

**PLANNING COMMITTEE MEETING HELD
WEDNESDAY 24 APRIL 2024**

Table of Key Adoptions

No.	Item	Summary of Decisions
1.	Apologies	<i>Alderman Coyle and Councillor Archibald</i>
2.	Declarations of Interest	<i>None</i>
3.	Minutes of Planning Committee meeting held 27 March 2024	<i>That the Minutes of the Planning Committee meeting held Wednesday 27 March 2024, as amended, are signed as a correct record.</i>
	Matters Arising	
3.1	Addition to the Resolution - Removal of 18 no. public payphones throughout the Borough (minute reference 7.4)	<i>Noted</i>
3.2	Confirmation of the Minutes	<i>That the Minutes of the Planning Committee meeting held Wednesday 27 March 2024, as amended, are signed as a correct record</i>
4.	Order of Items and Confirmation of Registered Speakers	
4.1	LA01/2020/0631/O, Referral, 168 Agivey Road, Coleraine	<i>Site Visit</i>
5.	Schedule of Applications:	
5.1	LA01/2024/0054/S54, Major, Lands at Stanalane, to West and South of Dunluce School, 16 Dunluce Road, Bushmills	<i>Agree and Approve</i>
5.2	LA01/2021/0177/F, Major, Lands approx 40m NW of units 8 & 10 Wattstown Business Park, Wattstown Crescent, Coleraine	<i>Agree and Approve</i>

5.3	LA01/2020/0641/F, Objection Item, Site adjacent to 8 Strandview Cottages, Castlerock	Agree and Approve
5.4	LA01/2021/0423/F, Objection Item, 31 to 33 Main Street, Cloughmills	Agree and Approve
5.5	LA01/2022/0905/F, Referral, Site 220m SW of 61 Kilnadore Road, Cushendall	Disagree and Approve
5.6	LA01/2021/1163/F, Referral, 21-27 Causeway Street, Portrush	Disagree and Approve
5.7	LA01/2022/0916/RM, Referral, Lands 66m East of No. 31 Bellany Road, Articlave	That decision on design is deferred pending discussions between Planners and Applicant with decision delegated to Officers, if agreement is not reached the matter to be re-tabled at Planning Committee
5.8	LA01/2021/0803/O, Referral, Approx 273m South of 136 Moyan Road, Dunloy	Disagree and Approve subject to PEA
5.9	LA01/2022/0885/O, Referral, Site adjacent to No. 55 Green Road, Quilly, Coleraine	Site Visit
5.10	LA01/2021/0650/F, Referral, Lands Between 46 Glenshesk Road, Drumahaman Bridge, Ballycastle	Defer
6.	Correspondence	
6.1	Donegal CoCo correspondence RE - Consultation on Proposed Material Alterations to CDP 2024-2030	Noted
6.2	DfI "Call for Evidence" SPPS Review re: climate Change	Noted
6.3	FODC – Consultation – Call for Sites & SPG	Noted
6.4	PAC – Response to Revised LDP Timetable	Noted
6.5	DAERA – Update BAT Guidance	Noted
6.6	Marine Construction Licence	Noted
7.	Reports	
7.1	Finance Report – Period 1-11	Noted
7.2	TPO Confirmation – Mountsandel Road	That Planning Committee approve

		Option 1: Resolve to confirm the TPO with modifications as detailed above
7.3	Quarterly Performance Update	Noted
8.	Confidential Items	
8.1	Update on Legal Issues	Noted
(i)	Addendum - Judgment Scoffield J	
9.	Any Other Relevant Business In Accordance with Standing Order 12 (O))	None

UNCONFIRMED

**MINUTES OF THE PROCEEDINGS OF THE MEETING OF THE PLANNING
COMMITTEE HELD IN THE COUNCIL CHAMBER, CIVIC HEADQUARTERS AND
VIA VIDEO CONFERENCE
ON WEDNESDAY 24 APRIL 2024 AT 10.30AM**

Chair: Councillor McMullan

Committee Members: Alderman Boyle, Hunter. S McKillop, Scott and Stewart
Councillors Anderson, Kennedy, McGurk, Peacock,
Storey, Wallace, Watton

Officers Present: D Dickson, Head of Planning
S Mulhern, Development Plan Manager
S Mathers, Development Management and Enforcement
Manager
E Hudson, Senior Planning Officer
J Lundy, Senior Planning Officer
R McGrath, Senior Planning Officer
M Wilson, Senior Planning Officer
M Jones, Council Solicitor, Corporate, Planning and
Regulatory
I Owens, Committee & Member Services Officer (C/R)
S Duggan, Civic Support and Committee & Member
Services Officer (R/C)

In Attendance: A Lennox, ICT Officer
C Ballentine, ICT Officer

Public 5no. 4no.1 no. (R)
Press 2 no (R)

Key: R = Remote

Registered Speakers in Attendance

Item No.	Name
5.5 LA01/2022/0905/F	P McAllister
5.6 LA01/2021/1163/F	R Brace
5.7 LA01/2022/0916/RM	L Kennedy
5.8 LA01/2021/0803/O	J Dunlop
5.9 LA01/2022/0885/O	R Moore

The Chair reminded Planning Committee of their obligations under the Local Government Code of Conduct.

1. APOLOGIES

Apologies were recorded for Alderman Coyle and Councillor Archibald.

The Chair advised that Alderman Boyle, McKillop and Councillor McGurk had indicated they would be late.

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest.

3. MINUTES OF PLANNING COMMITTEE MEETING HELD 28 FEBRUARY 2024

Copy previously circulated.

Matters Arising

3.1 Addition to the Resolution - Removal of 18 no. public payphones throughout the Borough (minute reference 7.4)

The Head of Planning read a submission on behalf of Alderman McKillop of an addition to the wording of the Resolution within the minute presented:

That the Planning Department intervenes and writes to BT to restore the active traditional red kiosks that are in a bad state of repair and return them to their former eye catching condition. Furthermore, as these are iconic items, that this department liaise with our community department to ensure that they intervene by communicating directly with local community groups to encourage the adoption of the remaining non-active (PC01) kiosks situated in their local area and aid them to identify funding to restore and repurpose same; I believe this cross departmental action would instill a sense of pride in place as well as having a positive visual impact on our landscape.

3.2 Confirmation of the Minutes

Proposed by Alderman Scott

Seconded by Alderman Hunter

- That the Minutes of the Planning Committee meeting held Wednesday 27 March 2024, as amended, are signed as a correct record.

The Chair put the motion to the Committee to vote.
10 Members voted For, 0 Members voted Against, 0 Members Abstained.
The Chair declared the motion carried.

RESOLVED - That the Minutes of the Planning Committee meeting held Wednesday 27 March 2024, as amended, are signed as a correct record.

4. ORDER OF ITEMS AND CONFIRMATION OF REGISTERED SPEAKERS

The Chair enquired whether there were any requests for site visits.

The Chair advised that Agenda Item 5.5 LA01/2022/0238/O, Referral, Approx 200m NE of 43 Farran Road, Ballymoney had been withdrawn from the Agenda.

4.1 LA01/2020/0631/O, Referral,168 Agivey Road, Coleraine

Proposed by Councillor Storey
Seconded by Councillor Wallace

-That LA01/2020/0631/O, Referral,168 Agivey Road, Coleraine is deferred and a Site Visit is held in order to observe on site some of the issues raised.

The Chair put the motion to the Committee to vote.
10 Members voted For, 0 Members Against, 0 Members Abstained.
The Chair declared the motion carried and application deferred for a Site Visit.

RESOLVED – That LA01/2020/0631/O, Referral,168 Agivey Road, Coleraine is deferred and a Site Visit is held in order to observe on site some of the issues raised.

5. SCHEDULE OF APPLICATIONS:

5.1 LA01/2024/0054/S54, Major, Lands at Stanalane, to West and South of Dunluce School, 16 Dunluce Road, Bushmills

Report, erratum and correspondence from Agent, previously circulated, were presented by the Development Manager and Enforcement Manager.

Major Application to be determined by Planning Committee

App Type: Full Planning

Proposal: Variation of Condition Nos. 13 (Visibility Splays right turn lane and footpath link),14 (Retaining Walls/Earth Bank and Culvert extension) & 17 (Private Streets Determination) of LA01/2018/0040/F (Proposed Holiday Park comprising mobile homes and touring pitches)

Recommendation

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 **APPROVE** planning permission subject to the conditions set out in section 10.

Erratum Recommendation

That the Committee note the contents of this Erratum and agree with the recommendation to approve the application in accordance with Paragraph 1.1 of the Planning Committee report

The Development Management and Enforcement Manager presented via powerpoint presentation as follows:

- Application seeks to vary conditions pertaining to the access arrangements of the holiday park approved at this location in 2019. The holiday park, yet to be constructed, comprised 100 mobile homes, touring pitches together with a new reception and administration building. This permission remains live until September this year.
- While a major application, it seeks solely to vary conditions on a previous approved scheme. Therefore, community consultation was not required. The Design and Access Statement for the previous application was resubmitted.
- In terms of the Northern Area Plan 2016, the site is located outside the settlement development limit of Bushmills in the open countryside. It is located within the Montalto Local Landscape Policy Area and within the Causeway Coast AONB. The Northern Area Plan does not contain specific policies on tourist development and directs to regional policies.
- The Conditions - The application seeks solely to vary the timing of various components of the access arrangements to Dunluce Road. Therefore, the lead policy to assess the proposal is PPS 3 Access, Movement and Parking. While it remains that the access and visibility splays are to be provided before work starts, permission is sought to delay provision of the right turn lane and connecting footpath until the site becomes operational. Furthermore, permission is sought that development can start with approval of the retaining wall and culvert extension prior to operation stage. The rationale for the proposed changes is to allow sufficient flexibility to ensure delivery of the project over the next few months. DfI Roads is content with the proposed changes to the conditions. As it is the operation stage that will attract the highest volume of traffic and pedestrians to the site, the proposed changes are acceptable.
- Representation - None received.

- Conclusion - The proposal is considered acceptable and the recommendation is to approve subject to the specific conditions.

The Chair invited questions for the Officer.

There were no questions put to the Officer.

There were no speakers.

Proposed by Councillor Kennedy

Seconded by Alderman Scott

- 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 Approve planning permission subject to the conditions set out in section 10.

The Chair put the motion to the Committee to vote.

10 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the motion carried and application approved.

RESOLVED – 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 Approve planning permission subject to the conditions set out in section 10.

5.2 LA01/2021/0177/F, Major, Lands approx 40m NW of units 8 & 10 Wattstown Business Park, Wattstown Crescent, Coleraine

Report and site visit report, previously circulated, were presented by the Development Manager and Enforcement Manager.

Major Application to be determined by Planning Committee

App Type: Full Planning

Proposal: New fabrication, assembly and R&D facility, with associated offices and associated car parking, landscaping and ground work. New foul waste water treatment plant installation.

Recommendation

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 section 7 and 8 and resolves to Grant planning permission subject to the reasons set out in section 10.

The Development Management and Enforcement Manager presented via powerpoint presentation as follows:

- Proposal comprises a single factory/ assembly/ office building to be constructed over two phases. The office and factory are in the first

phase and the assembly section of the building will follow in the second phase. In addition, the proposal includes extensive parking provision and landscaping. The development allows further growth of the company, particularly in steel fabrication and assembly.

