

<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2021/0803/O</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>24<sup>th</sup> April 2024</b>
<b>For Decision or For Information</b>	<b>For Decision – Referred Application by Ald. Fielding</b>
<b>To be discussed In Committee YES/NO</b>	<b>No</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	Development Management and Enforcement Manager

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

<b>Legal Considerations</b>	
Input of Legal Services Required	NO
Legal Opinion Obtained	NO

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.
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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: LA01/2021/0803/O Ward: Dunloy**

**App Type: Outline**

**Address: Approx 273m South of 136 Moyan Road, Dunloy**

**Proposal: Proposed Replacement Dwelling and Garage**

**Con Area: N/A**

**Valid Date: 29.06.2021**

**Listed Building Grade: N/A**

**Agent: Patrick F Corr Ltd ,17 Catherine Street, Limavady, BT49 9DA**

**Applicant: Robert Christie, 37 Ballynaloob Road, Dunloy, Ballymena**

**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

- Outline planning permission is being sought for replacement dwelling and garage.
- The site is located within the open countryside as designated in the Northern Area Plan 2016.
- It is considered that the candidate building for replacement does not qualify as a replacement dwelling under the requirements of CTY 3 as it does not exhibit the characteristics of a dwelling.
- As the proposal fails to satisfy the requirements of CTY 3, the proposal fails to meet CTY 1.
- A Biodiversity Checklist has been submitted which has identified the need for a Preliminary Ecological Appraisal. This information has not been submitted. In the absence of this information, the proposal is contrary to Policies NH 2 and NH5 of PPS2 Nature Conservation.
- The proposal meets Policies CTY13 and CTY14 as the proposal will not be prominent or erode rural character.
- DfI Roads, NI Water and NIEA (Water Management Unit), Environmental Health were consulted on the application and raise no objection.
- NIEA NED has been consulted and requires the submission of a Preliminary Ecological Appraisal to enable a substantive response.
- The candidate building is not comparable to 2 other applications suggested by the Agent.
- There are no third-party representations on the proposal.
- Reasons for referral by elected member are attached as an annex to this report.
- Refusal is recommended.

## **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** outline planning permission for the reasons set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The site is situated in the countryside to the east of the Moyan Road which lies north east of Dunloy. The site is accessed via a laneway which falls slightly from the road. There is a gate into the site where there are two relatively small stone vernacular buildings which are closely associated. One of the buildings gable abuts the southern boundary. The other building which is main subject of this application is more central with the site. The site is largely defined by a post and wire fence with trees on the inside. There is a farm gate to the north east boundary into a pasture field grazed by cattle. There is another gate to the south boundary where the land rises.
- 2.2 Between the road and the vernacular building abutting the south boundary there is a small paddock with a gate to access this. A corrugated metal shed leans against the western wall of this vernacular stone building. There are trees and hedges to the roadside boundary. The site is situated in slightly rolling countryside with the Drones Road some distance to the east.

## **3 RELEVANT HISTORY**

- 3.1 There is no relevant or recent planning history on the site.

## **4 THE APPLICATION**

- 4.1 Outline planning permission is being sought for replacement dwelling and garage.
- 4.2 The potential impact 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**

There are no letters of support or objection to the proposal.

### **5.2 Internal**

**DFI Roads has no objection to the proposal.**

**Environmental Health has no objection to the proposal.**

**NI Water has no objection to the proposal.**

**NIEA Natural Environment Division has noted that, and agrees with the Biodiversity Checklist, which has identified the need for a Preliminary Ecological Assessment.**

**NIEA WMU has no objection to the proposal.**

## **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:
  - The Northern Area Plan 2016 (NAP)
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the "Considerations and Assessment" section of the report.

## 7 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

The Strategic Planning Policy Statement (SPPS)

PPS 2: Natural Heritage

PPS 3: Access, Movement and Parking

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, nature conservation, integration and rural character, access, and other issues.

### **Planning Policy**

- 8.2 The site is located outside any settlement development limit and is within the countryside. This site is not subject to any specific zonings or designations.
- 8.3 The proposal must be considered having regard to the NAP 2016, SPPS, PPS policy documents and supplementary planning guidance specified above.

