

Planning Policy Statement 2 (PPS 2) Natural Heritage

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

Planning Policy Statement 6 (PPS 6) Planning, Archaeology and Built Heritage

## **8 CONSIDERATIONS & ASSESSMENT**

8.1 The main consideration in the determination of this application relate to the Principle of Development, Integration, Rural Character, Waste Water Disposal, Access, Movement and Parking, Natural Heritage, Archaeology, Safeguarding residential and work environs, Other material considerations, Representations, and Habitat Regulation Assessment.

### **Principle of Development**

8.2 The policies outlined in paragraph 6.73 of the SPPS and policy CTY1 of PPS21 state that there are a range of types of development which are considered acceptable in principle in the countryside. Other types of development which 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 for a dwelling and detached garage on a farm. The proposal includes an upgrade to the existing access, proposed driveway, landscaping & all associated site works on an established farm, this is considered below under policy CTY10.

8.3 Policy CTY 10 of PPS21 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;

DAERA were consulted and have confirmed that the farm business ID has been in existence for more than 6 years and the farm business has claimed either single farm payment, less favoured area compensatory allowance or Agric Environment Schemes in each of the last 6 years.

The proposal complies with criteria “a” the active and established test of policy.

8.4 (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 this application. This provision will only apply from 25th November 2008. It appears that no dwellings or development opportunities have been sold off. The agent has marked none. There is no history of approvals on the farm lands identified on the farm maps.



The proposal complies with criteria “b” as no dwellings or development opportunities have been sold off.

8.5 (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 building should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either;

- there are demonstrable health and safety reasons or;
- there are verifiable plans to expand the farm business at the existing building group(s).

The proposed site does not visually link and is not sited to cluster with an established group of buildings on the farm. The site does not obtain access from an existing lane and instead proposes a new access from the public road (Moneyrannel Road). The first part of the exceptions test is that there must be no other sites available at a group of buildings on the farm or outfarm. The supporting email dated 30th March 2023 states the applicant needs to live at the farm to improve farm yield and for security. It is apparent that there is scope for a dwelling on the farm in fields 4 or 5 as identified on farm map page 2 of 6, which would visually link or cluster with the existing group of buildings on the farm. As there is the possibility of an available site elsewhere at a group of buildings on the farm, this part of the exceptions test is not met. This is reinforced by a recent PAC decision 2020/A0155 Ballintemple Road, Meigh (Appendix 2) at paragraph 10 states that “As there is the possibility of an available site elsewhere at a group of buildings on the farm, this part of the exceptions test is not met”.

8.6 In regard to the second part of the exceptions test, paragraph 5.42 of the amplification text of Policy CTY 10 expands to say that “where an alternative site is proposed under criterion ‘C’ which is removed from existing buildings on the farm, the applicant will be required to submit appropriate and demonstrable evidence from a competent and independent authority such as the Health and Safety Executive or Environmental Health Department of the local Council to justify the siting. Evidence relating to the future expansion of the farm business may include valid planning permissions, building control approvals or contractual obligations to supply farm produce.” An email received on 30<sup>th</sup> March 2023 on behalf of the applicant states that using the existing lane is a health and safety concern. No demonstrable evidence has

been presented to verify the Health and Safety concerns, therefore no determining weight can be attached to this statement. It is noted that the existing laneway is not dissimilar to many other lanes in Northern Ireland. In addition, no evidence was submitted either to demonstrate health and safety reasons or plans to expand the farm business at the existing group of buildings on the farm that would justify a dwelling on the application site. The second part of the exceptions test is therefore not met.

8.7 A submission from the applicant's solicitor states that the applicant does not enjoy adequate express rights of access on the lane accessing the farm group for the purposes of a new dwelling. A surveyor has provided cost estimates of providing a 500 metre lane. Such property ownership issues or cost issues are not considered exceptional reasons to depart from the requirements of Policy CTY 10. Refer to PAC2016/A0214 Listooder Road, Crossgar Appendix 3 for information) which did not accept the issue of ownership/control of a laneway and land to improve visibility splays as reason to approve a site that did not visually link or cluster with the established group of buildings as the issue was not one of safety but rather one of land ownership that may or may not be resolved with the relevant land owners.

8.8 The site is remote from the established group of buildings on the farm being approximately 510 metres from them. The proposal does not visually link with or is not sited to cluster with an established group of buildings on the farm. No persuasive overriding reasons were advanced as to why the development is essential and could not be located in a settlement.

8.9 While the proposal complies with criteria a and b, it is contrary to criteria c of CTY10 and paragraph 6.73 of SPPS. The proposal is also contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 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. CTY10 states that dwellings on a farm should also comply with CTY13, CTY14 and CTY16. This will be considered below.

## **Integration**

8.10 Policy CTY1 of PS21 and paragraph 6.70 of the SPPS state that all proposals must be sited and designed to integrate into its setting,

respect rural character and be appropriately designed. Policy CTY13 states that 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.