- As a major application, it was preceded by a PAN and accompanied by a Design and Access Statement.
- In terms of the Northern Area Plan 2016, the site is located within the settlement development limit of Coleraine on a site zoned for economic development. The Northern Area Plan does not contain specific policies on economic development, other than zoning specific sites and directs to regional policies. In this case, the site falls within zoning CEED 06 and meets the key site requirements regarding access and the suitability of the general industrial use.
- Planning History - The site is located in a larger Invest NI site (Wattstown Business Park) where planning permission was granted in 2009 for the estate road.
- Lead Planning Policy - The lead planning policy to assess the proposal is PPS 4 Planning and Economic Development. The proposal complies with the principle of development and is compatible with other uses in the area
- Design- The three level office section of the building is located at the front of the site with the higher main factory building behind. The building is typical of a large modern factory with a height up to 14.3m high. The principal external finish is steel cladding panels.
- Residential Amenity - The nearest dwelling to the site is 60m away on the opposite side of the Newbridge Road (A26). The submission of a noise report identified that background noise is already elevated owing to the dual carriageway. As the factory shall operate within existing background levels, it shall not cause harm to residential amenity. Noise is to be limited by condition with control of forklift reversing alarms and doors to be kept shut.
- Access & Parking - The proposal is to be accessed using access points to the business park development road. No direct access is proposed to Newbridge Road. The car park will provide a total of 332 car spaces plus additional HGV parking.
- Economic Benefits - The proposal will increase the number of Maine Surface Finishing employees in their Coleraine location by 150. In addition, the proposal represents an investment of £10 million in the site which includes purchase of state of the art equipment.

- Natural Heritage - Given the potential presence of badgers and bats on the site, specific reports were submitted and subject to consultation. Subject to conditions and badger friendly fencing, the proposal is acceptable.
- Representations - None received.
- Conclusion - The proposal is considered acceptable and the recommendation is to approve subject to the specific conditions.

The Chair invited questions for the Officer.

At the request of an Elected Member the Development Management and Enforcement Manager confirmed that the site extended up to the border of the Causeway Hospital site.

An Elected Member spoke of the potential for local job opportunities and parking facilities with respect to this application.

There were no speakers.

Proposed by Councillor Watton

Seconded by Alderman Scott

-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 section 7 and 8 and resolves to Grant planning permission subject to the reasons set out in section 10.

The Chair put the motion to the Committee to vote.

10 Members voted For; 0 Members voted Against; 0 Members Abstained.

The Chair declared the motion carried and application approved.

RESOLVED - 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 section 7 and 8 and resolves to Grant planning permission subject to the reasons set out in section 10.

5.3 LA01/2020/0641/F, Objection Item, Site adjacent to 8 Strandview Cottages, Castlerock

Report, erratum, and site visit report previously circulated, were presented by Senior Planning Officer, E Hudson

Objection Application to be determined by Planning Committee.

App Type: Full

Proposal: Proposed split-level dwelling, to include lower ground floor bedrooms/den & ground floor living/bedroom.

Recommendation.

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 **APPROVE** planning permission subject to the conditions set out in section 10.

Erratum Recommendation

That the Committee note the contents of this Erratum and agree with the recommendation to approve the application in accordance with Paragraph 1.1 of the Planning Committee report.

Senior Planning Officer presented via powerpoint presentation as follows:

- (Slide) Planning Application LA01/2020/0641 is a full application for a split level dwelling, to include lower ground floor bedrooms/den & ground floor living/bedroom
- Site adjacent to 8 Strandview Cottages, Castlerock
- There is an erratum with your committee report.
- (Slide) Red line boundary of the site. The site is located inside the settlement development limits of Castlerock as defined in the Northern Area Plan 2016 and is within an established residential area. The red line boundary comprises an area of hardstanding adjacent to no. 8 Strandview Cottages, and area of vegetated land to the rear of properties on Warke Place and Seapark. The red line also includes a shared laneway which the applicant is in ownership of.
- There have been 90 letters of objection to the application from 27 separate addresses.
- Issues raised in objection to the application are outlined in Part 5 of the Committee report and include design/scale/massing; overlooking/overshadowing; noise and odour from package treatment plant; structural concerns regarding former quarry; biodiversity; impact on right of way and access and impact of wall around parking area.
- (Slide) This is the site layout plan. The proposed dwelling is located along the side boundary of no. 8 Strandview Cottages and the proposed curtilage of the dwelling encompasses part of the shared laneway which is being re-aligned. The site is small however the proposed dwelling is modest in scale. The dwelling has an elongated design with a wide gable and narrow front and rear elevations. The proposal includes a septic tank which is being located in an unused area of land north of the dwelling. The area was previously highlighted for outdoor recreational space however this has since been removed due to concerns relating to amenity issues for neighbouring properties. The proposed amenity

space for the dwelling is restricted to the immediate area around the dwelling.

- (Slide) This shows a number of sections through the site. The site slopes down in a northerly direction. Development along Strandview Cottages sits at a higher level than development along Warke Place and Seapark to the north. The proposal includes 2 car parking spaces located adjacent to the dwelling and on the other side of the laneway. This includes a low wall to the outer edge of the parking area to protect privacy for properties on Seapark. The proposal will include the reduction in width of the laneway in parts and also includes a turning area.
- (Slide) Detailed drawings. Dwelling is of a contemporary design. It is split level with the lower ground floor comprising a bedroom/bathroom and study. The upper ground floor is kitchen living area and another bedroom. The ridge height of the dwelling is 6.7 m to the ridge. Materials include basalt stone on lower ground floor and natural larch cladding on the upper part.
- (Slide) View towards the site from along Strandview Cottages
- (Slide) View towards the site from the laneway. No. 8 Strandview Cottages adjacent and properties along Strandview Mews sited at a higher level. The site comprises an area of hardstanding and part of the laneway.
- (Slide) Another photo of side of no. 8
- (Slide) View looking down towards rear of properties along Warke Place and Seapark which sit at a lower level than the site. Warke Place and Seapark are generally single storey/storey ½ dwellings. Objections have been received from these properties in terms of overlooking. The distance from the front elevation of the dwelling to the common boundary with these properties ranges from approx. 23 to 36 metres. The overgrown area of ground to the rear of these properties is included in the application site and it is proposed to include a septic tank at this location to serve the property.
- (Slide) View across adjacent property no. 8. These properties have a dual frontage. The amenity space for the proposed dwelling would be located with a similar arrangement. The rear space for the proposed dwelling is approx.. 50 sq m which is on the low side but considering the dwelling is small scale with 2 bedrooms this is considered acceptable.
- (Slide) View from the rear of no. 29 Seapark. The proposed dwelling has a similar orientation to adjacent dwelling no. 8 and the proposed upper window would be at a similar height.

- (slide) View from rear of no. 31 Seapark. The remainder of properties also have large first floor windows.
- (Slide) View from no. 7 Warke Place.
- The application has been assessed against all relevant policy including the NAP, SPPS, PPS 7, Addendum to PPS 7, DCAN 8, Creating Places. Main views of the site are from along the laneway and the rear of properties on Seapark and Warke Place. There are limited public views from main street due to intervening development and rising ground behind. In terms of character the wider area has a mix of density and house types. It is not considered that the proposal would adversely detract from the character of the area.
- A soil investigation report was submitted following concerns about land instability. The report concluded that there would not be a significant risk of landslip. Objection was raised in relation to the septic tank. Environmental Health were consulted and advised that a recommended distance of 7 m from unit to nearest habitable dwelling is required. The proposal would meet these requirements.
- There have been no objections from any statutory consultees.
- Approval is recommended.

The Chair invited questions for the Officer.

There were no questions for the Officer.

There were no speakers.

Proposed by Councillor Nicholl

Seconded by Councillor Kennedy

-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 Approve planning permission subject to the conditions set out in section 10.

The Chair put the motion to the Committee to vote.

9 Members voted For, 1 Members Against, 0 Members Abstained.

The Chair declared the motion carried and the application approved.

RESOLVED - 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 Approve planning permission subject to the conditions set out in section 10.

5.4 LA01/2021/0423/F, Objection Item, 31 to 33 Main Street, Cloughmills

Report, previously circulated, were presented by Senior Planning Officer, E Hudson

Objection Application to be determined by Planning Committee.

App Type: Outline Planning

Proposal: Outline planning application for proposed new housing development consisting of 4 no. new 2.5 storey semi-detached dwellings with front and rear amenity space and communal car parking to rear, on site of former PSNI Station at 31 to 33 Main Street, Cloughmills .

Recommendation

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 Approve planning permission subject to the reasons set out in section 10.

The Senior Planning Officer presented via powerpoint presentation as follows:

- (Slide) Planning Application LA01/2021/0423 is An outline application for proposed new housing development consisting of 4 no. 2 ½ storey semi-detached dwellings with front and rear amenity space and communal car parking to rear, on site of former PSNI Station at 31 to 33 Main Street, Cloughmills.
- The application is being presented as an Objection Item. 7 representations have been received from 6 separate addresses.
- (Slide) Red line boundary of the site. The site is located within the settlement development limits of Cloughmills and is not zoned for any particular use in the Northern Area Plan 2016. The site is located along the road frontage and is currently enclosed to the rear by security fencing which is approximately 8 metres in height. The site is considered to be a brownfield site within a mixed area. The primary school is located opposite the site and there is residential development either side with commercial premises further along Main Street.
- (Slide) Site layout drawing. The application is for outline permission so there is no detailed design drawings at this stage. The application was originally submitted for 14 apartments over 3 storeys but was subsequently amended to the current layout for 4 semi-detached dwellings.
- The proposed concept plan indicates two pairs of semi-detached dwellings with a pedestrian access between the two blocks and

communal vehicular access to the northern extent which is in keeping with the existing character adjacent the site and is appropriate to the site context. The footprints are comparable to neighbouring properties and the proposal incorporates small areas of defensible space to the front of the properties, which, although not characteristic of the immediate context, generally retains the existing building line and character.

- The proposed layout incorporates enclosed private amenity areas as well as in-site communal parking to the rear of the properties which has no visual impact from the site frontage, is reflective of the backland nature of areas to the rear of adjacent properties and retains the character of the streetscape.
- The level of amenity space provided is towards the lower end of the acceptable spectrum at approximately 45 sqm. However, given its location within the centre of the village, with public amenities and services within short walking distance, the level of amenity provision within a small development of this nature is considered acceptable. The amenity space allows provision of small recreational areas as well as storage for bins, washing lines etc. Amenity areas are enclosed which provides separation from communal parking and turning areas creating safe, private and practical areas.
- (Slide) Looking at some photographs. A view along the site frontage. The existing building on site presents a blank elevation to the road which appears out of place. The proposed development will introduce an active frontage in keeping with the remainder of the streetscape.
- (Slide) A view of the site in context with the remainder of Main Street. You can see similar type development adjacent to the site.
- (Slide) Boundary with adjacent residential property.
- (Slide) View of the rear of the site. A communal laneway runs along the rear of the site which is accessed from Main Street. This high security fencing currently encloses the site. The proposed concept layout shows retentions of this rear boundary wall to the rear.
- (Slide) Another view the other direction up the laneway.
- A Phase 1 and Phase 2 Preliminary Risk Assessment (PRA) has been completed due to the risk of ground contamination from the sites former use as a police station. Re-consultation with NIEA (RULGT) states that no unacceptable risks to the water environment are identified. Regulation Unit Land and Groundwater Team have no objection to this

application subject to conditions and informatives as provided. Environmental Health also raises no objections subject to proposed conditions. On this basis the subject site appears to be suitable for the proposed use and no significant health or safety issues have been identified as a result of contamination.