### **Principle of Development**

- 8.4 Policy CTY 1 outlines the types of development which are acceptable in principle in the countryside, one of which is the replacement of a dwelling under CTY 3. CTY 3 states that:

*“Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls*

*are substantially intact. For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings..”*

- 8.5 For a building to qualify as a replacement, it requires (as a minimum), all external walls to be substantially intact. The candidate building has all walls intact and would meet this threshold. However, the building must also exhibit the essential characteristics of a dwelling.
- 8.6 Notwithstanding the building could have been attached to, or part of a dwelling in the past, the building is currently used as a store or garage. If there was a building previously attached to the candidate building, this has been demolished. Therefore, for the building to qualify as a candidate building to be replaced, it must exhibit the essential characteristics of a dwelling. It should be noted that the Policy states that buildings designed and used for agricultural purposes such as stores will not be eligible for replacement under this policy.
- 8.7 This is a small building which exhibits the characteristics of a garage/store. Internally the building lacks subdivision being one space and there is no obvious internal link to any other building which may have existed. The building is floor to ceiling with exposed rafters and roof tiles with no upper floor or attic space. The internal arrangement suggests that this building is more likely a garage/store or in agricultural use. There is little internally to suggest or exhibit the character of a dwelling.
- 8.8 The agent is of the opinion that the building was a dwelling, advising that a sliding door was inserted in the gable to allow the dwelling to facilitate use as an outbuilding. This would support the position that the candidate building is being used as an outbuilding.
- 8.9 The agent refers to the stonework and bangor blue state roof as evidence that this is not an outbuilding and that such materials would not be used for an outbuilding. However, it is not unusual for older buildings that were not dwellings to use such materials. In any event the candidate building must currently exhibit the characteristics of a dwelling, and these materials, in themselves, is not sufficient to demonstrate this is a candidate building eligible for replacement under CTY 3.

- 8.10 The agent contends that the candidate building exhibits all the characteristics of a dwelling house with a list of primary characteristics such as a linear plan and openings, lack of symmetry and regularity. The agent states that there was a cooking hearth and chimney on the on the west elevation which has now been replaced by the sliding doors. There is no evidence to support the presence of a hearth at this position. The agent is also of the view that a first floor fireplace is identifiable with a gap in the wall, being surrounded by red brick, located on the outside of the wall. However, this opening is on the external gable of the building and, if a fireplace, would have been more likely associated with any building historically adjoining the candidate building. Many of the characteristics identified could equally apply to a vernacular store or barn, and it's the current characteristics of the building that need to exhibit the characteristics of a dwelling. Again, the list of characteristics does not provide evidence that the candidate building exhibits the characteristics of a dwelling.
- 8.11 Given the foregoing, it is considered that this building does not exhibit the essential characteristics of a dwelling. Therefore, the candidate building does not meet this policy test within CTY 3
- 8.12 Notwithstanding that the candidate building fails to meet the primary policy criteria to be eligible for replacement, there is additional criteria that all replacement dwellings must meet. Each of the criteria is assessed below:

*The proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest size dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.*

While there is no defined curtilage given the use and arrangement of the buildings within the site, the site can accommodate a new dwelling with adequate curtilage. A curtilage could be identified and restricted by condition. This criterion is met.

*The overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building.*



As this is an outline application no details in this regard have been submitted. That said, if planning permission was granted, conditions could be included to restrict the overall footprint and height of any potential dwelling which could ensure that any new development would not have a visual impact significantly greater to than the existing. This criterion is met.

*The design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness.*

As this is an outline application no details have been submitted in this regard, but, if necessary, any relevant conditions can be included on any planning permission granted. This condition is met.

*All necessary services are available or can be provided without significant adverse impact on the environment or character of the locality.*

It is considered that provision of necessary services to the site can be accommodated without any adverse visual or environmental impacts. This criterion is met.

*Access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.*

DfI Roads has been consulted as the competent authority on road and traffic matters who have raised no objection to the proposal on road safety grounds. This criterion is met.

- 8.13 As the candidate building does not exhibit the essential characteristics of a dwelling, the proposal fails to meet the principle policy test of CTY 3.

### **Nature Conservation**

- 8.14 Policy NH 2 of PPS 2 (Nature Conservation) states that planning permission will only be granted for a development proposal that is not likely to harm any species protected by law. Policy NH 5 of PPS 2 states that planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse

impact on, or damage to habitats, species or features of natural heritage importance.

