

Planning Committee Report LA01/2019/1181/O	27th January 2021
PLANNING COMMITTEE	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Protecting and Enhancing our Environment and Assets
Outcome	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
Lead Officer	Development Management & Enforcement Manager
Cost: (If applicable)	N/a

<u>App No:</u>	LA01/2019/1181/O	<u>Ward:</u>	Drumsumn
<u>App Type:</u>	Outline Planning		
<u>Address:</u>	Site adjacent to no. 293 Drumsumn Road, Drumsumn		
<u>Proposal:</u>	Outline application for a new storey and a half dwelling (incl. detached garage) as part of an existing cluster		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	25.10.2019
<u>Listed Building Grade:</u>	N/A		
Applicant:	James McGowan, 18 Mullan's Hill, Limavady, BT49 0UU		
Agent:	LAM Architects, 94 University Road, Belfast, BT7 1HE		
Objections:	0	Petitions of Objection:	0
Support:	0	Petitions of Support:	0

Executive Summary

- Outline planning permission is sought for a dwelling within an existing cluster under policy CTY2a of PPS21.
- The site is located within the countryside, outside of any defined settlement development limits as defined in the Northern Area Plan 2016.
- The principle of development is considered unacceptable in regard to the SPPS and PPS21 as there is no existing cluster of development within the countryside at this location. Buildings located within the settlement of Drumsurn cannot be used for the purposes of contributing to a cluster of development in the rural area. No overriding reasons have been forthcoming as to why the development is essential and cannot be facilitated within the development limit.
- DFI Roads, Environmental Health, DAERA- Water Management Unit, Northern Ireland Water and Shared Environmental Services all raise no objection to the proposal.
- No objections have been received
- The application is recommended for Refusal as it is contrary to Paragraph 6.73 of the SPPS and Policies CTY1 and CTY2a

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

1.0 RECOMMENDATION

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

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located adjacent to and North West of no. 293 Drumsurn Rd, Drumsurn. The site is located at the end of a private lane to the south of the main Drumsurn Road, which currently serves three residential properties no. 295, 293b and 293 which is the last property. The application site comprises the northern part of an agricultural field, which appears to have been subdivided with a post and wire fence running generally east to west from the existing field gate. There is a slight undulation across the site and a general fall from north to south. The northern portion of the site contains a number of mature trees, primarily along the northern and western boundaries, with some within the main body of the site. The remainder of the western boundary is sparsely defined by hedgerow which has been cut back. The eastern boundary is defined to the northern portion by post and wire fence with the southern portion, which forms the site boundary to No. 293 being defined by laurel hedge which is approximately 1.5m in height. The southern/south western boundary of the site is undefined.
- 2.2 This application site is within the open countryside, outside of any settlement limit as defined by the Northern Area Plan 2016. The application site is located approximately 140m South West of the settlement limit of Drumsurn. There is a dwelling and garage located immediately adjacent the site at No. 293. The other two properties along the laneway at Nos. 295 and 293b, and the GAA Pitch to the north of these dwellings, are all within the settlement limit of Drumsurn.

3.0 RELEVANT HISTORY

3.1 No relevant planning history on application site

4.0 THE APPLICATION

4.1 Outline Planning Permission is sought for a proposed dwelling and detached garage/store. The application site is located within an agricultural field which contains mature trees to the northern portion of the site. No plans relating to the scale and design of the dwelling have been submitted, however the proposal relates to the construction of a one and a half storey dwelling. This application initially had been submitted on the basis of a two storey dwelling but has been reduced in scale during the processing of the application.

5.0 PUBLICITY & CONSULTATIONS

5.1 **External:**

Neighbours: There are no objections to the proposal.

5.2 **Internal:**

DFI Roads: No objections.

Environmental Health: No objections.

NI Water: No objections.

DAERA Water Management Unit: No objections.

DAERA Natural Environment Division: No objections.

Shared Environmental Services: No objections.

6.0 MATERIAL CONSIDERATIONS

6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local

development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

6.2 The development plan is:

- Northern Area Plan 2016 (NAP)

6.3 The Regional Development Strategy (RDS) is a material consideration.

6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.