- Buildings on the site were classed as having Bat Roost Potential, and in response dated 25th October 2021 NED requested the submission of further information, i.e. further bat emergence/re-entry surveys. These have been provided and NED has raised no further objections subject to proposed conditions relating to obtaining a protected species licence, provision of a lighting plan as part of the Reserved Matters and restriction of development outside the bird breeding season. The submitted scheme indicates the inclusion of bat boxes on the rear boundary wall which is to be retained.
- Recommendation is to approve planning permission with conditions as outlined in Part 10 of the Committee report.

The Chair invited questions for the Officer.

There were no questions for the Officer.

There was no speaker.

Proposed by Councillor Peacock
Seconded by Alderman Hunter

-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 Approve planning permission subject to the reasons set out in section 10.

The Chair put the motion to the Committee to vote.

10 Members voted For, 0 Members Against, 0 Members Abstained.

The Chair declared the motion carried and application Approved.

RESOLVED - 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 Approve planning permission subject to the reasons set out in section 10.

5.5 LA01/2022/0905/F, Referral, Site 220m SW of 61 Kilnadore Road, Cushendall

Report, addendums, Correspondence from Agent and site visit report, previously circulated, were presented by Senior Planning Officer, E Hudson

Referral Application to be determined by Planning Committee, details of referral request attached to Planning Committee Report.

App Type: Full Planning

Proposal: Proposed Guesthouse and associated site works

Recommendation

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.

Addendum Recommendation

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.

Addendum 2 Recommendation

That the Committee note the contents of this Addendum and previous Addendum and agree with the recommendation to refuse the application in accordance with Paragraph 1.1 of the Planning Committee.

Senior Planning Officer presented via powerpoint presentation as follows:

- (Slide) Planning Application LA01/2022/0905/F is a full application for a Proposed Guesthouse and associated site Site 220m SW of 61 Kilnadore Road, Cushendall.
- There are 2 addendum to your committee report and a site visit took place on Monday.
- Verbal addendum – comments from agent in relation to Addendum 2.
- (Slide) Red line boundary of the site. The section of the Kilnadore Road, which the application site is on is private. As such, the red line has been extended to where it meets Middlepark Road. The site is currently open agricultural land.
- The site is located in the open countryside, within the Antrim Coast and Glens AONB, approx. $\frac{3}{4}$ of a km from the edge of the settlement development limits of Cushendall.
- (Slide) There is an overview of the site in relation to the settlement development limits of Cushendall. At the site visit members queried the history of a dwelling to the rear of the site – this was approved as a replacement dwelling. Also members queried glamping pods located further along the laneway. Both these types of development are considered under different planning

policies.

- (Slide) This is the site layout drawing. The proposed building is single storey with 6 m ridge height with an L Shaped design. There are established boundaries along the northern, southern and western boundary. The eastern boundary is undefined.
- (Slide) Floor plan. The proposal includes 3 double bedrooms with individual terraces, a guest living dining area. The other part of the building is private kitchen/dining/living. This is separated from the bedrooms by the entrance lobby.
- (Slide) Photos.
- Access onto the site is via this narrow, grass laneway.
- As the proposal is for a guesthouse it primarily falls to be assessed under PPS 16 Tourism and specifically Policy TSM 3 titled hotels, guesthouses and hostels in the countryside. The policy allows for such proposals under 2 circumstances one – replacement of an existing rural building or secondly - a new build proposal on the periphery of a settlement. It is considered that the proposal does not meet any of these circumstances as it is not replacing an existing building nor is it on the periphery of the settlement.
- The proposed site is considered remote and displaced from the settlement limit, not on the periphery and as such it is contrary to Policy TSM 3. The policy goes on to outline other specific locational criteria where, should a development be acceptable under one of the circumstances, a sequentially preferable order is given. This includes firstly that there are no suitable sites within the settlement or nearby settlements, secondly conversion or replacement of a suitable building, and thirdly that the development is close to the settlement. The proposal does not meet any of these.
- The agent has submitted supporting information as to why they consider it to meet policy TSM 3. This includes a search of properties for sale in the general area including Cushendall and Waterfoot. They have discounted these for reasons including size, unsuitable for conversion, access and parking. Given the small scale of the proposed development it is considered that there are a number of options which could meet this requirement with properties currently on the market. The proposals offer adequate parking provision and access arrangements.
- Supporting information also included a map outlining land between the site and settlement development limits and discounting this for various reasons including availability, urban sprawl and designation as an LLPA. This analysis is limited to the vicinity of the site, along this part of Kilnadore Road, and does

not consider the wider locality.

- The principle of development is considered unacceptable, the proposal is not considered to be on the periphery of a settlement, refusal is recommended as it is contrary to Policy CTY 1 of PPS 21, Policy TSM 3 of PPS 16.

The Chair invited questions for the Officer.

At the request of an Elected Member the Senior Planning Officer confirmed that the application was 750m from nearest point of development limit. The Chair requested clarification on what was referred to by the Agent as a grey area. The Senior Planning Officer said that it was not the view of the Planning Officer that it was a grey area, being displaced and rural in character with the periphery on the outer edge of settlement.

There was a technical issue with the pointer being used to navigate illustration of the maps. At the request of Elected Members the Chair ruled that the maps could be viewed at the front of the Chamber and Elected Members were facilitated accordingly. The Head of Planning advised that a new pointer would be available for the next Planning Committee meeting.

- * **Senior Planning Officer and Planning Committee Members moved to the centre table and conversed.**
- * **Senior Planning Officer and Planning Committee Members moved back to their seats.**

The Chair invited P McAllister to speak in support of the application.

P McAllister stated that the application was for a local family who had lived in Cushendall all their life and were the 4th generation of this family and had not been able to seek alternative accommodation in the location . P McAllister advised that disabled guests would struggle to be able to park at accommodation in a settlement and how visitors are attracted to the area because of the views and clean air, peace and tranquility. P McAllister also referred to the high quality modern property which will add to the accommodation and hospitality offering in the area and reported that there had been no objections from statutory bodies,

The Chair invites questions for the Speaker.

An Elected Member said that there was no definition of periphery and that the application was compatible and that the applicant had demonstrated that they were not able to find a suitable property which accommodated the required parking for 3 guests and staff.

Proposed by Councillor Peacock

Seconded by Councillor McMullan

-that the Committee has taken into consideration and disagrees with the reasons for recommendation set out in Section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve applications for the following reasons:-

-There has been extensive research by agent with the help of an estate agent to source a suitable site in the village;

- No definition of peripheral in policy;

- Compatible with surrounding land uses as stated by Officers;

- No options locally for suitable holiday accommodation;

- Accommodation like this application is much sought after;

- Closeness to urban area should be included in rationale;

-Essential accommodation for increased numbers of hikers and visitors to the area;

The Chair put the motion to the Committee to vote.

10 Members voted For, 0 Members Against, 0 Members Abstained.

The Chair declared the motion carried and application Approved

RESOLVED --that the Committee has taken into consideration and disagrees with the reasons for recommendation set out in Section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve applications for the following reasons:-

-There has been extensive research by agent with the help of an estate agent to source a suitable site in the village;

- No definition of peripheral in policy;

- Compatible with surrounding land uses as stated by Officers;

- No options locally for suitable holiday accommodation;

- Accommodation like this application is much sought after;

- Closeness to urban area should be included in rationale;

-Essential accommodation for increased numbers of hikers and visitors to the area;

RESOLVED – that Conditions and Informatives are delegated to Officers.

* **The Chair declared a comfort break at 11.45 am**

* **The meeting reconvened at 11.50 am**

5.6 LA01/2021/1163/F, Referral, 21-27 Causeway Street, Portrush

Report, site visit report were previously circulated, were presented by Senior Planning Officer, J Lundy

Referral Application to be determined by Planning Committee, details of referral request attached to Planning Committee Report.

App Type: Full

Proposal: Proposed replacement of existing 4no. private dwellings with 4no. private dwellings (2no. 2.5 storey & 2 no. 3 storey) with associated amenity areas and concealed private roof terrace

Recommendation

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 subject to the reasons set out in section 10.

Senior Planning Officer presented via powerpoint presentation as follows:

- Proposed replacement of existing 4no. private dwellings with 4no. private dwellings (2no. 2.5 storey & 2 no. 3 storey) with associated amenity areas and concealed private roof terrace.
- A site visit was carried out on Monday and a site note circulated.
- Objections and 2 letters of support have been submitted and are set out in the Planning Committee Report.
- The objections relate to construction issues, over development increase in size, rear returns not being subservient, ridge heights being incongruous in the street scape and lack of amenity space provision.
- The application site is located within the Portrush Settlement Development Limit as defined Northern Area Plan 2016. The site is located within an Area of Archaeological Potential.
- The application is a referral to Planning Committee and the referral request is attached to the Planning Committee Report..
- The application proposed the demolition of 4 dwellings and their replacement with larger terraced dwellings presenting to Causeway as 2.5 to 3 storey dwellings. The proposal has been considered under PPS 7 it advises that great care will be needed to ensure that the individual or cumulative effects of development do not erode the character and amenity of existing areas.
- During the processing of the application development was commenced on site and is now substantially complete;

- To advise an Enforcement Notice has been served on the site, the notice was not appealed and therefore is effective from the 2nd April the owner has until 112 days from the date of the notice to resolve the matter. Prior to the notice being served the owner was contacted on 2 occasions in accordance with the enforcement strategy in March 2023 and again in November 2023.
- The agent was advised initially 21/12/21 that Planning had concerns with the scheme and sought amendments through the submission of amended plans. A scheme was finally agreed to be acceptable in principle at the end of October with the plans submitted at the start of November 2022.
- This slide shows the scheme that was considered acceptable in the top left drawing, the plans were amended to the scheme shown on the bottom left, it is this scheme that we have assessed in the Planning Committee report and recommended for refusal. The photo of what is built is subject to an enforcement notice and differs from the planning application under consideration today;
- Causeway Street has undergone significant redevelopment over the recent years. However it still retains the strong character of terraced dwellings and vertical windows openings, their positioning being a key element of the character. Even in the contemporary developments in the area they have replicated this design feature to ensure they integrate and settle into the terrace. The application proposes windows that are compressed together and doubled up at 1st floor. The spacing and sizing of the windows across the four properties results in these sizable buildings becoming more prominent in the street. They jar with the terrace by the misplacement and sizing and results in the building becoming dominant and having a detrimental impact on the streetscape;
- The rear of the building as accepted in the planning application. The windows on the 3rd floor are to have panels either side to reduce the level of overlooking to the properties at Strandmore. The rear of the building as built again is not in accordance with the proposal.
- The section detailing the gable and image of the building built on site again are different;
- As the construction of the development proceeded without the benefit of planning permission the request from HED for a developer funded programme of archaeological works could not be carried out prior to commencement of development. This is set out in page 19 of the PCR;
- A refusal has been recommended as set out in the PCR.

The Chair invited questions for the Officer.

At the request of an Elected Member the Senior Planning Officer advised of the timeline of this application and reason for delay in enacting information received from applicant. The Senior Planning Officer also confirmed that the windows are the strongest part of the character in Causeway Street, Portrush.

At the request of Elected Members the Senior Planning Officer explained with the aid of the powerpoint the variations and types of windows in the vicinity in comparison with those included in the application.

Some Elected Members felt that there was evidence of varying types of window styles on Causeway Street.

The Chair invited R Brace to speak in support of the application.

R Brace said that 4 dwellings were replaced by 4 dwellings, there was no specific design criteria in this street and that the client was willing to address the current proposal and implement on site and that adaptations were minor in nature.

The Chair invited questions for the speaker.

