



<b>Planning Committee Report</b> <b>LA01/2019/1197/O</b>	<b>27<sup>th</sup> January 2021</b>
<b>PLANNING COMMITTEE</b>	

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

<b><u>App No:</u></b>	<b>LA01/2019/1197/O</b>	<b><u>Ward:</u></b>	<b>Drumsumn</b>
<b><u>App Type:</u></b>	<b>Outline Planning</b>		
<b><u>Address:</u></b>	<b>Site between 293 and 293B Drumsumn Road, Drumsumn</b>		
<b><u>Proposal:</u></b>	<b>Outline application for a new storey and a half dwelling (incl. detached garage) as part of an infill application</b>		
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Valid Date:</u></b>	<b>25.10.2019</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>		
<b>Applicant:</b>	<b>John McGowan, 295 Drumsumn Road, Drumsumn, BT49 0PX</b>		
<b>Agent:</b>	<b>LAM Architects, 94 University Road, Belfast, BT7 1HE</b>		
<b>Objections:</b>	<b>0</b>	<b>Petitions of Objection:</b>	<b>0</b>
<b>Support:</b>	<b>0</b>	<b>Petitions of Support:</b>	<b>0</b>

## Executive Summary

- Outline planning permission is sought for an infill dwelling under policy CTY8 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 substantial and continuously built up frontage 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. The proposal would also have an adverse impact on rural character through the creation of ribbon development and would fail to satisfactorily integrate into the landscape.
- No overriding reasons have been forthcoming as to why the development is essential and cannot be facilitated within the development limit.
- The application site is within the fluvial floodplain of and adjacent to an existing mill race. A Flood Risk Assessment is required to determine the extent of the floodplain. A Drainage Assessment is required to assess the structural integrity of the adjacent Mill Race. This information has not been provided to date therefore a determination on these aspects is not possible. Therefore the proposal is contrary to FLD1 and FLD3 of PPS15.
- DFI Roads, Environmental Health, DAERA- Water Management Unit, Northern Ireland Water have no concerns with the proposal.
- Shared Environmental Services require further information in order to be able to complete the Habitats Regulations Assessment on the proposal
- No objections have been received
- The application is recommended for Refusal in that it is contrary to the SPPS and Policies NH1 of PPS2, Policies FLD1 and FLD3 of PPS15 and Policies CTY1, CTY8, CTY13 CTY14 and CTY15 of PPS21.

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 on lands between 293 and 293B Drumsurn Road, Drumsurn. The application site is located along 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 western part of an agricultural field, which abuts the laneway. The topography is a relatively flat with a slight undulation across the site. The northern site boundary is defined by a watercourse (Millrace) and post and wire fencing with some sparse hedgerow along the boundary. North western boundary of the site is defined by a post and wire fence along the entirety of the boundary with one mature tree on the southern corner. The southern boundary contains a number of mature trees which are approximately 12/13m in height. The south eastern 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 15m South West of the settlement limit of Drumsurn. There are two properties along the laneway at Nos. 295 and 293b, along with the GAA Pitch to the immediate north of the application site which are within the settlement limit of Drumsurn, while there is a single storey dwelling to the south west of the site at No. 293. A large portion of the application site is identified as being within the 1 in 100 year fluvial floodplain.

### **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. 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. The application was initially submitted as an application for two (2 storey) dwellings but has been reduced to one dwelling 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. Further consultation required to assist with HRA Assessment

Shared Environmental Services: More information required to complete Habitats Regulation Assessment.

Rivers Agency: Flood Risk and Drainage Assessment Required

### **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 15: Planning and Flood Risk

PPS 21: Sustainable Development in the Countryside

### **Supplementary Planning Guidance**

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

## **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, urban sprawl, 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 an infill dwelling and therefore falls to be assessed against Policy CTY 8.
- 8.3 Policy CTY 8 entitled Ribbon Development states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. This is reiterated by paragraph 6.73 of SPPS.
- 8.4 The application site lies within the rural area and sits immediately adjacent and south of the dwelling at No. 293b. The

application seeks to rely on the dwellings at nos. 293b and 295, north east of the site, and No. 293 to the south, to meet with the criteria for a gap within a substantial and continuously built up frontage. However as the dwellings at Nos. 293b and 295 are located within the settlement limit of Drumsurn, they cannot be taken to represent buildings within or contributing to the formation of a substantial and continuously built-up frontage within the rural area.

- 8.5 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”*.
- 8.6 Therefore in assessing proposals for new infill dwellings, the criteria to which proposals must meet such as the relevant number of buildings required to provide a substantial and continuously built up frontage, 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 substantial and continuously built up frontage and subsequently no gap in which to infill. The proposal is therefore contrary to Paragraph 6.73 of the SPPS and Policy CTY8.
- 8.7 Even if there was a substantial and continuously built up frontage at this location, the application site would still not be regarded as being acceptable when assessed against the criteria within Policy CTY8. Policy CTY 8 requires the gap to be a small gap capable of accommodating a maximum of two dwellings. Paragraph 5.34 of PPS21 outlines that the gap to be considered is between buildings (building to building). This is the consistent approach of the Planning Department and the Planning Appeals Commission in assessing infill proposals, as outlined in appeal 2019/A0019. The proposed infill dwellings should be reflective of the surrounding development within the built-up frontage in terms of size, scale, siting and plot size. The dwelling at No. 295 has a plot width of approximately 39m while the dwelling at No. 293b has a plot width of approximately 40m. The dwelling at No. 293 has only a direct frontage onto the laneway of approximately 6m.