- 8.15 A Biodiversity Checklist has been submitted by the Agent which was carried out by Kane Ecology. Kane Ecology has concluded the Checklist stating that as the potential exists for protected species to be present on site or within the Zone of Influence of the proposed works, and following the principle of precaution, a Preliminary Ecological Appraisal (PEA) should be conducted to establish if protected species or their resting places are present.
- 8.16 NIEA NED has been consulted as the competent authority on nature conservation and it acknowledges receipt of the Biodiversity Checklist and notes the Ecologist's recommendation that a PEA should be carried out. NED agrees with this position and requires this information in order to provide an informed and substantive response.
- 8.17 As it has been identified any works may impact on such protected species including bats, badgers and breeding birds, a PEA is required. Although the Agent is aware of this need on receiving the findings of the Biodiversity Checklist, the information has not been submitted. As the Planning Department considers the candidate building does not exhibit the characteristics of a dwelling and does not qualify to be replaced, this information has not been sought as an unnecessary expense would be incurred by the applicant.
- 8.18 Given the lack of information in this regard, the proposal is contrary to Policies NH 2 and NH 5 of PPS2.

### **Integration and rural character**

- 8.19 Policy CTY 13 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.
- 8.20 The topography of the site is relatively flat with relatively strong boundary treatments. Given there are views of the existing building, and any new building on site could be conditioned, any new dwelling would not appear as a prominent feature on the landscape and can satisfactorily be integrated into the countryside with existing natural vegetation and boundaries, and any new landscaping if deemed necessary. The proposal complies with Policy CTY 13.

8.21 CTY 14 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. Having regard to the site and proposal which will not be prominent in the landscape, the proposal complies with the relevant criteria 'a' to 'e' in CTY 14 and it will not unacceptably erode the rural character of the area. Therefore, it complies with Policy CTY 14

### **Access**

8.22 DfI Roads has been consulted as the competent authority on road and traffic matters. DfI Roads raises no objection to the application on the grounds of road safety and seeks the submission of the necessary block plan with any subsequent application. Therefore, as it has not been demonstrated that the proposal, if permitted, would not prejudice road safety or significantly inconvenience the flow of traffic, the proposal complies with AMP 2 of PPS 3.

### **Other Issues**

8.23 The Agent has referred to planning application LA01/2021/0633/O (off the Carnbore Road) as an example of a building which was approved for replacement similar to the building under consideration. However, there are distinct differences between the building to be replaced under LA01/2021/0633/O which had two external chimneys and internal subdivision for individual rooms. The internal photographs for LA01/2021/0633/O, did not indicate a different use other than a dwelling . Other structures within the wider group at LA01/2021/0633/O suggested these are used for storage/ agricultural use. Therefore, as the candidate building exhibited the characteristics of a dwelling, this example is not comparable to the application under consideration.

8.24 A second reference, LA01/2020/0055/O for the replacement of another building off the Carnbore Road, is also not comparable as it has the features of a dwelling including two chimneys to the ridge, two internal fireplaces and internal subdivision. As that candidate building exhibited the characteristics of a dwelling, it is distinguishable to the application under consideration.

8.25 In any event, each application must be assessed on its own merits and these applications are given little weight in the assessment of the application under consideration.

8.26 At a meeting held on the 30th June 2022 with the agent, Planning Staff advised that the building did not display the characteristics of a dwelling and suggested there may be the potential that reuse, and conversion of the existing building could be considered under the provisions of policy CTY 4 and the SPPS if it is demonstrated that the building is considered to be a locally important vernacular building. This has not been pursued by the Agent.