6.5 Due weight should be given to the relevant policies in the development plan.

6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7.0 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

PPS 2: Natural Heritage

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

Supplementary Planning Guidance

Building on Tradition – A Sustainable Design Guide for the NI Countryside

Development Control Advice Note 15 Vehicular Access Standards

8.0 CONSIDERATIONS & ASSESSMENT

Planning Policy

- 8.1 The proposed dwelling must be considered having regard to the SPPS, PPS policy documents and supplementary planning guidance specified above. The main considerations in the determination of this application relate to: principle of development, integration and rural character, access, flooding, natural heritage and Habitat Regulations Assessment.

Principle of Development

- 8.2 The policies outlined in paragraph 6.73 of the SPPS and Policy CTY 1 of PPS 21 state that there are a range of types of development which are considered acceptable in principle in the countryside. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. The application was submitted as a dwelling with an existing cluster and therefore falls to be assessed against Policy CTY 2a.
- 8.3 Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:
- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
 - the cluster appears as a visual entity in the local landscape;
 - the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,
 - the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;

-development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and

-development would not adversely impact on residential amenity.

- 8.4 The SPPS or Policy CTY 2a do not define what constitutes a cluster of development for the purpose of this planning policy. Planning appeal 2017/A0035 acknowledges this, but goes on to clarify that the first three criteria give an indication of its intended meaning, suggesting that in order to be a suitable cluster for development, the proposal should adhere to all three to be considered an appropriate cluster.
- 8.5 The application site lies within the rural area and sits immediately adjacent to the dwelling at No. 293. The application seeks to rely on the dwellings at nos. 293b and 295, and the GAA pitch to the north east of the site, in addition to No. 293, to meet with the criteria for a cluster of development being present at this location. However as the dwellings at Nos. 293b and 295 along with their associated ancillary and outbuildings and the GAA Pitch are located within the settlement limit of Drumsurn, they cannot be taken to represent buildings within or contributing to the formation of a rural cluster.
- 8.6 The Preamble within PPS21 states that PPS21 sets out planning policies for development in the countryside. The preamble also clarifies that *“For the purpose of this document the countryside is defined as land lying outside of settlement limits as identified in development plans. The provisions of this document will apply to all areas of Northern Ireland’s Countryside”*.
- 8.7 Therefore in assessing proposals for new dwellings in existing clusters, the criteria to which proposals must meet such as the relevant number of buildings and focal points, must all exist within the countryside. This is the settled position of the Planning Department and this assessment is consistent with that of the Planning Appeals Commission as outlined in appeals such as 2014/A0235, 2015/A0221 and 2018/A0212. As there is only one dwelling within the countryside at this location there is no existing cluster of development. The proposal is therefore contrary to Paragraph 6.73 of the SPPS and Policy CTY2a.

8.8 Even if there was a cluster of development located within the vicinity, the application site would still not be regarded as being acceptable when assessed against the criteria within Policy CTY2a. The application site along with the dwelling at No. 293 are both physically and visually removed from the surrounding development within the settlement limit of Drumsurn. There is in excess of 120m from the application boundary to the dwelling at No. 293B, with the mature trees further limiting any visually linkage between the two. Even if the dwellings at 293B and 295 were part of a cluster of development the application site would not form part of a compact visual entity in the landscape, which is the essence of what a cluster is. Policy CTY2a requires the application site to be bounded on at least two sides by other development in the cluster. The application site is only bounded on one side by development (No. 293). While the mature trees around the northern and western boundary will assist with screening of a dwelling on the site, the proposal would not result in the rounding off or consolidation of an existing cluster. For the above reasons the proposal would fail to meet the policy requirements of the SPPS and CTY2a.

8.9 Additionally, as no overriding reason has been forthcoming as to why the development is essential in this location the development is contrary to Policy CTY1 of PPS21.

Integration and Rural Character

8.10 Both the SPPS and PPS21 outline that all development in the countryside is required to integrate into its setting, respect rural character and be appropriately designed.