- 8.11 The topography of the land is flat, though it is 2m lower than Moneyrannel Road as there is a drop from the field boundary hedge into the field. The site access is via the existing field gate to the north east of the site directly onto Moneyrannel Road. The north western boundary is defined by a 2 metre high hedge which is set on top of a 2 metre high bank. The other 3 boundaries are undefined. The road side boundary is defined by a 3 metre high hedge set on a 2 metre bank however this boundary does not define a boundary of the application site. The site is isolated from the farm sheds which are located 510 metres to the south west.
- 8.12 The site is set back from Moneyrannel Road by 20 metres and is open on 3 boundaries therefore critical views are from the lane to the south east and Moneyrannel Road to the north east. As the topography of the site is flat, there is no backdrop and any dwelling would appear prominent in the landscape from the critical views. The site is undefined on 3 sides therefore the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. While there is a mature roadside boundary which could aid integration when viewed from Moneyrannel road, subject to a low ridge height condition, this is not considered sufficient to overcome the prominence and integration concerns.
- 8.13 The character of dwellings in the local area are single and two storey. A block plan has been submitted showing a proposed dwelling with 17 metre frontage and 7 metre gable depth. Although the design of the building could be conditioned to single storey this would not be sufficient to overcome the prominent nature of the site. The proposal would be unduly prominent in the landscape, the site lacks long established boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, it relies primarily on the use of new landscaping for integration, it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and it is not visually linked or sited to cluster with an established group of buildings on a farm. The proposal is contrary with para 6.70 of the SPPS and policy CTY13 of PPS21.

## **Rural Character**

- 8.14 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 a rural character of an area. The proposal is unduly prominent in the landscape as demonstrated above under paragraph 8.12 and 8.13. The site plot size is 0.38 hectares and with site dimensions of 68m by 50m is at least twice that of the existing dwelling curtilages in the vicinity. The plot does not front onto the road and is set back. The proposal fails to respect the traditional pattern of development exhibited in the area. The ancillary works are minimal as an existing field gate is being used, the lane follows the existing hedge for 20 metres to the site and the road side verge is wide enough for visibility splays meaning the existing hedge can remain in situ. The impact of ancillary works will not damage rural character.
- 8.15 The proposal is contrary to criteria “a” and “c” of policy CTY14 and paragraph 6.70 of the SPPS in that the proposal will erode the rural character of the area.

## **Wastewater Disposal**

- 8.16 Policy CTY16 of PPS21 – Development relying on non-mains sewerage, applies and states planning permission will only be granted for development relying on non-mains sewerage where the applicant can demonstrate that this will not create or add to a pollution problem.
- 8.17 Applicants will be required to submit sufficient information on the means of sewerage disposal to allow a proper assessment of such proposals to be made. In those areas identified as having a pollution risk development relying on non mains sewerage will only be permitted in exceptional circumstances. The applicant proposes to discharge to a septic tank. As the applicant has submitted sufficient information on the means of sewerage disposal and DAERA (NIEA) Water Management Unit are content the proposal complies with policy CTY 16.

## **Access, Movement and Parking**

- 8.18 Policy AMP2 of PPS3 Access, Movement and Parking applies and states for access to public roads planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, into a public road where;

(a) Such access will not prejudice road safety or significantly inconvenience the flow of traffic; and

(b) The proposal does not conflict with policy AMP3 Access to Protected Routes.

8.19 The applicant has submitted plans to demonstrate safe access to the public road. DFI Roads have been consulted and they are content. The Moneyrannel Road is not a protected route. As DFI Roads are content the proposal complies with Policy AMP2 of PPS3 Access, Movement and Parking.

### **Natural Heritage**

8.20 Paragraphs 6.178 and 6.192 of the SPPS and PPS 2 Policy NH1 - European and Ramsar Sites - International, Policy NH2 – Species Protected by Law and Policy NH5 – Habitats, Species or Features of Natural Importance are applicable. There is minimal vegetation removal and there are no watercourses in the vicinity therefore on this basis the proposal complies with Paragraphs 6.178 and 6.192 of the SPPS and policies NH 1, NH 2 and NH 5 of PPS 2 in that it has been demonstrated that the proposal is not likely to harm any European and Ramsar Sites, European protected species, Habitats, Species or Features of Natural Importance.

### **Archaeology**

8.21 PPS 6 Policy BH 1 entitled The Preservation of Archaeological Remains of Regional Importance and their Settings states that the Department will operate a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings. These comprise monuments in State Care, scheduled monuments and other important sites and monuments which would merit scheduling. Development which would adversely affect such sites of regional importance or the integrity of their settings will not be permitted unless there are exceptional circumstances.

8.22 There is a Rough Fort, a counterscarp Rath, which is a scheduled monument of regional importance, located 94 metres to the east of the site. HED Historic Monuments, the competent authority on such matters, was consulted and requested further information to demonstrate that there will be no impact on the scheduled monument or

its setting. The application site is also located on a former brick field site which is recorded on the Industrial Heritage Record. No objection has been received from HED in relation to building on a former brickfield site.

8.23 In response to HED's initial recommendation to refuse, the applicant submitted an Archaeological and Cultural Impact Assessment Document, the Document was subsequently amended following further consultations with HED. HED are not content that the proposed dwelling would not have an adverse impact on the setting of the Rough Fort. The findings of the AIA have not been substantiated because no photomontages of the proposed dwelling in context with the Rough Fort have been provided. It is the opinion of HED Historic Monuments that the AIA has still not demonstrated sufficient evidence to support the development. HED have advised that the proposed development would adversely impact upon the integrity of the setting of the scheduled monument by:

Firstly, adversely impacting upon critical public views of and from the monument including from the public access on Moneyrannel Road.

Secondly, adversely affect rural character, visual amenity, and the functional understanding of the immediate setting of the monument by introducing new development at this location.

Thirdly, adversely change the integrity and intrinsic character of the monuments immediate setting. Rathes were dispersed settlement sites set within a farmland context, such a landscape still surrounds the Rough Fort, but the introduction of new development at this location would essentially change its character.

Fourthly, the dwelling proposed would not integrate into the existing character of the dispersed settlement pattern in the locality, which contributes to the intrinsic character of the immediate landscape setting of Rough Fort.