At the request of an Elected Member R Brace said the rationale for window design was to avail of more sunlight.

An Elected Member suggested that it may be helpful to address Officer's concerns regarding terminology and reference to 'detrimental' which means harmful.

The Head of Planning advised that the reference to the term 'detrimental' used in the policy and said it would have been prudent to have had details of amendments submitted prior to the Planning Committee meeting and which would have enabled options to be set out for Elected Members.

An Elected Member said that there was no one characteristic of windows on Causeway Street, Portrush.

Proposed by Councillor Storey
Seconded by Councillor Nicholl

- That the Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve outline planning permission for the following reasons:
- No objections from statutory consultees;
 - Frontage not detrimental to character of street;
 - No one character of windows that defines character of Causeway Street;
 - Other property on street that has similar proposal in terms of windows.
 - Demonstrated by presentation made that there is no one window type which defines street

The Chair put the proposal to the Committee to vote
7 Members voted For; 2 Members voted Against; 1 Member Abstained
The Chair declared the Motion Carried and the Application Approved

RESOLVED -That the Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve outline planning permission for the following reasons:

- No objections from statutory consultees;
- Frontage not detrimental to character of street;
- No one character of windows that defines character of Causeway Street;
- Other property on street that has similar proposal in terms of windows.
- Demonstrated by presentation made that there is no one window type which defines street

RESOLVED - that Conditions and Informatives are delegated to Officers.

* **Alderman Boyle joined the meeting at 12.24 pm**

5.7 LA01/2022/0916/RM, Referral, Lands 66m East of No. 31 Bellany Road, Articlave

Report, addendum , supporting info and site visit report, previously circulated, was presented by Senior Planning Officer R McGrath

Referral Application to be determined by Planning Committee, details of referral request attached to Planning Committee Report

App Type: Reserved Matters Application

Proposal: Proposed dwelling and detached garage

Recommendation

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.

Addendum Recommendations

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.

Senior Planning Officer presented as follows via powerpoint presentation:

* **Councillor McGurk joined the meeting at 12.33 pm**

- This is a Reserved Matters application for a dwelling and garage in accordance with Policies CTY13 and CTY14 of PPS21
- (Slide) The application site is located on land 66m East of No. 31 Bellany Road, Articlave, which is within the rural area as identified within the Northern Area Plan (NAP) 2016.
- (Slide) This slide shows the broad location of the site, to the NW of Coleraine and just south of the River Bann and the Binevenagh AONB.
- (Slide) Here we can see the site location plan. The proposed dwelling is to be sited to the rear of the existing development on Bellany Road. You can see the open field in front of the site which affords views of the site from the public road.
- (Slide) If we have a closer look at the site you can see that the elevated plot is clearly visible from the public road. This picture is taken from the roadside along Bellany Road.
- (Slide) Next slide is taken from the junction of Bellany and Cranagh Road.
- (Slide) And here we can see the block plan of the dwelling set on site. You'll note the contour lines indicating the degree of slope across the site.
- The principle of a dwelling is acceptable on the site with Outline Planning permission approved under LA01/2021/1147/O for a dwelling on a farm.
- The current application is recommended for refusal as the design is inappropriate for this rural setting and the proposed building fails to blend with the landform. As such, the development would be a prominent feature in the landscape and would result in a detrimental change to the character of the rural area.
- (Slide) Turning to the design of the dwelling, you can see:
 - Red tiled roof which is an alien feature on the NI landscape
 - Two large two storey projections
 - Heavy stone detail
 - Horizontal influence
 - Wrap around balcony
 - Overtly suburban appearance
- Rural design is not subjective. The principles of rural design are clearly defined in the document Building on Tradition, a Sustainable Design Guide for the Northern Ireland Countryside.
- Building on Tradition is a material consideration in the determination of planning applications, as set out in the SPPS.

- Paragraph 4.36 of the SPPS states, “Planning authorities must ensure that, where relevant, the planning process takes account of planning guidance contained within 'Building on Tradition”.
- Paragraph 6.78 Supplementary planning guidance contained within ‘Building on Tradition’ must be taken into account in assessing all development proposals in the countryside.
- The guidance welcomes contemporary rural design but calls for designs to reflect the traditional siting patterns, form and use of materials which characterise the built form within our local landscape. This is not the case with the proposed design.
- The large two storey projection and glazed projection within the elevations are not characteristic of rural design.
- The horizontal influence to the arrangement of the windows to both the front and rear elevations and the attached double garage are also not appropriate features in rural design.
- The side elevations show more clearly the length of the development with the main body of the dwelling linked to the detached garage by a 1st floor terrace. This gives the dwelling an excessive footprint which is problematic for a sloping site.
- You can see the overall design from the composite plan.
- This next slide shows the block plan in more detail. You can see how the long section of the L-shaped footprint runs at right angles to the slope of the site. This is also contrary to policy as see note on drawing referred to in Building on Tradition.
- The last slide is taken from Building on Tradition and shows examples of the impact of excessive cut and fill along with examples of how to develop a sloping site.
- Therefore, the proposal fails Policies CTY 13 and 14 of Planning Policy Statement 21 in that the design is inappropriate for this rural setting.
- The proposed building fails to blend with the landform and would fail to blend into the surrounding landscape; and if approved would result in a detrimental change to the rural character of the area.

- DFI Roads, DFI Rivers, NIEA (Water Management Unit), NI Water and Environmental Health were consulted on the application and raised no objections.
- No representations have been received.
- The application is recommended for Refusal.

The Chair invited questions for the Senior Planning Officer.

An Elected Members said that the red tiles were not insurmountable, application was acceptable and referred to a similar type of dwelling in the area.

The Chair invited L Kennedy to speak in support of the application.

L Kennedy advised that Outline planning permission had been granted in January 2022 for the lower part of the site to avoid prominence and the build is set back 120m with rising backdrop of land on a small minor road. L Kennedy said that a traditional Ulster farmhouse approach has been taken and a precedent already set in previous cases and that the desire is for the family to make this their forever home. L Kennedy said that build, design finishes and materials is similar in style to nearby development and that there have been no objections to this application.

The Chair invited questions for the Speaker.

There were no questions for the Speaker.

The Senior Planning Officer confirmed that there had been no objections to the principle of development of a dwelling on site. The Senior Planning Officer said that there was not compliance with Building on Tradition and that the public interest and not the individual test which required to be met. The Senior Planning Officer said that policies and guidance have been through due process applicable at this time and carry significant material weight in the assessment of planning applications.

Proposed by Councillor Watton

Seconded by Councillor Peacock

-That decision on design is deferred pending discussions between Planners and Applicant with decision delegated to Officers, if agreement is not reached the matter to be re-tabled at Planning Committee.

The Chair put the proposal to the Committee to vote
11 Members voted For; 0 Members voted Against; 0 Member Abstained
The Chair declared the Motion Carried

RESOLVED - That decision on design is deferred pending discussions between Planners and Applicant with decision delegated to Officers, if agreement is not reached the matter to be re-tabled at Planning Committee

- * **The Chair declared a lunch recess at 12.50 pm.**
- * **Committee and Member Services Officer I Owens, left The Chamber at 12.50 pm.**
- * **Civic Support Officer and Committee and Member Services Officer S Duggan arrived in The Chamber at 1.30 pm.**
- * **The meeting reconvened at 1.30pm.**
- * **Alderman S McKillop joined the meeting.**
- * **Councillor Anderson joined the meeting.**

5.8 LA01/2021/0803/O, Referral, Approx 273m South of 136 Moyan Road, Dunloy

Report and Speaking Rights Template (with maps) for James Dunlop were previously circulated, presented by Senior Planning Officer, M Wilson.

Referred Application to be determined by Planning Committee

App Type: Outline

Proposal: Proposed Replacement Dwelling and Garage

Recommendation

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.

Senior Planning Officer presented as follows:

- Outline planning permission is sought for a proposed replacement dwelling and garage.
- This is a local application and is being presented to Committee as it has been referred to the Committee for decision. You have the Planning Committee report in front of you.
- (slide) The site is not located within any settlement development limit as defined in the Northern Area Plan 2016 and is sited approx 270m South of 136 Moyan Road, Dunloy. This is the site location plan showing the site

outlined in red with the candidate building to be replaced showing in green.

- (slide) This is an aerial view of the site showing its rural location and tree coverage on site.
- As set out in the Report, the proposal has been assessed against the relevant policy within Planning Policy Statement 21, which is policy CTY 3, and goes on to consider and assess if this application meets the necessary criteria to qualify as a replacement dwelling.
- (slide) The site is located just off the Moyan Road and this shows a picture of the existing buildings on site. There is the candidate building for replacement which is shown gable ended to the road, and a second building within the site running parallel to the Moyan Road, and at right angles to the other.
- These are some other photos of the candidate building which shows all walls intact, but that it does not exhibit the characteristics of a dwelling, rather more that of an outbuilding or garage.
- (slide) The agent has submitted floor plans and elevations and has indicated that an opening on the external gable is an existing fireplace opening – shown on the drawings, and then [SLIDE] if we go back to the photos you can see the opening which is at a high level, and is not centred within the gable – it would be unusual on any older dwelling that chimney would not be constructed perpendicular to the fireplace opening/hearth and offset in such a way. Notwithstanding this, the element is showing on the external wall and if this was a fireplace would much more reasonably be associated with any building that was previously attached to the candidate building.
- It is considered that the candidate building, while all walls are intact, it does not exhibit the characteristics of a dwelling and the proposal is contrary to Policy CTY 3.
- 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 as covered in Para. 8.23-8.26.
- There are no third-party representations on the proposal.
- Refusal is recommended.

The Chair invited questions for the Senior Planning Officer.

Councillor Storey referred to paragraph 1 of policy CTY3, he queried how, in planning terms, exhibits of the essential characteristics of a dwelling was determined, assuming doors and windows Councillor Storey cited "*and as a minimum all external structural walls are substantially intact.*"... "*used as dwellings*".

Senior Planning Officer clarified there were two parts, the first the essential characteristics of a dwelling, would mean a dwelling – would look at how it was built, its form, internal subdivision, fireplace, other dwelling features related to a dwelling, he advised a garage door on a gable wall into the dwelling would not be expected or an external fireplace at first floor level.

Senior Planning Officer clarified the second part, *previously used as a dwelling*. If used as a dwelling, what characteristics demonstrate that - no internal subdivision, door and window, what one would expect to see, as a matter of fact and degree of what was on site, all of the evidence; would it be normal to have a fireplace on the first floor on the external gable. It is more likely that this related to a building attached to this one, was it a window, one does not know, the building must exhibit characteristics of a dwelling. Senior Planning Officer referred to other features such as a porch, kitchen, bedroom, second floor, an external chimney, it was a question for the decision maker, as a judgment call.

Councillor Storey cited from paragraph 3 of policy CTY 3, "*that favourable consideration would however be given to the replacement of a redundant non-residential building with a single dwelling, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality*". Councillor Storey sought clarification there was still provision

in Policy to not have essential characteristics, to consider a replacement non-residential building, was there allowance in policy CTY 3.

Senior Planning Officer drew attention to paragraph 5.18 of PPS 21, Annex 2 "Vernacular Buildings" which set out what those characteristics may be.

Alderman Boyle advised of a family member whose fireplace was within a wall and not on the ground level but raised up, a modern fashion that did occur in the past. She advised the application had two chimneys that had been removed on the plan. Alderman Boyle sought information on the Preliminary Ecological Appraisal (PEA) to take place in May, she questioned whether timing was an issue, and would a deferral be useful.