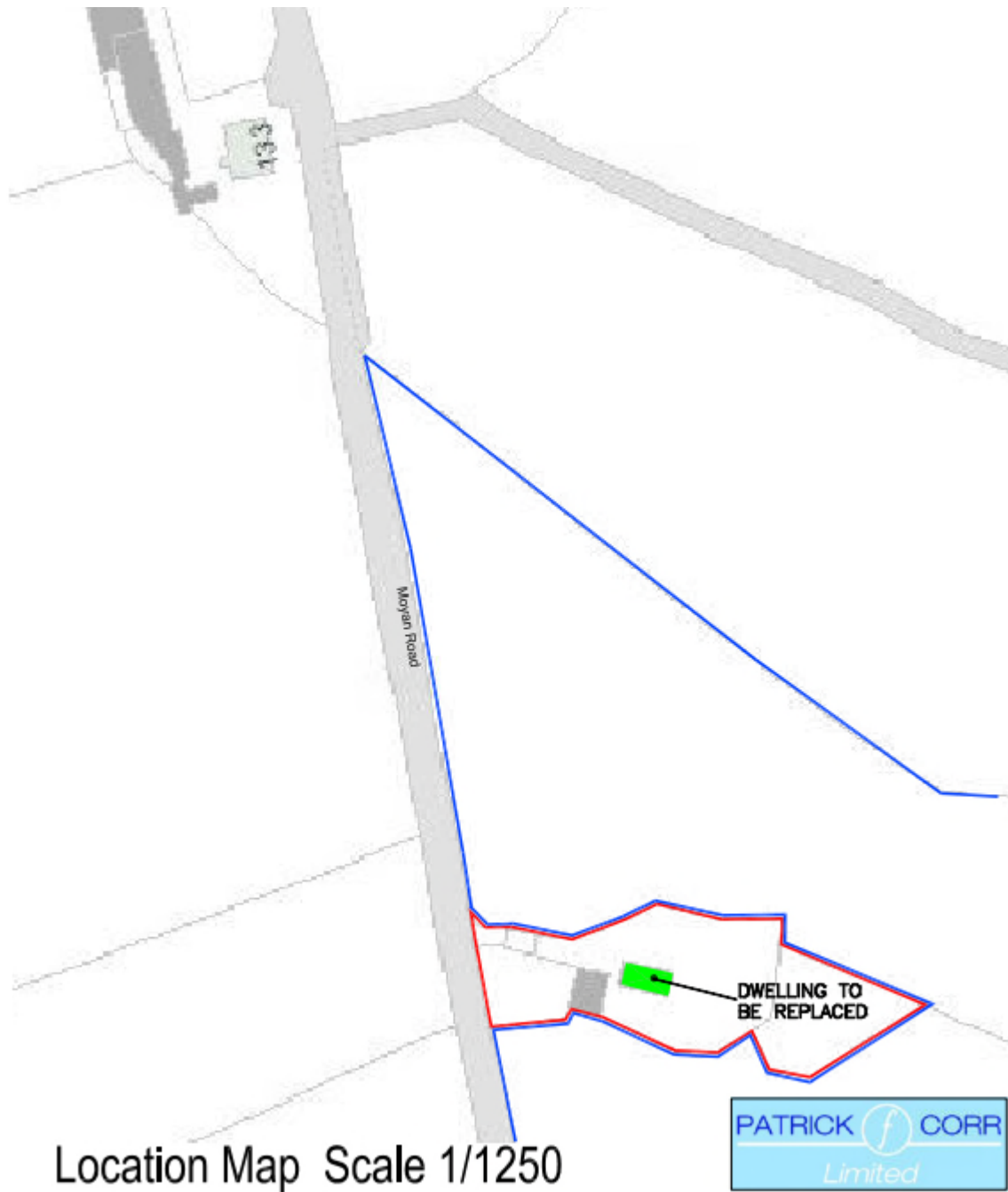
## **9 CONCLUSION**

9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan, SPPS, other planning policies and material considerations. The proposal is contrary to CTY 3 of PPS 21 as the candidate building is not suitable for replacement under the policy tests. The Biodiversity Checklist recommends the submission of a Preliminary Ecological Appraisal which has not been submitted and the proposal is contrary to Policies NH2 and NH5 of PPS 2 in the absence of this information. The proposal meets the requirements of CTY 13 and CTY 14 of PPS 21 and Policy AMP 2 of PPS 3 has been satisfied. The proposal is not comparable to the planning approvals put forward by the Agent. Refusal is recommended.

## **10 Reasons for Refusal**

1. The proposal is contrary to SPPS Para. 6.73 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 the Strategic Planning Policy Statement Paragraph 6.73 and Policies CTY 1 and CTY 3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling.
3. The proposal is contrary to paragraph 6.192 of the SPPS and policies NH 2 and NH 5 of PPS 2 as it has not been demonstrated that the development would not be harmful to species of natural heritage importance.

# Site Location Map



## Reasons for Referral

**From:** Mark Fielding <>

**Sent:** Monday, October 30, 2023 9:57 AM

**To:** Planning <[Planning@causewaycoastandglens.gov.uk](mailto:Planning@causewaycoastandglens.gov.uk)>; Denise Dickson <>; Oliver McMullan <>

**Subject:** LA01/2022/00803/F

LA01/2022/0803/O 273 M South of 136 Moyan Road Dunloy

I wish to refer the above application to the Planning Committee for the following reasons.

It is obvious from photographs that I have seen that there is an existing building at this location and which clearly shows characteristics of a dwelling and historic survey maps

Prove this; so I would contend that the development is in keeping with Policy CTY 3 - buildings previously used as dwellings and CTY 14 OF PPS21 – Planning permission

will be granted for a building in the countryside where it does not cause a detrimental change, or further erode the rural character of an area. This can be achieved

in above application.

Also there have been two approved applications in the locality of Moyan Road for sites for replacement dwellings.

LA01/2021/0673/O and LA01/2020/0055/O