No exceptional circumstances have been forthcoming.

HED has undertaken its own assessment in line with guidance and continues to advise that the proposal is contrary to Policy BH 1 of PPS 6 and paragraph 6.8 of the SPPS.

### **Safeguarding residential and work environs**

8.24 Paragraph 4.12 of the SPPS is relevant. This paragraph relates to safeguarding residential and work environs. Other amenity considerations arising from development, that may have potential health

and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas.

8.25 The majority of the issues in paragraph 4.12 have been considered above so the two remaining issues to consider are residential amenity and contamination. The proposal is isolated from other dwellings. There would be no adverse impact from overlooking or overshadowing. The site is located on a former brickfield site which is listed on the Industrial Heritage Register. NIEA have not provided comment however Environmental Health have added a condition if ground contamination is encountered on site during construction works. On this basis the proposal complies with paragraph 4.12 of the SPPS.

### **Other material considerations**

8.26 An email was received on 30<sup>th</sup> March 2023 on behalf of the applicant. The health and safety reason, the applicant's desire to improve farm yield and have farm security is considered above at paragraphs 8.5-8.9. Integration and rural character are considered at paragraphs 8.10-8.15 and archaeology is considered above at paragraphs 8.21-8.24. The supporting email dated 30<sup>th</sup> March 2023 has been fully considered.

### **Representations**

8.27 No representations were received on this application.

### **Habitats Regulation Assessment**

8.28 Habitats regulations assessment screening checklist – conservation (natural habitats, etc) (amendment) regulations (NI) 2015 :

The potential impact of this proposal on special areas of conservation, special protection areas and Ramsar sites has been assessed in accordance with the requirements of regulation 43 (1) of the

conversation (natural habitats, etc) regulations (NI) 1995 (as amended). There are no watercourses in the vicinity.

The applicant has demonstrated that the proposal would not be likely to have a significant effect on the features, conservation, objectives or status of any of these sites.

## **9 CONCLUSION**

9.1 The proposal is considered unacceptable at this location having regard to the Northern Area Plan and other material considerations, including the SPPS and Planning Policy Statements 2, 3, 6 and 21. Consultee responses have been considered. The proposal is not visually linked or sited to cluster with an established group of buildings on the farm and there are no demonstrable Health and Safety reasons or verifiable plans to expand. There are no overriding reasons why this development is essential. It would not visually integrate into the surrounding landscape and would result in a detrimental change to the rural character of the countryside. It would result in adverse impacts upon the integrity and intrinsic character of the setting of the Rough Fort a regionally important scheduled monument. As the proposal has not complied with various planning policies it is unacceptable, and refusal is recommended.

## **10 Refusal Reasons**

1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 1 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 10 Criteria C of Planning Policy Statement 21 in that the proposal is not visually linked or sited to cluster with an established group of buildings on the farm and no exceptional reason has been submitted with verifiable evidence for an alternative site elsewhere on the farm and other sites are available at the established group of buildings on the farm.

3. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in



that the proposal is a prominent feature in the landscape, the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape , it relies primarily on the use of new landscaping for integration, it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop, it is not visually linked or sited to cluster with an established group of buildings on a farm therefore it would not visually integrate into the surrounding landscape.

4. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, it does not respect the traditional pattern of settlement exhibited in the area and would therefore result in a detrimental change to the rural character of the countryside.

5. The proposal is contrary to Planning Policy Statement 6 Policy BH 1 and paragraph 6.8 and 6.10 of the SPPS as it would result in adverse impacts upon the integrity and intrinsic character of the setting of the Rough Fort (LDY009:005) a regionally important scheduled monument.

# Site Location Map



Not to scale

## Appendix 1

### **Referral Request**

From: CALLAN, Aaron

Sent: 10 March 2023 15:45

To: Planning <Planning@causewaycoastandglens.gov.uk>

Subject: Re: Planning application LA01/2020/0683/O Moneyrannel Road

Gemma

Can you please put it forward to Denise for the application to be referred to the planning committee.

Under the the policy reason that the applicant Under PPs21 and CTY10 the entitlement of a farm dwelling on the farm we feel it has not been properly assessed.

Best

Aaron

---

From: CALLAN, Aaron

Sent: 30 March 2023 10:16

To: Denise Dickson ; Oliver McMullan ; David Jackson

Subject: LA01/2020/0683/O Moneyrannel Road

Good Morning,

Further to my email yesterday I would like to provide the following new information from the applicant. I would like this reviewed as a matter of urgency and I would like to have confirmation today that this will be done.

Planning Reasons for Referral to Planning Committee: -

Firstly, I feel it's totally absurd that Mr. Canning is being denied his democratic right to have this planning application referred to the planning especially when it's obvious after reading the Case Officers Planning Report there's a 'lacuna' in the planning policy which does not address these unique set of circumstances that needs to be fully discussed with our planning committee in an open and transparent manner to

ensure this matter is resolved for council and the applicants in a fair and unbiased manner for all parties involved.

The application has been refused under Policy CTY 10 – Criteria C as the proposed dwelling has not been sited to be visually linked or clustered with the existing farm buildings on his farm holding. Mr Canning has produced legal evidence that states he does not hold title, only right of way over the 500-meter-long dilapidated farm lane to service his farm holding and essentially no new dwelling would have the permission to use laneway, effectively, landlocking any new dwelling beside the existing farm buildings. In addition, it's also well versed in this Council that no mortgage institution will lend money for a new dwelling built off a shared laneway.

To access the farm holding down this existing lane is a health and safety concern, I've drove part of it and through fear for the car and the untold time this lane had on it I tried to return to reverse which in itself was dangerous.