8.11 Policy CTY13 of PPS21 states that a new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or

(g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

- 8.12 Policy CTY14 of PPS21 states that a new building will be unacceptable where:
- (a) it is unduly prominent in the landscape; or
 - (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
 - (c) it does not respect the traditional pattern of settlement exhibited in that area; or
 - (d) it creates or adds to a ribbon of development (see Policy CTY 8); or
 - (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.
- 8.13 The site is along a laneway which serves three other dwellings and is approximately 330m back from the road. The application site is bounded to the northern and western boundaries by mature trees, which provide screening and enclosure to the site. Initially, the proposal was for a two storey dwelling, and concerns were raised by planning officials regarding the proposal's ability to suitably integrate into the landscape. In response to these concerns the applicant sought to reduce the scale of the proposal by amending the scheme to a one and a half storey dwelling.
- 8.14 The reduction in the scale of the dwelling along with the siting of the garage to the rear (south) of the proposed dwelling, will result in the proposal being able to avail of the existing natural screening to the site. When travelling along the Drumsum Rd a modest sized dwelling, of comparable scale to No. 293 would be able to satisfactorily integrate into the landscape. There are some views of the site from the Gortnagross Rd to the south west of the site. The views from here would see the dwelling sit somewhat to the rear of the mature trees at the northern end of the site. However a modestly sized dwelling would be able to avail of backdrop of the dwelling at No. 293 and surrounding vegetation to ensure that it would suitably integrate without appearing unduly prominent in line with Paragraph 6.70 of the SPPS and Policies CTY13 and 14 of PPS21.

Access

8.15 Access to the proposed site is via the existing laneway directly onto Drumsurn Rd. DFI Roads were consulted on the application and have no objections, subject to the access being constructed as per the associated RS1 form which formed part of their response. The proposal is therefore acceptable when assessed against the road safety policy requirements of the SPPS and PPS3.

Flooding

8.16 Review of the DFI Rivers Agency Flood Maps indicate that the application site is not located within the fluvial floodplain of the watercourse/mill race to the north of the site. The flood maps do indicate that the flood plain of this watercourse extends across the access laneway which serves the site and adjacent dwelling at No. 293.

8.17 Clarification was sought with DFI Rivers as to whether consultation or Flood Risk Assessment was required in this case. DFI have clarified that if the laneway was deemed to be development in the course of this application then the application would be considered to be contrary to Policy FLD1. However, as clarified by Planning Officials, the laneway presently exists with no works required to facilitate access to the site. Therefore as there is no development proposed within the 1 in 100 year fluvial floodplain, the proposal does not offend Policy FLD1 of PPS15.

Natural Heritage

8.18 Given the presence of mature trees within the site and the close proximity of watercourses north and south of the site there is the potential for the presence of priority habitats and priority and protected species to be present on the site. A Biodiversity Checklist was submitted by the applicant to assess the natural heritage value of the site. The Biodiversity Checklist was completed by an ecologist who advised that the trees within the site were assessed for bat roost potential. These trees were found to offer low potential for roosting and it is noted that none of the trees are to be removed. The proximity of the site to the Castle River to the south of the site would require best environmental practice to be adhered to during the construction phase of development. The report concludes that it is not envisaged that priority habitats or species will be impacted by the proposal and that no further surveys are required. Having

been present on site, Planning Officials concur with the recommendations within the Biodiversity Checklist. The proposal therefore meets with the nature conservation objectives of the SPPS and PPS2.

Habitats Regulations Assessment

- 8.19 The proposal indicates that foul sewage is to be disposed of via a septic tank and surface water via soakaway. Given the potential hydrological link to a designated site, via the Castle River to the south of the site Shared Environmental Services were consulted and having considered the nature, scale, timing, duration and location of the project it is concluded that it is eliminated from further assessment because it could not have any conceivable effect on the selection features, conservation objectives or status of any European site, and therefore does not offend the policy requirements of PPS2.
- 8.20 The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

9.0 CONCLUSION

- 9.1 The application site fails to meet with the principle planning policies as there is no cluster of development within the rural area at this location. There is not the require amount of buildings or focal point within the countryside to form a cluster or development with which to associate with. The proposal does not meet with any of the permissive circumstances for development in the countryside, and as no over-riding reasons have been provided as to why development is necessary at this location the proposal is subsequently contrary to Paragraphs 6.70 and 6.73 of the SPPS and Policies CTY1 and CTY2a of PPS21.

