

Title of Report:	Planning Committee Report – LA01/2022/0779/F
Committee Report Submitted To:	Planning Committee
Date of Meeting:	24th January 2024
For Decision or For Information	For Decision – Referred Application by Cllr Chivers
To be discussed In Committee YES/NO	No

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Development Management and Enforcement Manager

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

Legal Considerations	
Input of Legal Services Required	NO
Legal Opinion Obtained	N/A

Screening Requirements	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: LA01/2022/0779/F **Ward:** Drumsumn

App Type: Full

Address: 60m NE of 45 Glenedra Road, Feeny

Proposal: A new one and a half storey dwelling on a farm. With associated ancillary works and water treatment system.

Con Area: N/A **Valid Date:** 18th July 2022

Listed Building Grade: N/A

Agent: LAM Architects 94 University Street, Belfast BT7 1HE

Applicant: John& Paul McGowan, 295 Drumsumn Road, Drumsumn, Lmavady BT49 0PX

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

Drawings and additional information are available to view on the Planning Portal- <https://planningregister.planningsystemni.gov.uk>

EXECUTIVE SUMMARY

- Full planning permission is sought for a one and a half storey dwelling on a farm
- The application site is located within the rural area as identified within the Northern Area Plan (NAP) 2016. The site is located on land 200 metres Northwest of no. 293 Drumsurn Road, Drumsurn
- The proposal fails to meet the criteria for the principle of development under Policy CTY10 (c) as the proposal fails to visually link or cluster with a group of buildings on the farm.
- As the proposal does not link with a group of buildings on the farm, the proposal is also contrary to criterion (g) of CTY 13.
- The proposal is also contrary to policy FLD1 of PPS 15 as no River Model to identify the extent of the floodplain affecting the site or a Flood Risk Assessment has been submitted.
- The proposed design is considered acceptable.
- DfI Roads, NI Water and NIEA (Water Management Unit), Environmental Health, DAERA and SES were consulted on the application and raise no objection.
- DfI Rivers was also consulted, and it raises objection to the proposal under FLD 1 of PPS 15 due to the lack of river modelling and absence of a flood risk assessment.

- There are no third-party representations on the proposal.
- The application is recommended for Refusal.
- Reasons for referral by elected member are attached as an annex to this report.

1 RECOMMENDATION

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

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located within the rural area as identified within the Northern Area Plan (NAP) 2016. The site is located on land at 200 metres Northwest of no. 293 Drumsurn Road, Drumsurn.
- 2.2 The site is located at the end of a private lane to the south of the main Drumsurn Road and travelling past on the western boundary of the GAA pitch. The laneway currently serves several dwellings on the western side of the laneway.
- 2.3 The site itself is @350 metres from the Drumsurn road. The site is on a lower level than the 2 storey dwellings on the western side as travelling down the laneway in a south westerly direction and sits roughly level with property number 293 which is single storey. The land falls from the Drumsurn Road to the site in a south westerly direction. The site backs onto the Castle River where heavy vegetation runs along the river bank. The site and surrounding land are presently used for agricultural purposes.
- 2.4 The southern and eastern boundary are undefined. The western boundary is defined with post and wire fencing and extensive mature vegetation along the river. The northern boundary is again defined by post and wire fencing with mature bushes and trees. The access point taken of the laneway has a number of mature trees and runs for roughly 170metres in a north western direction before reaching the site.

3 RELEVANT HISTORY

While there is some history within the wider area, there is no relevant planning history on the application site.

4 THE APPLICATION

- 4.1 Full Planning Permission is sought for a new one and a half storey dwelling on a farm. With associated ancillary works and water treatment system.

Habitat Regulations Assessment

- 4.2 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 conservation (Natural habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

5 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: There are no objections to the application

5.2 Internal

DFI Roads – No objection to the proposal.

NI Water – No objection to the proposal.

NIEA WMU – No objection to the proposal.

Environmental Health- No objection to the proposal.

SES – No objection to the proposal.

Rivers Agency – Objects to the proposal under Policy FLD1.

DAERA – Has not been claiming SFP for the required least 6 years.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The development plan is:
- Northern Area Plan 2016 (NAP)
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as both a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The application has been assessed against the following planning policy and guidance:

Regional Development Strategy 2035

Northern Area Plan 2016.

Strategic Planning Policy Statement.

PPS 3: Access, Movement and Parking.

PPS 15: Planning and Flood Risk.

PPS 21: Sustainable Development in the Countryside.

Supplementary Planning Guidance

Building on Tradition: A Sustainable Design guide for Northern Ireland.