Initially, Mr Canning enquired about extending another existing entrance on his land down through the fields to service the proposed new dwelling next to the farm sheds where the planners would prefer a new dwelling be sited but this was deemed economically unfeasible and unviable as it would cost in the region of 150k. See the documents attached to the planning register.

These set of unique circumstances, in my opinion, are overriding under Policy CTY 1, Mr Canning's farm holding extends to 75 acres, he has an active and established farm business, and needs to be living on or near the farm holding for its efficient management and viability. The use of the existing laneway for a family in a motor vehicle would raise serious and health and safety concerns for me. Mr Canning needs to live on this farm to improve its agricultural yield and promote farm security. He's had a number of 'break ins' over the years and him being on site would be a deterrent.

Policies CTY 13 & CTY 14 are subjective assessments by the Case Officer and after looking at the site myself, I contend the site is both visually integrated into the landscape and has no impact whatsoever on the rural character of the area. The site is located off the Moneyrannel Road, a minor rural road used by local traffic only, the site is 2 metres below road level in a 'hallow' and avails of existing strong mature boundary definition on its northern and western boundaries. Views into the proposed dwelling are very restricted to short-term only along the frontage onto Moneyrannel Road and due to site topography, and existing vegetation the site / proposed dwelling will be clearly integrated into the landscape. Therefore, I believe these policies are also met.

Policy BH 1 is another subjective assessment, this is an outline application and the guys wanted visual representation of a dwelling on the site prior to making a decision. The design of the dwelling will be done not to have any impact on the Rough Fort.

Best

Aaron

# **Addendum**

## **LA01/2020/0683/O**

### **1.0 Update**

- 1.1 Appendices 2 and 3 are attached, they are PAC Decisions 2020/A0155 and 2016/A0214 which are referenced at paragraphs 8.5 and 8.7 of the Committee Report.

### **2.0 Recommendation**

- 2.1 That the committee note the contents of this Addendum and agree with the recommendation to refuse the application in accordance with paragraph 1.1 of the planning Committee Report.



## Appendix 2





---

<b>Appeal Reference:</b>	2020/A0155
<b>Appeal by:</b>	Mr John Markey
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Farm dwelling with garage
<b>Location:</b>	110 metres south of 11A Ballintemple Road, Meigh, Newry
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2020/0939/O
<b>Procedure:</b>	Remote Hearing on 19 <sup>th</sup> October 2021
<b>Decision by:</b>	Commissioner B Stevenson, dated 24 <sup>th</sup> November 2021

---

## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The Council provided a clearer readable site location plan to that referred to in the decision notice (Drawing 12393/1). It was common case that the site location plan be admitted and that the Certificate of Ownership that was supplied both at application and appeal stages remains valid. Given that the plan identifies the land to which it relates in accordance with Article 3 of the Planning (General Development Procedure) Order (NI) 2015, I am content to replace Drawing 12393/1 and proceed on the basis of the legible site location map (PAC1).

## Reasons

3. The main issues in this appeal are whether:
  - the proposal is acceptable in principle in the countryside;
  - it would visually integrate into the surrounding landscape;
  - the proposal would erode the rural character of the countryside;
  - it would adversely impact upon the integrity of the setting of the regionally important State Care monument (Conlum South Cairn); and
  - the proposal would be unsympathetic to the special character of the Ring of Gullion Area of Outstanding Natural Beauty (AONB).
4. Section 45(1) of the Planning Act (NI) 2011 requires that regard must be had to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) of the Act requires that, where in making any determination, regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate

otherwise. Until such time as a new LDP is adopted, the Banbridge, Newry and Mourne Area Plan 2015 (BNMAP) acts as the relevant LDP for the area wherein the appeal site is located. The appeal site is identified in BNMAP as outside any development limit and lying within the countryside. In BNMAP, a State Care archaeological site and monument is identified in the adjacent field. The appeal site is also situated within the Ring of Gullion AONB. BNMAP offers no specific policies pertinent to the appeal proposal.

5. Planning policy of relevance to this appeal is contained in the Strategic Planning Policy Statement 'Planning for Sustainable Development' (SPPS). In the absence of an adopted Plan Strategy, retained policies namely Planning Policy Statement 2 "Natural Heritage" (PPS2), Planning Policy Statement 6 "Planning, Archaeology and the Built Heritage" (PPS6) and Planning Policy Statement 21 "Sustainable Development in the Countryside" (PPS21) are also relevant.
6. Located west of Meigh settlement and east of Killeavy Castle, the appeal site comprises the northern portion of an agricultural field. A stone wall, dispersed trees and a hedgerow define the western boundary of the appeal site. The northern boundary is demarcated by a stone wall and field gate that provides access into a neighbouring field. A low 1 metre hedgerow defines the eastern boundary. The southern boundary is undefined. There is a gentle south-westerly rise across the relatively flat appeal site. A narrow field separates the appeal site from the neighbouring dwelling (No. 11). Further dwellings (Nos. 9, 13 and 15) are adjacent to No. 11 and another dwelling is north of the appeal site. These residential properties use the same laneway as the appeal site to gain access onto the Ballintemple Road.
7. Policy CTY1 of PPS21 'Development in the Countryside' sets out the types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. This includes a dwelling on a farm subject to complying with certain criteria in Policy CTY10 entitled 'Dwellings on Farms'. There is no conflict or change in policy direction between the provisions of the SPPS and those of the retained PPS21 insofar as it relates to dwellings on farms. PPS21 is therefore the appropriate policy context for assessing this appeal. The Council found the appeal proposal to offend criterion (c) of Policy CTY10 in that the new building would not visually link or cluster with an established group of buildings on the farm. I will therefore focus my consideration on this criterion.
8. The appellant's farm maps dated January 2020 show that the farm holding comprises of farmland off Ayalogue Road where the farmhouse is located, and at an out-farm close to Meigh settlement. It was common case that the established group of farm buildings are off Ayalogue Road. It was undisputed between the parties that there is no established group of farm buildings at the out-farm, where the appeal site is located.
9. Policy CTY10 states that "exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either: (i) demonstrable health and safety reasons; or (ii) verifiable plans to expand the farm business at the existing building group(s)."