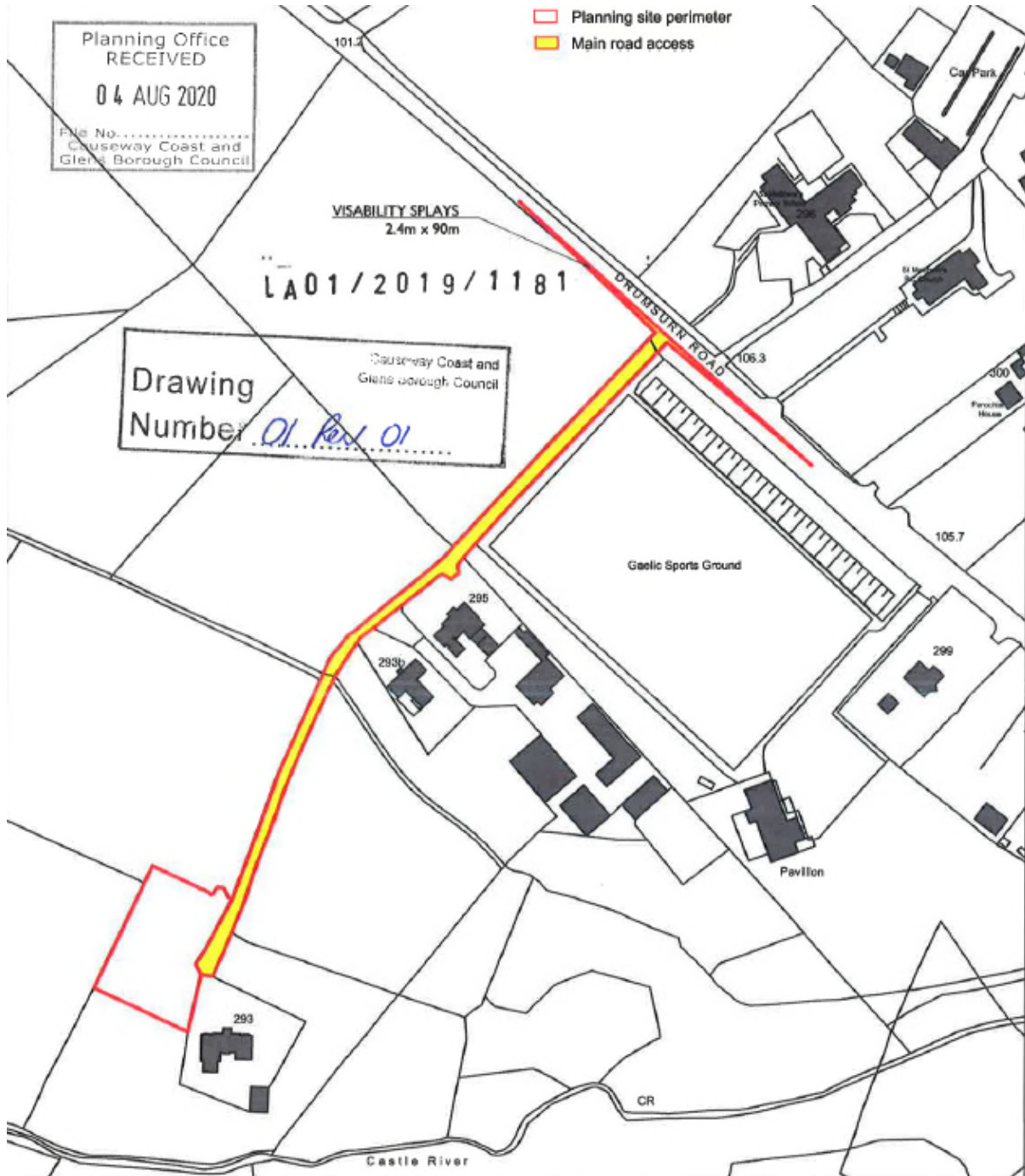
10.0 REFUSAL REASONS

1. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.73, and

Planning Policy Statement 21, Policy CTY 1 in that there are no overriding reasons why the development is essential and could not be located in a settlement.

2. The proposal is contrary to The Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.73 and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development consisting of 4 or more buildings of which at least three are dwelling.