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of development, flooding, integration and rural character, design and; access.

Planning Policy

- 8.2 The principle of development must be considered having regard to the SPPS and PPS policy documents.
- 8.3 Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Policy CTY1 indicates that the development of a dwelling sited within an existing cluster of buildings in accordance with Policy CTY10 may be acceptable.

Principle of Development

- 8.4 The application has been submitted as a dwelling on the farm. PPS 21 states under CTY 10 that planning permission will be granted for a dwelling house on a farm where all of the criteria (set out below) can be met. An assessment of the proposal against each criterion is provided.

(a) the farm business is currently active and has been established for at least 6 years;

DAERA was consulted on the application and it confirmed that the farm business had not claimed payments through the Basic Payment Scheme, or Agri Environment Scheme in each of the last 6 years. It was clarified in the consultation response that these had only been claimed in each of the last three years; 2019-2022. The agent was afforded further time to submit additional information for consideration.

Further information was subsequently submitted to demonstrate the farm was active during the years 2016-2018 to comply with the 6 year active test.

Having regard to the information submitted, together with the farm business ID identified on the form P1C which has been in existence for more than 6 years, it is considered, on balance, that the proposal meets this policy test.

(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;

A history search of farm lands has been carried out and it is considered that 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. The proposal meets this policy test.

(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).*

The proposal fails to visually link or cluster with a group of buildings on the farm. The policy objective for clustering or visual linkage is to contain development within the rural area.

The Applicant's agent has put forward a case that this site does not need to visually link or cluster as there are demonstrable health and safety reasons not to. It is noted that the policy states this is an exceptional test. The first reason put forward is that to cluster or visually link with a group of farm buildings would be unacceptable due to the noise, odour and pests arising from activities associated with an agricultural business. As the policy head note is a dwelling on a farm, it would be expected that some loss of amenity may be likely and given this very policy objective is to associate dwellings with a group of buildings on the farm, general activities associated with farming/buildings on farms would not carry determining weight in seeking a site elsewhere as this would entirely undermine the policy intention.

A second health and safety reason put forward by the Applicant's agent is there is a noise and light issue associated with locating the dwelling close to the GAA pitches. However, this is not a constant disturbance, and there are several existing dwellings in proximity to the GAA pitch. Furthermore, there are 2 dwellings that abut it, and share a boundary with the Club. It is commonplace throughout the countryside (and pitches in urban areas) that dwellings are located next and near to GAA and other sporting pitches/facilities. The argument suggested that a dwelling cannot be located near to a GAA pitch due to potential noise and light disturbances does not carry sufficient weight to set policy aside.

There is a further argument that a site near the farm buildings would be liable to flood, but this issue remains with the site under consideration as set out below in Paras 8.6-8.7 and is given little weight.

- 8.5 As there are no demonstrable health and safety reasons as to why a dwelling cannot be sited to cluster or visually link with a group of buildings on the farm, the proposal fails to meet criterion (c) of Policy CTY 10 as these cannot be considered as exceptional.

Flooding

- 8.6 DfI Rivers has been consulted as the competent authority in flooding and drainage matters. DfI Rivers has responded that there is a potential flood risk to this site from both the bounding watercourses and the mill race located to the north east.
- 8.7 PPS 15 adopts a precautionary principle to development. Due to the nature of the Strategic Flood Map for Northern Ireland the geographical extent of predicted flood areas cannot be precisely defined. River modelling is necessary to determine a more accurate extent of flooding for development proposals located in proximity to the margins of the predicted flood plain, irrespective of whether the site lies just outside or just inside (wholly or partially) the extent as depicted on the Strategic Flood Map.
- 8.8 PPS 15 goes on to state that if the development site or part thereof lies within the flood plain, then the applicant should consider a more suitable alternative location. Neither the river modelling to verify the more accurate extent of the floodplain affecting the site under paragraph D4 of Planning Policy Statement 15 nor a Flood Risk Assessment have been submitted for consideration as required under policy and as requested by DfI Rivers . The proposal fails to meet the policy requirements of FLD1.