10. The first part of the exceptions test is that there must be no other sites available elsewhere at a group of farm buildings. The Council said at the hearing that there may be scope for a dwelling south of the farm buildings off Ayalogue Road, and from my on-site observations, I agree. As there is the possibility of an available site elsewhere at a group of buildings on the farm, this part of the exceptions test is not met.
11. In regard to the second part of the exceptions test, paragraph 5.42 of the amplification text of Policy CTY10 expands to say that "where an alternative site is proposed under criterion (c) which is removed from existing buildings on the farm, the applicant will be required to submit appropriate and demonstrable evidence from a competent and independent authority such as the Health and Safety Executive or Environmental Health Department of the local Council to justify the siting. Evidence relating to the future expansion of the farm business may include valid planning permission, building control approvals or contractual obligations to supply farm produce." No evidence was presented either to demonstrate health and safety reasons or plans to expand the farm business at the existing group of buildings on the farm that would justify a dwelling on the appeal site. The second part of the exceptions test is therefore not met.
12. The appellant argued that as there is more land at the out-farm than at the original farm holding, this would justify the proposed siting of the farm dwelling. He explained that he intends to reinstate a former agricultural building on the site and erect a farm shed in close proximity to the appeal proposal in the near future and that this would allow the appeal dwelling to visually link to a farm building. The Council had no record of either any planning permission or Certificate of Lawfulness of Proposed Use or Development (CLPUD) for such farm sheds. The appellant was also not cognisant of such approvals. No persuasive evidence was therefore presented by the appellant to demonstrate that there were firm plans for such a farm building. In the absence of such, the Council was of the view that limited weight should be given to the appellant's future plans, and I agree. As no convincing evidence was presented on the appellant's future plans, no determining weight can be attached to the appellant's intention to erect farm sheds close to the appeal proposal.
13. The appellant also advanced further arguments which included that the proposed dwelling is for the appellant's son and that this appeal proposal would facilitate him taking over the farm and create an opportunity for him to farm, and that the family home is not available at the main farm as it is to be inherited by another son. I do not find any of these further arguments either individually or cumulatively sufficiently persuasive to outweigh the provisions of policy that require a new dwelling to be sited to visually link or cluster with an established group of buildings on the farm.
14. As the appeal proposal would offend criterion (c) of Policy CTY 10 of PPS 21, the Council has sustained its second reason for refusal. No persuasive overriding reasons were advanced as to why the development is essential and could not be located in a settlement. The appeal proposal therefore fails to comply with Policy CTY1 of PPS21 and would not be acceptable in principle in the countryside. The Council's first reason for refusal is sustained.
15. Policy CTY13 of PPS21 'Integration and Design of Buildings in the Countryside' states that a new building will be unacceptable where certain criteria cannot be met.

The Council argued that the appeal proposal offends criterion (b) in that the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, criterion (c) in that the proposed building relies primarily on the use of new landscaping for integration and criterion (g) in that the proposed farm dwelling is not visually linked or sited to cluster with an established group of buildings on a farm. The headnote of Policy CTY10 also requires that the proposed site must also meet the requirements of CTY13 (a-f).

16. The appeal site is in the second field back from the Ballintemple Road to the west and two fields back from the same road to the north with existing landscape features on the surrounding field boundaries. An existing dwelling provides a degree of backdrop to the east and trees provide backdrop towards the south-west. Given the existing surroundings, it is my opinion that the site provides a suitable degree of enclosure for the building to integrate into the landscape from the Council's identified viewpoints along the Ballintemple Road. Therefore, I do not consider the appeal proposal to offend criteria (b) and (c) of Policy CTY13.
17. Although the appeal proposal would meet the requirements of criteria (b) and (c) of Policy CTY 13, given that the proposed dwelling would not visually link or cluster with an established group of buildings on a farm, it would fail criterion (g) of Policy CTY 13. Thus, the Council's third reason for refusal is sustained insofar as stated.
18. Policy CTY14 of PPS21 entitled 'Rural Character' 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 policy goes on to set out certain criteria that a new building must accord with in order to be considered as acceptable. The Council raised concerns relating to criterion (b) of the policy in that it would result in a suburban style build-up of development when viewed with existing buildings, and criterion (d) in that it would create or add to a ribbon of development.
19. The Council argued that existing nearby buildings are visually linked from the road immediately north of the site, and I agree. Given that there are four visually linked dwellings staggered in a row along the laneway, the addition of the appeal proposal would result in a suburban style build-up of development that would add to a substantial and built up frontage and result in ribbon development. The appeal proposal would therefore be contrary to criteria (b) and (d) of Policy CTY14 and the Council's fourth reason for refusal is sustained.
20. Some 70 metres back from the roadside, the rectangular appeal site is approximately 1 metre below the field to the west where the Clonlum South Cairn, a monument of regional significance, is located. Policy BH1 of PPS6 states that a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings will operate. The policy explains that development which would adversely affect such sites of regional importance or the integrity of their settings will not be permitted unless there are exceptional circumstances. Paragraph 6.8 of the SPPS applies the same policy test in that it states that "development which would adversely affect such sites or the integrity of their settings must only be permitted in exceptional circumstances." Given that there is no conflict or change in policy direction between the provisions of the SPPS and the retained policy insofar as they relate to the appeal proposal, PPS6 provides

the policy context for assessing this appeal in regard to the impact on Clonlum South Cairn.