The Head of Planning advised a Preliminary Ecological Appraisal (PEA) should have been submitted with the application as referred to in the Biodiversity Checklist as potential for protected species to be present, the application cannot be determined as an approval without the PEA and needs to be submitted for consideration. The Head of Planning clarified the Agent advised of a fireplace on the first-floor level but this is on the external wall.

Senior Planning Officer clarified a Biodiversity checklist identified a PEA was required and NED (Natural Environment Division) supported. The PEA had not been submitted by the Agent, as the principle was unacceptable and the Bat survey could only be undertaken between May and September and was required if species of bats were identified and if missed it would wait until the next calendar year.

Councillor Peacock referred to the speaking template, advised she had visited an historically preserved building that was not sub-divided inside and people slept in the kitchen. She considered people generally lived different and in a higher level of poverty, it was not unreasonable to bear this in mind.

Councillor Watton referred to two houses on Society Street Coleraine that had been opened from 80 years ago. Councillor Watton queried whether there were historical records to show Planning Committee the dwelling.

Senior Planning Officer clarified that it may have been previously used as a dwelling but the critical test was that it would have to exhibit the essential characteristics of a dwelling; looking at historical records was not enough. He clarified the Agent had stated it was a dwelling, the other an outbuilding.

The Head of Planning clarified historical records were normally submitted by the Applicant, and would only show buildings present on site. The Head of Planning reminded Planning Committee of Justice Scoffield's recent Judgment¹, East Road Drumsurn and cited from the document, para [27] and [28]:

"...planning authorities do not live in the world of Humpty Dumpty where the words used in a policy can be applied so flexibly as to render them devoid of sensible meaning (see Lord Reed in Tesco [2012] UKSC 13, at paragraph [19]). Second, albeit judgment may require to be exercised in matters of evaluation, there are other matters (such as the ascertainment of physical features on the ground) which may require assessment as a matter of fact, rather than the exercise of judgment, where judicial review will lie more readily in the case of a clearly established error. And, third, even where judgment is concerned, although the court's role is then extremely limited, it retains a residual discretion to review for irrationality or Wednesbury unreasonableness."

"In short, a planning authority is not entitled to stretch the language of a planning policy beyond breaking point; not to maintain that black is white."

And para. [32]

"...the spirit of policy CTY8 is met." This usually means that the conditions in the relevant policy are not met but in a way which the applicant contends is minor. Such a submission to planning committee members can be an extremely dangerous one because it is apt to confuse the position between a situation where policy conditions are met (and the proposal is policy compliant) and a situation where policy conditions are not met in some material way (and the proposal is policy non-compliant). In order to properly direct themselves, planning decision-makers must correctly understand whether a planning

¹ Judicial Review Ref: SCO12472, ICOS No: 21/078576, Delivered: 25/03/2024

policy authorising development is complied with; or whether they are proposing to grant planning permission notwithstanding that the relevant policy is not complied with. In the latter instance, the decision-maker must recognise that they are granting planning permission which is contrary to planning policy and have valid planning reasons for doing so.”

Alderman Scott referred to the photographs, he queried whether the Senior Planning Officer had been inside to see if the characteristics there might lead to the conclusion whether it was, or was not, a residence. Alderman Scott stated there appeared to be one red tile on a floor, sash windows blocked up and would conclude that it was unlikely this was where animals were kept. Alderman Scott requested whether there was anything to assist Planning Committee in order to make a decision.

Senior Planning Officer advised the Agent had prepared a package of photographs, these were not taken by Planning Department and they could be illustrated for Committee. He clarified the Agent had submitted old OS Maps. Senior Planning Officer invited Planning Committee Members to view the hard copy photographs.

- * **Senior Planning Officer and Planning Committee Members moved to the centre table and conversed at 1.56pm.**
- * **Senior Planning Officer and Planning Committee Members moved back to their seats at 2.00pm.**

The Chair invited questions for the Senior Planning Officer.

Councillor Storey referred to paragraph 1 of policy CTY 3 that made reference to, “as a minimum”, basic requirement of the policy to establish the principle being a replacement dwelling, “external structural walls are substantially intact”, and taking into account Justice Scofield comments.

Senior Planning Officer agreed all walls were intact, he clarified there were two parts to the Policy,
1 – all external walls substantially intact, if there were no walls substantially intact, it would fail the policy. The Head of Planning clarified there were two hurdles, 1) the essential characteristics of a dwelling and 2) external walls substantially intact.

Councillor Peacock stated that, given the photographs, the features of the fireplace, the built-up doorway and built up window, it was clear it was a dwelling, the fireplace with red brick clearly visible inside.

The Chair invited J Dunlop to speak in support of the application.

J Dunlop stated he noted the comments within the Case Officer's report.

J Dunlop stated the site shows a dwelling within 1913 OS Maps, with entrance pillars, a well, the dwelling stood for many years. The report at paragraph 2.1 states two stone buildings, the first located in the middle of the site was the subject of the application, with eaves, bangor blue slates, three doors, the other a stone shed to serve the dwelling house now used as storage with double metal doors in the gable, one window, one door, intact, corrugated metal cladding and both on OS Maps. J Dunlop stated the shed is at a lower level than the dwelling house in centre of the site. Dwelling used for storage had internal wall and chimney, the external walls blocked up and this highlighted 7 or 8 of the characteristics of Annex 2 of PPS 21.

J Dunlop advised there were no letters of objection, Environmental Health had no objections, the site complies with Policy CTY 13 and 14, and requested Planning Committee approve the application. J Dunlop clarified the PEA was not required, and if it had been he would have provided it, referring to paragraph 8.17 of the Planning Committee report.

The Chair invited questions for the Speaker.

Councillor Storey sought clarification the photographs illustrated a slate roof, and the other building had a corrugated roof, built without formal plan, was linear in depth and asked what that meant.

J Dunlop confirmed that was correct. In the olden days they did not use beams and normally built to a depth of 6m that the rafters can only take that.

Alderman Boyle enquired of the speaker would the Preliminary Ecological Application (PEA) be carried out?

J Dunlop advised the refusal was advised in October, they had missed the date for HED and had to wait until May, the PEA was in place to be carried it out.

Alderman S McKillop stated Photograph 8 inside the building indicated an opening for a fireplace and showed red brick associated with a fireplace.

J Dunlop confirmed he had the photograph.

Proposed by Councillor Storey
Seconded by Councillor Peacock

- That the Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve outline planning permission subject to the submission of an acceptable PEA for the following reasons:

- Under paragraph 1 of policy CTY 3, two parts exhibits the essential characteristics of a dwelling and substantially intact;
- The Agent has further convinced and helped to understand his submission what an existing structure was, with no formal plan, linear, elongated, depth, no load bearing materials, door, window openings, slate roof; if for animals assumed consistent with other buildings with corrugated roof – there is a distinction between dwelling and outbuilding. Material provided by Agent;
- Agent to be commended with the amount of help to establish the principle, under policy CTY 3, this application meets Policy CTY 14 and CTY 13, will carry out PEA;
- Photograph 8 shows a fireplace, red brick indicates there was a dwelling along with doors and windows.
- That was site the applicant decided they wanted to use.

Alderman Boyle sought clarification of the PEA.

The Head of Planning clarified the application requires the submission of a PEA and satisfactorily cleared through NED.

Alderman Hunter enquired if the proposer could give a reason for Refusal reason under policy CTY1.

Councillor Storey advised that was the site the applicant decided they wanted to use. The Head of Planning clarified if accepted under Policy CTY 3 then as one of the exceptions listed under policy CTY 1 is accepted.

The Chair put the motion to the Committee to vote.

Committee voted unanimously in favour.

The Chair declared the motion carried and application approved.

RESOLVED - That the Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve outline planning permission subject to the submission of an acceptable PEA for the following reasons:

- Under paragraph 1 of policy CTY 3, two parts exhibits the essential characteristics of a dwelling and substantially intact;
- The Agent has further convinced and helped to understand his submission what an existing structure was, with no formal plan, linear, elongated, depth, no load bearing materials, door, window openings, slate roof; if for animals assumed consistent with other buildings with corrugated roof – there is a distinction between dwelling and outbuilding. Material provided by Agent;

- Agent to be commended with the amount of help to establish the principle, under policy CTY 3, this application meets Policy CTY 14 and CTY 13, will carry out PEA;
- Photograph 8 shows a fireplace, red brick indicates there was a dwelling along with doors and windows.
- That was site the applicant decided they wanted to use.

RESOLVED – that Conditions and Informatives are delegated to Officers.

* **Councillor Wallace left the meeting at 2.18pm.**

5.9 LA01/2022/0885/O, Referral, Site adjacent to No. 55 Green Road, Quilly, Coleraine

Report and Speaking Rights Template for Richard Moore, previously circulated was presented by Senior Planning Officer, M Wilson.

Referred Application to be determined by Planning Committee

App Type: Outline

Proposal: Proposed site for “rounding off” of cluster of dwellings adjacent to No. 55 Green Road, Quilly, Coleraine.

Recommendation

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.

- Outline planning permission is sought for a site for “rounding off” of a cluster of dwellings adjacent to No. 55 Green Road, Quilly, Coleraine
- This is a local application and is being presented to Committee as it has been referred to the Committee for decision.
- (slide) The site is not located within any settlement development limit as defined in the Northern Area Plan 2016 and is located within the countryside. This is the site location plan showing the site outlined in red.
- (slide) This is an aerial view of the site showing the surrounding developments with dwellings close to the site and some farm buildings to the east. You will also see the arrangement of the site, with an access directly to the north of the site and then a

further access to the development to the east just south of No.55 Green Road.

- As set out in the Report, the proposal has been assessed against the relevant policy within Planning Policy Statement 21, which is policy CTY 2A, and goes on to consider and assess if this area meets the necessary criteria for a dwelling and if the proposed site qualifies as an acceptable site within that cluster.
- The site is located at an access to 2 dwellings Nos 59 and 55a just off Green Road. [Slide]. This is a view of the site travelling south along Green Road with the site located on the left hand side of the road and you will note that the site is well screened from view.
- (slide) A view from the South, travelling north along Green Road with the site on the right. Again you will note the vegetation.
- (slide) Now moving to the access on the north side of the site with the site over to the right and a photo showing that relationship.
- (Slide) The access to the south of No.55 Green Road which accesses the dwellings and buildings to the east of the site.
- (Slide) This slide shows that access that runs from the North of the site and with an entrance to No. 59 in the background and how the access enters into the property at No.55a. This is important to note the relationship between the rear of the site and the dwelling at no.59 for the purposes of being bound on 2 sides.
- (Slide) This is the concept arrangement submitted by the agent, showing how the site will be accessed off the access to Nos 59 and 55a and how a dwelling can be sited on the site.
- The assessment against the criteria of Policy CTY 2a is set out in Paragraph 8.4 of your Committee report and you will note that while it is accepted that the site is bound on 2 sides having regard to the domestic access that runs between the site and No.59, it is considered that the development is not a visual

entity due to the limited views of the development that may sit within any cluster, and that if it is accepted as a cluster it is not associated with any focal point. While the other tests are considered to be satisfied, the policy headnote states that planning permission will be granted provided all the criteria are met. As 2 of the criteria are not met, the proposal fails to meet Policy CTY 2a of PPS 21.