Integration and rural character

- 8.9 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 and policy CTY14 of PPS21 states 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.
- 8.10 The application site is a portion of an existing field some 360 metres from the Drumsurn Road. From the Drumsurn Road the level of the land falls slightly towards the site, to the river where the banking is defined by post and wire fencing and mature vegetation and trees, this forms the western boundary. The northern boundary is again defined by mature vegetation. The remainder of the boundaries are undefined. The surrounding land undulates from being quite level at the proposed access of the laneway to then falling away slightly towards the Castle River. The site a mature setting for a dwelling with good integration. Available views from the Drumsurn road would be fleeting. The site would not appear prominent in the landscape or damage the rural character due to the difference in level of the land from the Drumsurn Road and the proposed site.
- 8.11 However, criterion (g) of Policy CTY 13 requires that in the case of a proposed dwelling on a farm, a proposed dwelling is unacceptable if it is not visually linked or sited to cluster with an established group of buildings on a farm. As considered under Para 8.4 (c) of this Report, the proposal fails to visually link or cluster with an established group of buildings on a farm. The proposal is therefore contrary to Policy CTY 13.

Design

- 8.12 The existing dwellings along the laneway are mostly 2 storey, with dwelling number 293 being single storey, with a fairly large agricultural storage shed to the side. The design of the proposed dwelling is made up of two main elements with an interconnecting entrance hall. The two elements have differing ridge heights. The single storey element has a ridge height of 6 metres and the two-storey element has a ridge height of 8.5 metres from ground level. The orientation of the building runs east to west direction, so it appears gable ended from surrounding vantage points. With the mature trees and bushes on the western and northern boundaries, the two-storey element will have a back drop which will further integrate the dwelling. The proposed finishes of the dwelling are roof to be clad in slate, smooth render and stone feature walls and are considered acceptable.
- 8.13 Notwithstanding that the principle of development is unacceptable, and that there is a requirement to carry out river modelling and submit a flood risk assessment, the proposed design of the dwelling is considered to meet the requirements of the SPPS and criterion (e) of Policy CTY 13, and is acceptable on this site.

Access

- 8.14 DfI Roads was consulted as the competent authority on these matters and raises no objection to the proposal. The application is unlikely to prejudice road safety or significantly inconvenience the flow of traffic at this location and meets the requirements of AMP 2 of PPS 3

9 CONCLUSION

- 9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations, including the SPPS.
- 9.2 The proposal fails to meet the principle policy requirements under CTY10 for a dwelling on the farm as the proposal does not visually link or cluster with a group of buildings on the farm. As the proposal does not link with a group of buildings on the farm, the proposal is also contrary to criterion (g) of CTY 13.
- 9.3 The proposal is contrary to policy FLD1 of PPS 15 as no River Model to identify the extent of the floodplain affecting the site or a Flood Risk Assessment has been submitted. PPS 15 adopts a precautionary principle to development at risk of flooding.
- 9.4 The proposed design is considered acceptable and there is no objection from DfI Roads. Refusal is recommended.