21. In assessing proposals in the vicinity of such monuments, the amplification text of Policy BH1 states that particular attention will be paid to the impact of the proposal on (i) the critical views of, and from the site or monument; (ii) the access and public approaches to the site or monument; and (iii) the understanding and enjoyment of the site or monument by visitors. The Council argued that the appeal site forms a key part of the immediate visual backdrop of critical public views to the east when first approaching the monument from the public access on Ballintemple Road and that it also forms the backdrop to public views of the monument from the Ballintemple Road. The Council also considered that these critical views are a key aspect of the setting of the State Care monument and that the appeal proposal would adversely change these critical views by competing with, and becoming an incongruous visual distraction from Clonlum South Cairn. The Council was of the opinion that the appeal proposal would adversely intrude into critical public views when moving around and experiencing Clonlum South Cairn. It was stated that the introduction of built development into the adjacent pasture field would adversely change the ambience and rural pastoral character of the immediate setting of the monument which is key to how the monument is understood, enjoyed and experienced by visitors. The Council also considered that the appeal proposal would have a dominating effect, both visually and physically, on the immediate setting of the monument. Their view is that the monument has a functional relationship with the landscape to the east with the chamber entrance aligned west-east towards the appeal site. The appellant did not dispute this.
22. Despite the appellant offering to site the dwelling towards the eastern boundary of the appeal site and restrict the ridge height to no higher than the existing buildings on the same laneway, in my view, an adverse impact on the setting of the regionally important monument would remain given the close proximity of the confined rectangular appeal site. With respect to introducing supplementary planting and a buffer zone of mature trees on the western boundary of the appeal site, it would take considerable time for such planting to grow to a sufficient height and depth before filtering any views of the appeal proposal. In any event, given the close proximity of the appeal site to the Cairn and the west-east alignment of the chamber entrance towards the appeal site, it is my view that an adverse impact upon the integrity of the monument's setting would remain irrespective of new planting. As such, the appeal proposal would adversely affect the State Care monument. I was given no evidence to justify that this is an exceptional case. Both Policy BH1 of PPS6 and the SPPS would therefore be offended. The Council's fifth reason for refusal is sustained.
23. Policy NH6 of PPS2 'Areas of Outstanding Natural Beauty' states that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality and that certain criteria are met. Other than the SPPS specifically referring to the assessment of cumulative impacts in AONBs, there is no conflict or change in policy direction between the provisions of the SPPS and those of the retained PPS2 regarding designated AONBs. The Council found the appeal proposal to offend criterion (a) of Policy NH6 in that its siting would be unsympathetic to the special character of the AONB in general and of the particular locality. The Council also advised that the appeal proposal would threaten features which contribute to the local heritage namely

Clonlum South Cairn and be contrary to criterion (b) of Policy NH6. As I have already concluded that the appeal proposal would adversely impact on the integrity of the setting of Clonlum South Cairn, the appeal proposal would be contrary to criterion (b) of Policy NH 6 in that it would not respect or conserve the features of importance to the heritage of the landscape. Consequently, given that the setting of the State Care monument characterises the particular local area of the AONB, the appeal proposal would offend criterion (a). Thus, I find that the Council's sixth reason for refusal is sustained insofar as stated.

24. The Council has sustained its six reasons for refusal based upon policies CTY1, CTY10, CTY13 and CTY14 of PPS21, Policy BH1 of PPS6, Policy NH6 of PPS2 and the SPPS insofar as stated. The appeal must fail.

This decision is based on PAC1 to scale 1/2500 which the Commission received on 19<sup>th</sup> October 2021.

**COMMISSIONER B STEVENSON**

**Remote Hearing Appearances**

Council: - Mr A Donaldson  
Newry, Mourne and Down District Council, Planning  
Department

Ms E Hart (observing only)  
Newry, Mourne and Down District Council, Planning  
Department

Mr A Gault  
Department for Communities, Historic Environment  
Division

Mr A McAleenan  
Department for Communities, Historic Environment  
Division

Appellant: - Mr J Young  
Collins & Collins

**List of Documents**

Council: - "A" Written Statement of Case  
Newry, Mourne and Down District Council

Appellant: - "B" Written Statement of Case  
Collins & Collins



PLANNING APPEALS COMMISSION

19 OCT 2021

Visibility Splays 2.0 x 60m

Site Location Plan  
1:2500

A.4.01

Revised	Date

Client: John Murky  
Site: 54a Locaton Map

Scale: 1:2500  
Drawing No: 12393

Drawn by: A.D.  
Checked by: [blank]  
Date: Sept. 2020

Project: Proposed Farm Overall @ 110m South of 11a Ballerencele Road, Neary  
Drawing No: 12393

**collins & collins**  
 Estate Agents  
 Planning & Design  
 Architectural Consultants  
 11 Maclean Road, 2nd Floor,  
 122-123 Hill Street, Belfast,  
 BT1 1JL, Northern Ireland