- The proposal fails to meet the criteria for the principle of development under Policy CTY 2a.
- (Slide) It is considered that given the existing vegetation and subsequent views of the site, that, on balance a dwelling on this site will not be contrary to Policy CTY13. However, as the proposal creates a ribbon of development along Green Road, it is contrary to Policies CTY 8 and CTY 14 of PPS21.
- DfI Roads, NI Water and NIEA (Water Management Unit), Environmental Health and DAERA Natural environment were consulted on the application and raise no objection.
- There are no third-party representations on the proposal.
- The application is recommended for Refusal.

Further Information:

- Established position of PAC through Planning Appeal decisions and the Planning Department that development/cluster needs to be associated with a focal point. There are numerous decisions in the Council area including in Jan 2017 - 2016/A0099 commissioner concluded a cluster needs to be associated with a focal point and requires physical or visual relationship.
- 2021/A0119 which was a decision in 2023 and the Commissioner concludes not only do you require a focal point, it is required to be associated or grouped with a cluster.

The Chair invited questions to the Senior Planning Officer, there were no questions put.

The Chair invited R Moore to speak in support of the application.

R Moore stated the lane served three dwellings of family (Moody) who lived and farmed for forty-two years. The applicant has applied on the brother's farm to be close to care for elderly parents and her disabled nephew. Cluster is a visual entity – one way stretch, steep rise of land, in a gap between no. 55, no. 55a and rounding off. Secondly, the cluster dwelling and farm development are the only visual entity on the road and satisfy Policy CTY 2A. There were other examples of approvals where there was no focal point eg Ringrash Road.

Councillor Peacock sought clarification of the application reference within the speaking notes that was similar. Councillor Peacock stated weight had been given to that application, it was enclosed on all sides, there was a significant difference with the existing development and queried this.

R Moore clarified all other criteria bar a focal building had been met, PAC decision had been a focal building was not necessary. R Moore advised the site is bounded by two sides and meets the criteria of the Policy.

Councillor Storey referred to the Planning Committee report paragraph 8.12, policy CTY8 Ribbon Development; policy CTY 14 a,c,d, questioned whether the applicant had ownership.

R Moore clarified Certificate C had been applied, the Applicant's brother owned all the land.

The Head of Planning reminded Planning Committee Members of Justice Scoffield's Judgment and para. [32]

"...the spirit of policy CTY8 is met." This usually means that the conditions in the relevant policy are not met but in a way which the applicant contends is minor. Such a submission to planning committee members can be an extremely dangerous one because it is apt to confuse the position between a situation where policy conditions are met (and the proposal is policy compliant) and a situation where policy conditions are not met in some material way (and the proposal is policy non-compliant). In order to properly direct themselves, planning decision-makers must correctly understand whether a planning policy authorising development is complied with; or whether they are proposing to grant planning permission notwithstanding that the relevant policy is not complied with. In

the latter instance, the decision-maker must recognise that they are granting planning permission which is contrary to planning policy and have valid planning reasons for doing so.”

The Head of Planning cited further from the Judgment:

[27] As I observed at para [18] of the leave ruling in this case, even in relation to planning policies which involve judgment-laden concepts, the invocation of the exercise of planning judgment is not a magic shield which invariably wards off any prospect of successful challenge by way of judicial review:

“Although the application of Policy CTY8 calls for the exercise of planning judgment in places, there are limits to how far that may go for three reasons. First, as authority establishes, planning authorities do not live in the world of Humpty Dumpty where the words used in a policy can be applied so flexibly as to render them devoid of sensible meaning (see Lord Reed in Tesco [2012] UKSC 13, at paragraph [19]). Second, albeit judgment may require to be exercised in matters of evaluation, there are other matters (such as the ascertainment of physical features on the ground) which may require assessment as a matter of fact, rather than the exercise of judgment, where judicial review will lie more readily in the case of a clearly established error. And, third, even where judgment is concerned, although the court’s role is then extremely limited, it retains a residual discretion to review for irrationality or Wednesbury unreasonableness.”

Proposed by Councillor Anderson

Seconded by Councillor Watton

- That Planning Committee defer the Application for a Site visit, to see it on site and to see more information.

The Chair put the motion to the Committee to vote.

Committee voted unanimously in favour.

The Chair declared the motion carried and application deferred.

RESOLVED - That Planning Committee defer the Application for a Site visit, to see it on site and to see more information.

5.10 LA01/2021/0650/F, Referral, Lands Between 46 Glenshesk Road, Drumahaman Bridge, Ballycastle

Report, Addendum and Speaking Rights template for M McKeown were previously circulated and presented by Senior Planning Officer M Wilson.

Referred Application to be determined by Planning Committee.

App Type: Full

Proposal: Proposed New Infill Dwelling and Detached Garage

Recommendation

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.

Addendum Recommendation

That the Committee note the contents of this Addendum and agree with the recommendation to Refuse the application in accordance with sections 1 and 9 of the Planning Committee report.

- Full planning permission is being sought for an infill dwelling and garage.
- This is a local application and is being presented to Committee as it has been referred to the Committee for decision. You have your Planning Committee report in front of you and you also have an addendum.
- The Addendum supplements a point made in Para 8.7 of the Report as the applicant's agent has indicated that they are not relying on development within the settlement limit of Ballycastle for the purposes of CTY 8; rather they are relying on a bridge as this is on the listed buildings register. The addendum deals with this point and in summary through several PAC decisions, for the purposes of policy CTY 8 a building should be given its natural, every day meaning. In Paragraph 9 of Planning Appeal 2020/A0042, the Commissioner concludes that wing walls, gates or ruins, or a building under construction do not constitute buildings for the purposes of policy CTY 8. This supports the position adopted in Addendum that anything other than a building with walls and a roof is not a building for the purposes of policy CTY 8.
- (Slide) This shows the red line of the site and you can see the relationship of Nos 46 and 48 to Glenshesk Road and that these both run parallel to each other with No.48 sharing a boundary with the Glenshesk Road and now (Slide) a satellite image of the site. Again you can see that relationship.

- (Slide) This slide is an extract from the Northern Area Plan and shows the site is not located within any settlement development limit as defined in the Northern Area Plan 2016 — you can see where exactly the Settlement Development Limit is. There is A Local Landscape Policy Area (BEL 03 Carey River LLPA) designated and the site is within the Antrim Coast and Glens AONB.
- The application has been submitted as an infill dwelling and been assessed as such with the consideration set out in Paras 8.4-8.8 of the Committee Report and supplemented by the Addendum regarding the status of the bridge. And then just moving to the next slide, [SLIDE] you will see some photos of the site and its surroundings.
- This photo shows the dwellings in the distance within Ballycastle and the site to the right. There is the Carey River and golf course beyond the site. (Slide) This is just a closer image of the site, [SLIDE] and then a photo from the bridge looking towards Ballycastle — you can see the bridge structure and that it is not a building.
- (Slide) Just moving around and looking south you can see the site on the left with the dwellings at No.46 and 48 in the distance.
- (Slide) This slide shows how no.48 has a frontage to Glenshesk Road while No.46's curtilage runs parallel to No.48 and shares its boundary with No.46.
- (Slide) This is a full application with full details submitted including the proposed block plan. Having regard to Policy CTY 8 it is considered that there is not a continuous and built up frontage for the purposes of policy CTY 8 and therefore, in principle is unacceptable and is not considered to be an exception and adds to ribbon development along Glenshesk Road.
- As this proposal is for a dwelling and not development essential for agricultural purposes. Given the policy context and the siting to the south of Carey River within the LLPA, the sensitivities of this landscape and that this area is within the Antrim Coast and Glens AONB, the proposal is contrary to Policies ENV 1 and BEL 03 of the Northern Area Plan 2016. It therefore falls that given the sites relationship to Ballycastle that it would mar the distinction between Ballycastle and the countryside if developed and would unacceptably impact on the AONB.

- The proposal fails to integrate given how open the site is, and any development on this site would appear prominent.
- The proposal, if approved, would create a ribbon of development along Glenshesk Road which is Contrary to policy CTY 8 and is also contrary to policy CTY14.
- A dwelling on the site will be a prominent feature on the landscape due to the lack of integration and is contrary to Policy CTY13 of PPS 21.
- Dfl Roads, Dfl Rivers, HED, NI Water, NIEA, Environmental Health, SES and NIE were consulted on the application and raise no objection.
- There are no letters of support or objection to the proposal.
- Refusal is recommended.

The Chair invited questions of the Senior Planning Officer.

Alderman Scott commented whether a gap site or whether no.s 38 and 40 are in the urban area and cannot count towards Policy?

Senior Planning Officer stated that the Agent was relying on the Bridge for a gap site between the bridge and two dwellings at no. 46 and no. 48.

The Chair invited M McKeown to speak in support of the application.

M McKeown stated the application was for C Donnelly who lived next door to no. 46 to build a family home, the application in process for 3 years. All required additional information, an ecological survey, bat and otter survey at considerable expense had been met at serious cost. M McKeown stated the following points:

- Meets criteria of policy CTY8 as a gap site, two houses no. 46, no. 48 and a Bridge to the west, the Bridge is a Listed Building as such described as a building, Ref H30 504206. More than in relation to walls and piers, bridge significant more in scale and mass is clear much more than those elements;

- Drawing PL03 indicates elevation adjacent to site. Policy CTY 13 criteria is met - visually integrates, appropriate design in accordance with Building on Tradition, typical of new build, split level using contours of site. The building is positioned at a lower level than adjacent dwelling. Reduced ridge height to 6.5m, bounded by Carey River and dwelling and neighbouring properties give a suitable degree of enclosure;
- LLPA will not be adversely affected;
- Vacant land cut off Ballycastle, unsuitable for agricultural purposes, close to second tee on Golf Course and is on extreme edge of BEL03;
- Meets policy CTY 14 designed so that it does not erode or change the character of the area, similar one off detached dwelling;
- Ribbon development is avoided;
- Traditional vernacular, utilities recommendation in Design Guide;
- Will not result in urban sprawl;
- Policy CTY 15 - Existing dwellings no. 46, no.48, no. 49 new distinct urban and rural setting; already marred with the existing street lighting and 30mph signs;
- Infill rounding off effect;
- Would not create a precedent;
- Will not rely on dwellings within the settlement.

Councillor Storey referred to the Agent's view of the bridge, designated as a building, given the reference to Scoffield, the document says a bridge is a building, he considered there were two clear different interpretations of Policy.

Alderman Scott stated even if the bridge were to be accepted, where were the three frontages on the road to satisfy the criteria to justify the gap site?

Senior Planning Officer clarified the location of the bridge, no. 46 at the entrance before no. 48 to the east. Senior Planning Officer advised the matter addressed in the Addendum, that PAC (Planning Appeals Commission) go into the matter. Senior Planning Officer clarified the Policy interpretation of the everyday meaning should be taken in terms of a building for the purposes of this policy, eg: a roof, walls, a dwelling, a shed, a factory.

Councillor Storey stated he was not sure he agreed and was not a question for today.

Proposed by Councillor Kennedy
 Seconded by Councillor McMullan

- That the Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to Approve outline planning permission for the reasons:
- Meets policy CTY 8 represents a gap site between a continuous built up frontage between no. 46 and no. 48 and Bridge, a Listed Building;
- Meets policy CTY 13, visually integrates in the landscape, appropriate design, Building On tradition and bounded by vegetation; on two sides neighbouring properties give a degree of enclosure and integrate in the landscape;
- Does meet policy CTY 14 design does not cause detrimental change or erode character of rural setting;
- Ribbon development avoided if infill;
- Policy CTY 15 dwelling will not add urban sprawl the distance urban and rural setting no's 46, 48, 49 already mar as are within the speed limit;
- Infill enhances distinct create rounding off this area of Ballycastle.