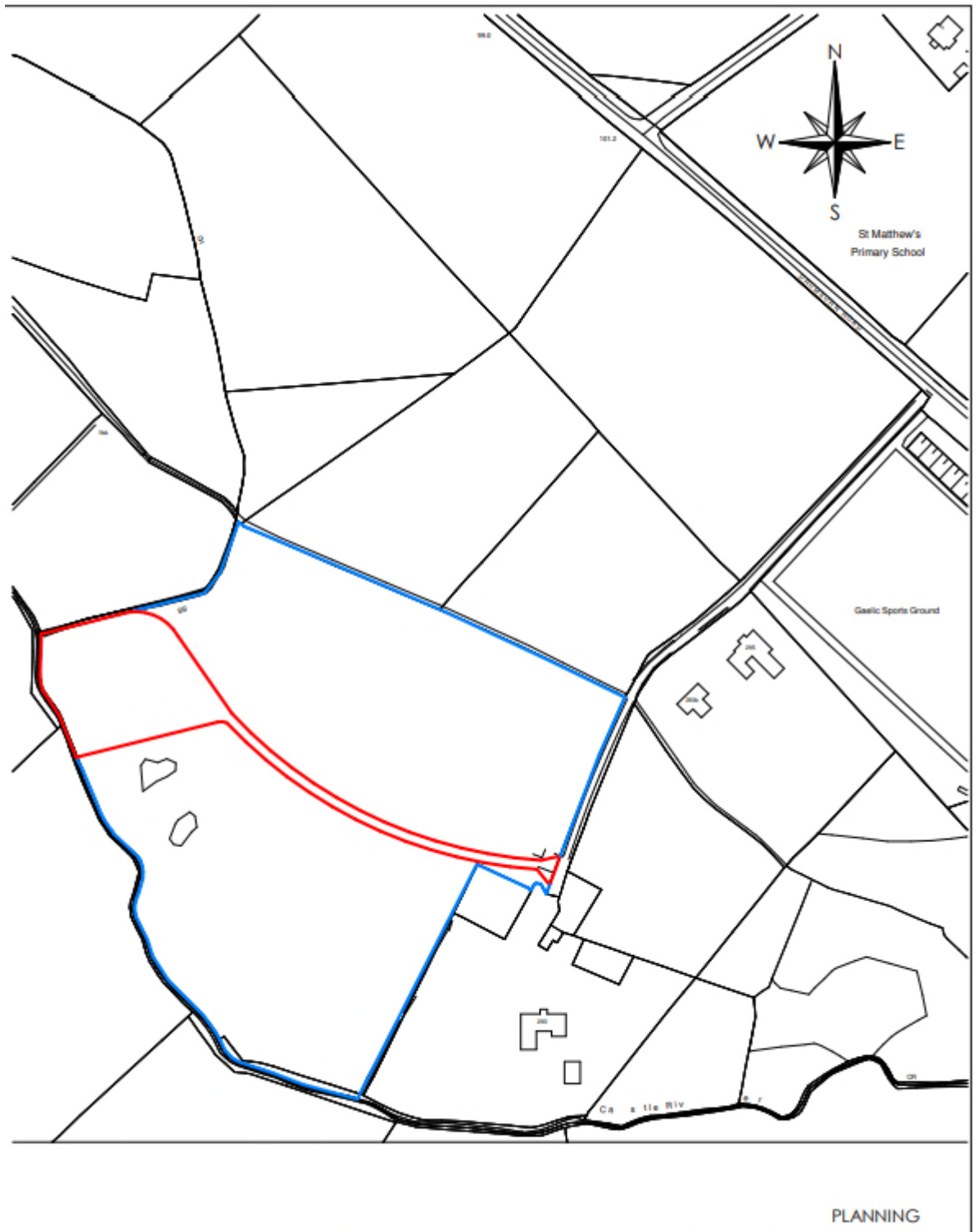
10 REFUSAL REASONS

1. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy for Northern Ireland (SPPS) 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 for Northern Ireland (SPPS) and Policies CTY 1 and criterion (c) of CTY 10 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 proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm.

3. The proposal is contrary to paragraph 6.77 of the Strategic Planning Policy for Northern Ireland (SPPS) and criterion (g) of Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the countryside, in that the proposed site does not visually link with an established group of farm buildings.

4. The proposal is contrary to Policy FLD 1 of Revised Planning Policy Statement 15 – Planning and Flood Risk, in that the applicant has failed to submit a River Model to identify the extent of the floodplain affecting the site and a Flood Risk Assessment in order to demonstrate that all sources of flood risk to and from the proposed development have been identified and that there are adequate measures to manage and mitigate any increase in flood risk arising from the development.

Location Plan



Referral Reasons

From: BRENDA CHIVERS <>

Sent: Wednesday, October 25, 2023 5:15 PM

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

Subject: RE: LA01/2022/0779/F - LAND NW OF NO.293 DRUMSURN ROAD

I would like the above application to be deferred to the next planning committee for the reasons below.

RE: LA01/2022/0779/F - LAND NW OF NO.293 DRUMSURN ROAD

Further to the publication of the Development Management Officer Report for the above application, please see below our reasons to request deferral to the Planning Committee.

Recommendation for refusal is on the grounds that the dwelling would not cluster with the farm buildings. As you will be aware, a dwelling does not have to cluster with other buildings on the farm if there are demonstrable health and safety reasons and in this case there are several:

1. As per the consultation response from the Environmental Health Services Department, "*Occupants of the dwelling or future occupants may suffer intermittent disturbance and loss of amenity, as a result of noise, odour and pests arising from activities associated with agricultural business*". Though our proposal is deemed within acceptable tolerances, siting the dwelling to cluster with the farm would exacerbate the issue.
2. Siting the dwelling to cluster with the farm would also mean siting the dwelling much closer to the flood plain which would be ill advised.
3. Finally, there is a noise issue with locating the dwelling in close proximity to the GAA pitches. As per the consultation response from the Environmental Health Services Department, "*Future occupants of the development may suffer intermittent disturbance and loss of amenity, as a result of noise and light arising from activities associated with these facilities*". Though our proposal is deemed within acceptable tolerances, siting the dwelling to cluster with the farm would bring the dwelling closer to the health and safety issue.

The location that we have chosen satisfies the planning criteria for integration into the existing landscape. The Development Management Officer Report states "*The site is a mature setting for a dwelling with good integration*" and that "*The site would not appear prominent in the landscape or damage the rural character*".

For the above reasons we believe the Planning Committee should be given the opportunity to decide on the application and kindly request your referral within the Local Authority timescales.

Brenda Chivers(Cllr)
Limavady DEA