PAC1



## Appendix 3





# Appeal Decision

---

<b>Appeal Reference:</b>	2016/A0214
<b>Appeal by:</b>	PR Jennings
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Dwelling on a Farm
<b>Location:</b>	15m North of No.39 Listooder Road, Crossgar
<b>Planning Authority:</b>	Newry, Mourne and Down District Council
<b>Application Reference:</b>	LA07/2015/0647/O
<b>Procedure:</b>	Written representations and Commissioner's site visit on 13 <sup>th</sup> September 2017
<b>Decision by:</b>	Commissioner A Speirs, dated 2 <sup>nd</sup> October 2017

---

## Decision

1. The appeal is dismissed.

### Preliminary point

2. The third party objector's rebuttal comments were received by the PAC on 5<sup>th</sup> May 2017. Annex A of the submission referred to a section of land transferred from the Ulster Transport Authority to Henry O. Rea in February 1956 and a plan was attached to show said land. It was alleged that the appeal site included a small portion of the aforementioned land. Section 42(6) of the Planning Act (Northern Ireland) 2011 states that "If any person - (a) issues a certificate which purports to comply with the requirements of this section and which contains a statement which that person knows to be false or misleading in a material particular; or (b) recklessly issues a certificate which purports to comply with those requirements and which contains a statement which is false or misleading in a material particular; that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale".
3. The Commission wrote to the appellant's agent on 30<sup>th</sup> May 2017 seeking clarification on the matter. The correspondence pointed out that if land outside the appellant's ownership or control had been included within the appeal site, an amended Section 42 certificate required to be forwarded to the PAC and the requisite notice served upon any affected parties. As an alternative, it was suggested that an amended drawing could be submitted, with the red line, identifying the appeal site, drawn to reflect the appellant's actual interest in the land.
4. On 5<sup>th</sup> June 2017 the Commission received copies of an amended plan, showing the area referred to by the objector excluded from the appeal site. No prejudice to

any party arises as a result of this change and I propose to determine the appeal on the basis of the aforementioned plan.

## Reasons

5. The main issues in this appeal are:- whether the proposal is acceptable, in principle, in the countryside; the effect of the proposal on visual amenity in the rural area; and whether the proposal would be at risk from flooding.
6. Section 45 (1) of the 2011 Planning Act requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6(4) states that where regard is to be had to the Development Plan, the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The appeal site is located within the rural area as identified in the Ards and Down Area Plan 2015 (ADAP). The plan contains no designation or zoning directly affecting the appeal site and the plan defers to regional planning policy and guidance in respect of applications for residential development in the countryside.
7. Other planning policy context for the proposal is provided by the Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015. The SPPS makes it clear that the provisions of, inter alia, Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) and PPS 15 Revised: Planning and Flood Risk (PPS15) will continue to apply until such time as a new development plan is in place for the Newry, Mourne and Down area.
8. Policy CTY 1 of PPS 21 lists types of development which are considered to be acceptable in principle in the countryside. These include a dwelling on a farm in accordance with Policy CTY 10. Policy CTY 1 indicates that developments other than those listed will be permitted where there are overriding reasons why they are essential and could not be located in a settlement. Policy CTY10 indicates that planning permission will be granted for a dwelling house on a farm where various criteria are met. The listed criteria are as follows: -

“(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. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group(s).

In such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16”.

9. The Council's evidence states that it is satisfied, in respect of criterion (a) of CTY10, that the site is part of an active and established farm business that has existed for 6 or more years. I note that this is verified in the DARD consultation response of 12<sup>th</sup> January 2016. No evidence has been presented by the objector to demonstrate that this criterion is not met.
10. The objector argued that the appellant has provided no evidence that the farm has a requirement for an additional dwelling to accommodate those involved in the farm business. It was also submitted that there is no relevance to the policy criteria if a proposed dwelling is not to be of assistance to the running of an active farm. Paragraph 5.37 of PPS21 refers to dwellings for those engaged in the farm business and *other rural dwellers* (my emphasis) and nowhere in the policy is there any indication that need must be proven.
11. Paragraph 5.40 of PPS21 states that planning permission will not be granted for a dwelling under policy CTY10 where a development opportunity has been sold from the farm. It goes on to clarify that "for the purposes of this policy, 'sold-off' will mean any development opportunity disposed of from the farm holding to any other person including a member of the family". The evidence before me is that the appellant occupies the dwelling at No.39 Listooder Road, which was approved as a retirement dwelling for Mrs Patricia Jennings on 8<sup>th</sup> November 2005. Policy CTY10 applies in respect of sites disposed of from the holding, with the provision only applying from 25 November 2008 onwards. The Council's evidence indicates satisfaction that no dwellings or development opportunities have been sold off or transferred from the farm holding since that date and the farm maps submitted with the application appear to support this. There is no convincing evidence to demonstrate that No.39 is no longer part of the farm holding. I am satisfied that criterion (b) of policy CTY10 is met.
12. In respect of the 'ten year rule', referred to by the objector, I note that CTY10 states that "planning permission granted under this policy will only be forthcoming once every 10 years". This is a discrete part of the policy, unrelated to criterion (b). CTY21 was published in June 2010. The full application, R/2008/1017/F, was granted on 25<sup>th</sup> March 2009. There is no evidence to suggest that permission has been granted for any dwellings on the holding under Policy CTY10 and the objector's point is not sustained.
13. Paragraph 5.41 of PPS21 indicates that, in order to help minimise impact on the character and appearance of the landscape, dwellings "should be positioned sensitively with an established group of buildings on the farm, either to form an integral part of that particular building group, or when viewed from surrounding vantage points, it reads as being visually interlinked with those buildings, with little appreciation of any physical separation that may exist between them". Paragraph 5.42 explains that "where an alternative site is proposed under criterion (c), which is removed from existing buildings on the farm, the applicant will be required to submit appropriate and demonstrable evidence from a competent and independent authority such as the Health and Safety Executive or Environmental Health Department of the local Council to justify the siting. Evidence relating to the future expansion of the farm business may include valid

planning permissions, building control approvals or contractual obligations to supply farm produce”.