Councillor Peacock added Street Lights part of Ballycastle and 30 mph significant weight round, off, not adding but instead a gap site within recognised developed areas.

Alderman Scott requested a Recorded vote.

The Head of Planning reminded Planning Committee Members of Justice Scofield's Judgment and cited from the document:

[27] Although the application of Policy CTY8 calls for the exercise of planning judgment in places, there are limits to how far that may go for three reasons. First, as authority establishes, planning authorities do not live in the world of Humpty Dumpty where the words used in a policy can be applied so flexibly as to render them devoid of sensible meaning (see Lord Reed in Tesco [2012] UKSC 13, at paragraph [19]). Second, albeit judgment may require to be exercised in matters of evaluation, there are other matters (such as the ascertainment of physical features on the ground) which may require assessment as a matter of fact, rather than the exercise of judgment, where judicial review will lie more readily in the case of a clearly established error. And, third, even where judgment is concerned, although the court's role is then extremely limited, it retains a residual discretion to review for irrationality or Wednesbury unreasonableness."

[28] In short, a planning authority is not entitled to stretch the language of a planning policy beyond breaking point; nor to maintain that black is white.

32] As noted above, the notice party also contended that his proposal was within “the spirit” of Policy CTY8. This echoes a representation made by Mr Boyle to the planning committee, which is set out in the minutes, that “the spirit of policy CTY8 is met.” This usually means that the conditions in the relevant policy are not met but in a way which the applicant contends is minor. Such a submission to planning committee members can be an extremely dangerous one because it is apt to confuse the position between a situation where policy conditions are met (and the proposal is policy compliant) and a situation where policy conditions are not met in some material way (and the proposal is policy non-compliant). In order to properly direct themselves, planning decision-makers must correctly understand whether a planning policy authorising development is complied with; or whether they are proposing to grant planning permission notwithstanding that the relevant policy is not complied with. In the latter instance, the decision-maker must recognise that they are granting planning permission which is contrary to planning policy and have valid planning reasons for doing so. (A similar issue arose for consideration in *Re Portinode’s Application* [2022] NIQB 36, at paras [18]-[25].)

The Head of Planning stated Planning Officers reports be given considerable weight. The Head of Planning cited Refusal Reasons 2 and 3. The Head of Planning advised reasons were needed surrounding policy ENV 1 and BEL03 of the Northern Area Plan, how it was essential for agriculture purposes, that must be recorded before moving to the vote around the LLPA and BEL03. The Head of Planning referred to Policy ENV1 and BEL03, the application was not essential for agriculture purposes.

Senior Planning Officer referred Committee to paragraphs 8.9-8.11 of the Planning Committee report, the Carey River, lands south were the designated features to be protected and BEL03 – agriculture purposes. Senior Planning Officer clarified policy ENV1 applies to all LLPA designations and if any features impacted it would be contrary to policy ENV1. BEL03 applies to land south of Carey River. This site would fall within that land and can only consider essential for agriculture purposes.

The Chair added he could not see how the application would adversely affect the environment designation of the LLPA area around the Carey River. The word ‘appropriate’ could be taken in different ways, if proper design of a house it is appropriate. Other development along the Carey River was not agriculture.

Councillor Peacock questioned there was already development there how did it tally with a consistent approach? Referred to Refusal Reason 2 and queried how it would be specifically determined this proposal would have an adverse impact.

The Head of Planning advised the Policy required to be implemented and would need reasons in terms of BEL03 and policy ENV1. The Head of Planning advised the LLPA and policy was determined through public consultation through the Northern Area Plan, Public Inquiry with the Planning Appeals Commission and which was now adopted, and to bear in mind Justice Scoffield comments previously referred to.

Senior Planning Officer cited read policy ENV1 and BEL03 to Members. Senior Planning Officer presented a slide showing BEL03 land directly south of Carey River the feature to be protected.

Councillor Peacock referred to potential agriculture issues, and considered to defer to give the opportunity for further information.

Proposed by Councillor Peacock
Seconded by Councillor Nicholl

- That Planning Committee defer LA01/2021/0650/F, Referral, Lands Between 46 Glenshesk Road, Drumahaman Bridge, Ballycastle for further information.

Alderman Hunter queried whether the second motion was legal.

The Chair and Councillor Kennedy withdrew their proposal.

The Chair put the motion by Councillor Peacock, seconded by Councillor Nicholl to the Committee to vote.

Committee voted unanimously in favour.

The Chair declared the motion carried and application deferred.

The Chair declared a recess at 3.17pm.

* **The meeting reconvened at 3.28pm.**

* **Councillor Anderson did not re-join the meeting.**

6. CORRESPONDENCE

The Head of Planning advised the correspondence was for noting and was presented as read.

6.1 Donegal CoCo correspondence RE - Consultation on Proposed Material Alterations to CDP 2024-2030

Copy correspondence previously circulated presented as read.

Re - Consultation on 'Proposed material Alteration/Changes' to the draft County Donegal Development Plan 2024-2030 including Area Plans for Buncrana, Ballybofey, Stranorlar and Bundoran and associated Environmental report, Appropriate Assessment and Strategic Flood risk Assessment, dated 3rd April 2024.

6.2 DfI "Call for Evidence" SPPS Review re: climate Change

Copy correspondence previously circulated presented as read.

Re - Department for Infrastructure 'Call for Evidence: A Future Focused Review of the SPPS on the Issue of Climate Change' – Causeway Coast and Glens Borough Council response.

6.3 FODC – Consultation – Call for Sites & SPG

Copy correspondence previously circulated presented as read.

Re - Fermanagh and Omagh District Council give notice for a call for sites exercise, which commence on 15 April 2024 and closes at 5pm on 13th June 2024.

6.4 PAC – Response to Revised LDP Timetable

Copy correspondence previously circulated presented as read.

Re - Planning Appeals Commission, dated 10th April 2024 - Revised LDP Timetable for Causeway Coast and Glens Borough Council Plan Strategy.

6.5 DAERA – Update BAT Guidance

Copy correspondence previously circulated presented as read.

Re - DAERA Planning response Team, dated 15 April 2024 – updates to the DAERA website regarding bats.

Alderman Hunter enquired what the major changes were.

The Head of Planning advised that if the Biodiversity Checklist indicates a PEA is required, this should be submitted at the outset and only consult with NED when PEA received. The issue would be addressed in the validation checklist and would be brought to Committee next month.

6.6 Marine Construction Licence

Copy correspondence previously circulated presented as read.

Re - DAERA Marine Licensing Team, dated 29 March 2024 - Marine and Coastal Access Act 2009 part 4 – Marine Construction Licence Application for Ulster Gliding Club – Removal of Concrete Blocks ML2023003.

Planning Committee NOTED the Correspondence (Items 6.1-6.6 inclusive)

7. REPORTS

7.1 Finance Report – Period 1-11

Report, previously circulated was presented as read.

Purpose

This Report is to provide Members with an update on the financial position of the Planning Department as of end Period 11 of the 2023/24 business year.

Details

Planning is showing a variance of over £11k adverse position at end of Period 11 based on draft Management Accounts. This is an increase of over £8k from end of Period 10.

The adverse position at the end of Period 11 is due largely to the adverse position in relation to salaries and wages of over £134k. The favourable position of income from planning applications and property certificates remains similar to Period 10 at just under £67k (Budget £1,193,106 v Actual £1,259,836).

The favourable position of income in addition to other expenditure costs of legal and procurement reduces the deficit to just over £11k. The favourable position in the legal expenditure will be reduced in period 12 when payment of legal costs for judicial review cases are paid.

Recommendation

It is recommended that the Planning Committee considers the content of this report for the Period 1-11 of 2023/24 financial year.

Planning Committee NOTED the Finance Report – Period 1-11.

7.2 TPO Confirmation – Mountsandel Road

Report, previously circulated presented by the Development Plan Manager.

Purpose of Report

To present, for confirmation, the TPO for site at, Lands Fronting Mountsandel Road, South of No 23, North of Sandelford Bridge, East of River Bann, Coleraine

Background

Under Sections 122 and 123 of the Planning Act (NI) 2011 and the provisions of the Planning (Trees) Regulations (Northern Ireland) 2015 the Council may make Tree Preservation Orders (TPOs) to afford statutory protection to selected trees or woodlands if their removal is likely to have a significant impact on the local environment and its enjoyment by the public.

Trees can have a high amenity value and can make an important contribution to the environment, creating a varied, interesting and attractive landscape. They can help define the character of an area and create a sense of place acting as landmark features in urban and rural areas. They also have nature conservation, historic and recreational value. Trees in the Northern Ireland landscape are limited, therefore, where they do exist their contribution is valued.

The Council may make a TPO for the purpose of protecting trees if they are considered to be of special value in terms of amenity, history or rarity, which may or may not be under threat. Therefore, to be considered for a TPO, trees must be of high amenity value and in reasonable condition. The following criteria are used when assessing the merits of a potential TPO:

- **Potential Threat:** Priority will be given to the protection of those trees deemed to be at immediate risk from active felling or damage from development on site. All other requests will be assessed and prioritised accordingly.
- **Visibility:** The extent to which the trees or woodlands can be seen by the general public will inform the assessment of whether the impact on the local environment is significant.
- **Individual Impact:** The mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The tree's particular importance will be assessed by reference to its size and form. Its future potential as an amenity should also be assessed, taking into account any special factors such as its screening value or contribution to the character or appearance of an

area. In relation to a group of trees or woodland, an assessment will be made of the collective impact.

- Wider Impact: The significance of the trees in their local surroundings will also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.
- Historical Importance: Certain trees, because of their age, association with the setting of listed buildings, or the contribution they make to the special character of a conservation area, may require consideration for TPO protection.
- Rarity: There may be occasions where a tree(s) may be considered for TPO protection solely on the grounds of its rarity. The priority of the consideration will reflect the rarity of the species.

All types of tree can be protected. The Order can cover anything from a single tree to woodlands. Normally, unless a Woodland TPO is proposed, only trees over 3.5m in height are considered for a TPO. Hedges, bushes, and shrubs will not be protected.

In terms of the process and timescales, a Provisional TPO is normally served first, with the final confirmation within six months, or it can be allowed to lapse if it is considered, as a result of detailed assessment, that the trees are not considered worthy of protection.

Site Context

The site is located on the eastern bank of the River Bann, on the Northern side of Sandelford Bridge and on the western side of Mountsandel Road. The subject land contains established trees on the elevated roadside section of the site with the vegetation cover extending approximately 180m along the eastern (roadside) boundary. The topography of the site falls significantly towards the River Bann from the Mountsandel Road.

The Northern Area Plan 2016 currently defines the site as a Housing Zoning CEH60 within the Settlement Development Limits of Coleraine, with Key Site Requirement 6 advising of the need for tree retention on site.

The trees on the site include an established and significant level of mixed trees, including Beech, Alder, Ash, Holly, Hawthorn, Sycamore and Birch.

These trees are considered to significantly contribute to the visual amenity and character of the area being visually significant from main views from Sandelford Bridge and Mountsandel Road. The trees on site provide an important visual backdrop to the zoned land and help frame views of this landmark bridge, linking through the treed character of Mountsandel Road, with existing TPO's to south (TPO69) and north (TPO43), providing a sense of continuity to this character and setting.

Reason for TPO Protection

On 7th November 2023, Development Management section requested consideration of a TPO on this site to prevent these trees being damaged or

removed as part of any potential development. This follows internal discussions on current planning application under consideration, LA01/2023/0534/F at 20m South of 23 Mountsandel Road, Coleraine relating to a proposed residential development to provide 47 units to include 18 apartments and associated engineering and landscaping.