Site Location Map



Addendum

LA01/2019/1181/O

1.0 Update

- 1.1 Application LA01/2019/1181/O was added to the December 2020 agenda of the Planning Committee with a recommendation to refuse. The application was deferred by Committee to facilitate a site visit.
- 1.2 The agent submitted further information (dated 6/1/2021) on 7/1/2021 entitled “detailed response” to the Planning Committee report. The document is available to view on the planning portal.
- 1.3 The points raised by the agent in the document can be summarised as follows
 - (a) the proposal is acceptable under CTY1 of PPS21 and paragraph 6.73 of SPPS as it is a dwelling in an existing cluster.
 - (b) the proposal is acceptable under CTY2a of PPS21 and 6.73 of SPPS and is an exception and should be permitted because;
 - cluster lies outside a farm and consists of 4 or more buildings of which at least 3 are dwellings, no 293, 293b and 295.
 - do not believe that 295 in development limit and 293b partly in development limit cannot be used to form part of existing cluster.
 - due to presence of the GAA pitch, 295 and 293b appear detached from development limit and dwelling forms a cluster with 293.
 - cluster appears as visual entity.
 - cluster is associated with existing community facility, GAA pitch.
 - site is suitably enclosed with trees.
 - agent accepts that site is only bounded on one side by development but states that it rounds off and consolidates the cluster and does not alter character. States development on one

side is irrelevant as site is screened by development with a drop in land levels.

-site forms termination to lane.

- 1.4 Three 3 aerial photographs are provided to show how the development is comparable to existing clusters of development found just outside the settlement of Drumsurn. The document explains that each show a gap between the development and the settlement limit which do not mar the distinction between settlement and countryside and state that these examples have been found acceptable by the Council.

2.0 Assessment

- 2.1 Officials refer to paragraphs 8.4 to 8.9 of the Planning Committee report, where the Council provides various PAC decisions which outline that in assessing proposals for new dwellings in existing clusters, the criteria to which proposals must meet such as the relevant number of buildings and focal points, must all exist within the countryside.
- 2.2 Officials disagree with the opinion that no 293b and 295 appear detached from the settlement limit and cluster with 293. 295 is wholly located within the settlement limit and 293b is partly located within the settlement limit and are read with the development within the settlement limit of Drumsurn. 293b and 295 appear detached from 293 which has the appearance of a single dwelling in the countryside.
- 2.3 The agent states that the site clusters with the GAA pitch which is wholly located within the settlement limit of Drumsurn. Development within the settlement limit cannot be taken to represent buildings within or contributing to the formation of a rural cluster. The Preamble within PPS21 states that PPS21 sets out planning policies for development in the countryside. The preamble also clarifies that *“For the purpose of this document the countryside is defined as land lying outside of settlement limits as identified in development plans. The provisions of this document will apply to all areas of Northern Ireland’s Countryside”*. Therefore in assessing proposals for new dwellings in existing clusters, the criteria to which proposals must meet such as the relevant number of buildings and focal points, must all exist within the countryside. This is the settled position of the Planning

Department and this assessment is consistent with that of the Planning Appeals Commission as outlined in appeals such as 2014/A0235, 2015/A0221 and 2018/A0212. As there is only one dwelling within the countryside at this location there is no existing cluster of development. The proposal is therefore contrary to Paragraph 6.73 of the SPPS and Policy CTY2a.

- 2.4 Criteria 4 of CTY2a requires that the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. There is no cluster as defined by the policy at this location and as the site is not bounded on at least 2 sides with other development within the cluster, the proposal is contrary to criteria 4 of CTY2a. The site may integrate but the site fails to round off or consolidate as there is no cluster.
- 2.5 The development indicated on Fig 01 dates back to 1995 to 2004. All of which was approved by the Department of the Environment and was approved under a different policy context. The only development approved at this location by the Council was a dwelling under LA01/2019/0795/F which was acceptable as an infill dwelling under CTY8 of PPS21.
- 2.6 The development indicated on Fig 02 dates back to 1975 to 1994. All of which was approved by the Department of the Environment under a different policy context.
- 2.7 The development indicated on Fig 03 dates back to 1975-79 and was approved by the Department of the Environment under a different policy context. Later development was approved under LA01/2015/0561/O as an infill opportunity under CTY8.
- 2.8 The above mentioned planning history is not comparable with the current site.

2.0 Recommendation

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