14. The use of the term “where practicable” in policy CTY10 indicates that there is no absolute requirement for a new dwelling on a farm to take access from an existing lane; failure to do so is not, in itself, a reason to reject a proposal. No.39 Listooder Road is a large detached dwelling with integral garages. There is a shipping container to the rear of the dwelling; the container is not a building. The dwelling cannot be described as an established group of buildings and I note that the original farm dwelling and farm buildings on the holding are located at 79 Cahard Road, some distance from the appeal site. Policy CTY10 allows, in exceptional cases, for consideration to be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, *and* (my emphasis) where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. The appellant has argued that it is not feasible to seek consent for a site adjacent to 79 Cahard Road as it is served by a laneway over which the appellant has no control and which does not meet the required visibility standards at the point of access to the public road. It is submitted that control over the land required to provide the necessary visibility standard does not exist and there is therefore a safety reason for approving a site remote from the main group of farm buildings. I do not accept this argument since the issue is not one of safety, but rather one of land ownership that may, or may not, be resolved with the relevant land owner(s).
15. Policy CTY10 does not confer an absolute entitlement to the approval of a dwelling on a farm. The policy is permissively worded but makes it clear that approval will be conditional upon certain criteria being met. The appellant referred to lands within the holding that have road frontage and I acknowledge that the Council, in a letter to the appellant’s agent in December 2016, indicated that a site thereon would be unlikely to be approved. However, the same letter also states (in respect of the lands around 79 Cahard Road) “this address includes several farm buildings and the lands associated with the farm include lands that could accommodate a farm dwelling that would be sited to cluster with the established group of buildings on the holding”. Whilst there may be objections from Transport NI to the use of the existing access for an additional dwelling on the lane, this could be addressed by improving the visibility standards.
16. I agree with the Council’s submission that the information supplied by the appellant under the title 'Report on the Health and Safety Responsibilities in connection with location of Domestic dwellings on Farms' is not specific to the appellant’s farm and the author of the report actually states “I would not propose to comment on the specific merits of the planning application”. I concur with the Council that the information merely highlights the dangers associated with living or working on a farm when health and safety is overlooked. This would apply to all farms and does not represent demonstrable health and safety reasons to justify the siting of a dwelling on the appeal site. I was not presented with any evidence that there are verifiable plans to expand the farm business at No.79 and I find that the appeal proposal does not meet criterion (c) of CTY10. As it fails in this regard, the proposal also fails in respect of policy CTY1 and I judge that the Council’s first reason for refusal is sustained.

17. Policy FLD 1 of PPS15 is entitled 'Development in Fluvial (River) and Coastal Flood Plains'. The policy indicates that Development will not be permitted within the 1 in 100 year fluvial flood plain unless the applicant can demonstrate that the proposal constitutes an exception to the policy. The Council's third reason for refusal referred to the appellant's failure to submit a flood risk assessment. The latter was provided in evidence in this appeal and it is demonstrated that the upper part of the host field lies outside the 1 in 100 year fluvial flood plain. The Council's comments indicate that a condition could be applied to ensure that any dwelling was constructed on the more elevated part of the site. Given the circumstances, the Council's third reason for refusal is not sustained.
18. Policy CTY13 of PPS21 is entitled 'Integration and Design of Buildings in the Countryside'. The policy explains 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. It goes on to provide a list of situations where a new building would be unacceptable and this includes, inter alia, where (c), it relies primarily on the use of new landscaping for integration; or (g) in the case of a proposed dwelling on a farm, it is not visually linked or sited to cluster with an established group of buildings on a farm. The Council's objection regarding CTY13 is that the proposal represents the scenario detailed in (g). The objector further argued that the appellant has sought to rely upon vegetation for landscaping that is outside his control and ownership.
19. As I have found that the proposal fails in respect of criterion (c) of policy CTY10, in that the dwelling would not be visually linked or sited to cluster with an established group of buildings on the farm, it follows that it also conflicts with policy CTY13 (g). Due to the need to locate a dwelling on the elevated part of the site, in order to avoid the 1 in 100 year flood plain, the proposal would be clearly visible when seen from viewpoints along Listooder Road where the vegetation along the roadside is sparse or absent. Although the vegetation to the east of the site is largely outwith the appellant's control, there is no reason to suspect that it would be removed by the landowner and it does provide a backdrop relative to Listooder Road. However, new vegetation would be required to the north of any dwelling to provide an acceptable level of enclosure and integration. This would take time to mature, and I judge that the Council was justified in stating in its reason for refusal that the proposal would rely on new landscaping for integration. I find that the second reason for refusal, based on policy CTY13, has been sustained.
20. I have found that the proposal conflicts with PPS21 policies CTY1, CTY10, and CTY13. The first and second reasons for refusal have been sustained and the appeal must therefore fail.

This decision is based on the Site Location Plan 1536/03a at scale 1:2500, received by the PAC on 5<sup>th</sup> June 2017.

**COMMISSIONER A SPEIRS**

**List of Documents**

Planning Authority:-

Doc A – Statement of Case  
Doc B – Rebuttal Comments

Appellant:-

Doc C – Statement of Case  
Doc D – Rebuttal Comments

Third Parties:-

Doc E – Statement of Case  
Doc F – Rebuttal Comments