Therefore, Planning Section considered that a level of protection was required for the trees, which are considered to make a valued contribution to the local environment and character of the area by providing an attractive landscape feature and important backdrop to the zoned housing land.

A Provisional TPO was served on site on 17th November 2023 (see Appendix 1). This notice took effect immediately and provided protection for all trees on the site for a period of six months (up until 17th May 2024). In line with legislation a copy of the Provisional TPO documentation was also posted to inform interested parties and adjoining neighbours on 17th November 2023. Copies of the Order were also attached to protected trees in obvious locations within the site on 17th November 2023.

The consultation process allowed comments/representations to be submitted within 28 days from the date of Notice of the Provisional TPO (up to 15th December 2023). One representation was received from the Department for Infrastructure (DfI) Northern Division on 7th December 2023 (see Appendix 2), advising that DfI do not own any of the land marked for the TPO.

Within this period, following a procurement process, a qualified Arboriculturist (Stephen Warren of M. Large Tree Services Ltd), was appointed to carry out a detailed assessment of the trees. This has resulted in a detailed survey of all trees on site (see Appendix 3) which helps identify the current physical condition of each individual tree, allowing for consideration of what level of protection is required.

Detailed Assessment of Trees

Mr Warren surveyed the site on 21st February 2024 (see Appendix 3). A total of sixty-one individual trees, two tree groups, and one hedge have been surveyed on the site.

The report includes specific observations and recommendations for all individual trees and tree groups. The report advises that the trees do not appear to have had recent management, with a significant amount of remedial work recommended in terms of tree groups. It is important to note that they have been grouped where the trees are of similar species, age, and condition, where canopy closure has been achieved, or where the trees have an intended purpose (such as a hedgerow or boundary). It is important that these groups are managed as single entities, as the trees within them offer protection to each other and the removal of any individual will have a direct impact on those adjacent to it.

On assessment of the Report and in terms of recommendations for the confirmation of the TPO, it is important to consider that the majority of trees on

site are considered to be in fair condition and suitable for TPO protection (35 trees are Category B with a further 12 Trees in Category C). The only trees within Category B not considered suitable for TPO Protection, due to their limited amenity value and location, include Tree No's 209 (Ash) 213 (Hawthorn) & 214 (Ash). The remaining 32 Trees in Category B are considered appropriate and worthy for TPO protection.

In terms of Category C trees, whilst they are deemed in be in poorer condition, they are still considered suitable for retention as a number of these trees still contribute to the visual amenity value of the area and still have a valued lifespan. As such, some of these trees are also considered worthy of TPO protection, including the visually significant roadside trees 201 (Sycamore), 204 (Holly), 207 (Sycamore), 232 (Ash) along with Tree 241(Ash) which will help keep the visual integrity of this tree belt. The remaining trees in Category C (including the Hawthorn/ Holly/beechn Hedge Group 264), whilst not considered worthy of TPO protection are still suitable for retention and can remain on site.

The report does however identify 17 trees that are unsuitable for retention, either due to their physical condition and/or potential impact on public safety. These trees are identified as Category U and are to be excluded from TPO protection, with a recommendation to fell these trees to maintain Site Safety. These trees include, 208, 210 (Ash), 211 (Hawthorn), 212, 229, 231, 234, 235(g), 238, 239, 243, 244, 245, 246, 247, 248 (Ash) & 256 (Alder).

Summary

In summary, site contains trees and tree groups that are considered worthy and suitable for TPO protection. These trees are assessed as having high public amenity value, being in a prominent location providing a valued contribution to the local environment and character of the area. The trees help provide an important visual backdrop to the zoned land and help frame views of Sandelford Bridge with adjacent TPO sites, bridge, linking through the treed character of Mountsandel Road and are considered worthy of TPO protection.

TPO to be Confirmed with modification to include all trees within the site with the exception of Trees 206, 208*, 209, 210*, 211*, 212*, 213, 214, 215, 225, 227*, 228, 229*, 231*, 234*, 235(g)*, 238*, 239*, 243*, 244*, 245*, 246*, 247*, 248* 256* & 264 (trees marked with * are recommended to be felled to maintain site safety)

Financial Implications

No financial implications for the Council.

Options

Option 1: Resolve to confirm the TPO with modifications as detailed above.

Option 2: Resolve not to confirm the TPO.

Proposed by Alderman Scott
Seconded by Alderman Boyle

- That Planning Committee approve Option 1: Resolve to confirm the TPO with modifications as detailed above.

The Chair enquired whether an order was made to replant dead trees when they were removed.

The Development Plan Manager clarified if trees were part of a TPO already and removed they are replanted to a standard similar in size.

In response to Councillor Watton, the Development Plan Manager clarified the trees that were outside the bulk of the development zone.

The Chair put the motion to the Committee to vote.
Committee voted unanimously in favour.
The chair declared the motion carried.

RESOLVED - that Planning Committee approve Option 1: Resolve to confirm the TPO with modifications as detailed above.

7.3 Quarterly Performance Update

Report, previously circulated, was presented by the Head of Planning.

Background

Schedule 4 of The Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015 sets out the statutory performance targets for the Planning Department for major development applications, local development applications and enforcement cases. The Planning Department Business Plan 2023-24 sets out the key performance indicators to progress towards improving Planning performance against these targets

The statutory targets are:

- Major applications processed from date valid to decision or withdrawal within an average of 30 weeks
- Local applications processed from date valid to decision or withdrawal within an average of 15 weeks
- 70% of all enforcement cases progressed to target conclusion within 39 weeks of receipt of complaint.

The Northern Ireland Planning Statistics is an official statistics publication issued by Analysis, Statistics & Research Team within Department for Infrastructure. It provides the official statistics for each Council on each of the statutory targets and is published quarterly and on an annual basis. The Third Quarter 2023/24 Statistical Bulletin was published on 28 March 2024 providing planning statistics for this period. It also provides a summary of Council progress across the three statutory targets.

Details

[Website link 1 Northern Ireland planning statistics October - December 2023 | Department for Infrastructure \(infrastructure-ni.gov.uk\)](#) provides the link to the published bulletin.

Development Management Planning Applications

Table 1, previously circulated, provides a summary of performance in relation to the statutory targets for major development applications and local development applications for the third quarter of 2023-24 business year and provides a comparison of performance against all 11 Councils and against Business Plan KPIs.

In the Q3, Causeway Coast and Glens Borough Council issued 5 major planning applications, two of which were processed within the 30 week statutory target and three outside the target, resulting in an average processing time of 54.2 weeks for Q3 and 41.9 weeks year to date (10 applications decided/withdrawn). Unfortunately, this resulted in neither the Statutory or Business Plan targets being met for major planning applications. Nevertheless, this was the fourth fastest processing time out of all 11 councils year to date. During Q3, we received the highest number of major applications and 3rd highest received year to date.

Over the same period 284 local category applications were decided or withdrawn, exceeding the number of applications received and reducing the total number of live applications from end of Q2 by 5%. The focus over the quarter of reducing the number of older applications in the system had a negative impact on processing times with the average processing time increasing significantly over this period.

Over the Q3 period 112 local applications and 3 major applications in the system over 12 months were issued/withdrawn, twice as many when compared to Q2. Of note, this Council was one of only 5 councils that reduced the % of live applications in the system over 12 months over the quarter.

In addition, 128 local category of planning applications in the 6-12 month category were also issued/withdrawn, an increase of 91% when compared to Q2 and a total of 223 YTD. Focus on issuing older application in the system will continue into Q4 which will have a negative impact on the average processing times for local category of planning applications.

Enforcement

Table 2, previously circulated, shows statistics in relation to enforcement for Q3 of the 2023/24 business year. The statutory target for bringing to a conclusion enforcement cases is not reported on at this time due to inability to extract the accurate information from the system; work to resolve this issue is nearing completion. Progress continues in terms of increasing the number of cases concluded. However, there was a significant increase in the number of cases opened in Q3 that impacted the ability to reduce live cases, an increase of 28% when compared to Q2 and a 77% increase when compared to the Q3 last year, significantly higher than any other Council. At this time, at end of Q3, the Business Plan target to reduce live cases has not been met.

Of the cases closed in Q3, 24% were remedied/resolved, 20% retrospective planning permission; 19% were closed as not expedient; 30% had no breach identified; and 7% were immune from enforcement action.

Stable Staff Resource and Reduction in Staff Caseloads – Business Plan KPI - Not Met

Work continues to decrease case loads of staff to a manageable level. The high case loads of the Enforcement Team and the Single Rural Dwellings Team remain a concern and will continue to be monitored.

Reduction in vacant posts – Business Plan KPI – on target to be met

The vacant posts have been filled by agency staff. This Business Plan KPI has been met.

Training Plan - Business Plan KPI – Met

In addition to mandatory training for all staff, in Q3 the following training was attended by staff:

- Planning Portal training
- RTPI NI Annual Law Update 2023
- Cyber Security training
- Local Council Housing Information seminar
- Validation training

Draft Plan Strategy – Business Plan KPI - on target to be met

A full member workshop was held in Q3. Other KPIs in relation to the draft Plan Strategy will follow the completion of these workshops with Members.

Number of cases where Ombudsman determines maladministration is less than 0.4% of all decisions made - Business Plan KPI – on target to be met

There have been no cases in the Q3 period of cases where the NIPSO has determined maladministration on planning decisions made. There have been no decisions by NIPSO during this period.

Recommendation

It is Recommended that the Planning Committee consider the content of the Planning Departments Quarterly Report.

Alderman Scott requested that the Planning Committee Agenda and reports were issued on a Wednesday morning.

The Head of Planning noted the request and advised she would discuss with Committee and Member Services.

Alderman Hunter requested an update on agricultural applications, hen houses etc that were required to be kept informed.

The Head of Planning clarified there were 11 agricultural applications over 24 months, 8 were with NIEA, 1 with SES, 1 with an Agent and were following up with NIEA in terms of proceeding. Consultations and consultees were holding up processing.

The Chair advised costs were going up yearly.

Councillor Storey stated the impact of the Climate Change Bill would have serious impacts on Farming, the Assembly had voted on.

Planning Committee NOTED the report.

MOTION TO PROCEED 'IN COMMITTEE'

Proposed by Councillor McMullan
Seconded by Alderman S McKillop and

AGREED – that Planning Committee move 'In Committee'.

* **Press and Public were disconnected from the meeting at 3.47pm.**

8. Confidential Items:

8.1 Update on Legal Issues

(i) Addendum - Judgment Scofield J

Confidential report by virtue of paragraph(s) 5 of Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014 was previously circulated and presented by the Council Solicitor.

Purpose of Report

To update the Planning Committee on the outcome of the Judicial Review in relation to the decision to grant planning permission for an infill dwelling at East Road Drumsurn.

Further detail was provided within the confidential report.

Recommendation

It is recommended that the Planning Committee reads the judgment and carefully considers the comments and recommendations contained therein.

Council Solicitor referred Planning Committee Members to paragraphs 27, 28, 29, 29b, 32 and 59.

The Head of Planning advised the Judgment would be added to the Members' Portal.

Planning Committee NOTED the Judgment Scofield J report.

MOTION TO PROCEED 'IN PUBLIC'

Proposed by Councillor McMullan
Seconded by Councillor Watton and

AGREED – that Planning Committee move *'In Public'*.

9. Any Other Relevant Business In Accordance with Standing Order 12 (O))

There were no matters of Any Other Relevant Business.

This being all the business the meeting closed at 4.52pm.

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