When assessing the character of these dwellings the average plot size amounts to approximately 28.3m. The application site has a frontage of 130m. Additionally the application site does not extend to the full gap between the dwellings at Nos. 293 and 293b, with a small paddock area existing between the site and No. 293. The gap between the dwellings at Nos. 293 and 293b is approximately 180m. When assessed against the average plot widths along the laneway, the gap is capable of accommodating 6 dwellings. Even when assessed against the largest plot width at 293b (40m), the gap is capable of accommodating at least 4 comparable sites. Therefore the application site is excessive in size when assessed against the existing character/pattern of development in the area. The application would not represent a small gap site capable of accommodating a maximum of two dwellings when respecting the other properties in a built up frontage, and would therefore fail to comply with Paragraph 6.73 of the SPPS and Policy CTY8.

8.8 As there is no substantial and continuously built-up frontage at this location, there is no gap in which to infill. As such the proposed dwelling and garage would result in an addition to the development along the laneway and would be visually linked and have a common frontage onto the laneway resulting the creation of ribbon development, which is contrary to Policy CTY8 and CTY14.

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.

### **Urban Sprawl**

8.10 Given the location of the application site adjacent to the settlement limit the application requires consideration against Policy 6.71 of the SPPS and Policy CTY15 of PPS21. Paragraph 5.84 of PPS21 outlines that the principle of drawing a settlement limit is partly to promote and partly contain new development within that limit and so maintain a clear distinction between the built-up area and surrounding countryside. The development limit has been drawn around the two dwellings at Nos. 293b and 295 together with the GAA and other development along the Drumsurn Rd. The development limit provides for a compact cluster of development within the settlement limit. The dwelling at No. 293 is both physically and visually removed from the

settlement limit by its distance and natural screening. Development of the application site would extend development outwards from the settlement limit into the countryside and towards the dwelling at No. 293, and would provide a visual link between the defined urban setting and the rural dwelling at No. 293 which would mar the distinction between the settlement and countryside. As the proposal would result in urban sprawl the proposal is contrary to Paragraph 6.71 of the SPPS and Policy CTY15 of PPS21.

## **Integration and Rural Character**

8.11 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.

8.12 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.

8.13 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.

- 8.14 The site is along a laneway which serves three other dwellings and is approximately 230m back from the road. The application site has no significant vegetation cover to the northern and western boundaries which provide for the main critical views from Drumsurn Rd, Gortnagross Rd and the laneway itself. Initially the proposal proposed the construction of two 2-storey dwellings. 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 with a ridge height of 6.5m.
- 8.15 The application site is relatively open when viewed from the Drumsurn Rd and the laneway, due to a lack of vegetation to provide screening or enclosure. When viewed from Drumsurn Rd on approach from the North West a dwelling on the application site will appear as a noticeable feature in the landscape. Likewise when travelling along Gortnagross Rd to the west of the site, the lack of vegetation will allow for some fleeting views of a dwelling, which would appear relatively conspicuous. When travelling along the laneway the application site will be clearly visible and a dwelling on the site will appear as a conspicuous and somewhat prominent feature. The application site is unable to provide a suitable degree of enclosure for the proposed dwelling to satisfactorily integrate and therefore fails to meet with the requirements of Paragraph 6.70 of the SPPS and Policy CTY13. As the proposal would result in the creation of ribbon development along the laneway it is also contrary to Policy CTY14 of PPS21.

### **Access**

- 8.16 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**

- 8.17 Review of the DFI Rivers Agency Flood Maps indicates that a large portion of the application site is located within the 1 in 100 year fluvial floodplain of the watercourse/mill race along the northern boundary the site. The presence of the floodplain within the site resulted in the application being reduced from two dwellings to one dwelling in an attempt to ensure development was removed from the floodplain.
- 8.18 DFI Rivers Agency were consulted on the initial proposal and the revised proposal and have advised that a Flood Risk Assessment and Drainage Assessment is required to provide a more accurate extent to the fluvial floodplain to determine if the proposed dwelling remains within the floodplain or otherwise, and to assess the structural integrity of the mill race along the northern site boundary. The applicant has been advised of the need for the above reports in order to establish whether the site is suitable for development or otherwise, however they did not wish to submit this information at this time. The proposal does not represent one of the permitted exceptions for development within a fluvial floodplain and would therefore be contrary to FLD1, unless in this case, a Flood Risk Assessment verifies that the site is outside the floodplain. Therefore as the application has not accurately demonstrated the extent of the fluvial floodplain or assessed the integrity of the mill race the proposal remains within the 1 in 100 year fluvial floodplain and is not one of the permitted exceptions the proposal is contrary to Paragraphs 6.107 and 6.113 of the SPPS and Policy FLD1 and FLD 3 of PPS15.
- 8.19 DFI Rivers indicated that a 5m maintenance strip along the watercourse is required in line with Policy FLD2 of PPS15. The revised block plan has indicated that this can be achieved.

## **Natural Heritage**

- 8.20 Given the presence of mature trees within the site and the presence of the watercourse along the northern site boundary 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. The site is hydrologically linked to the Castle River to the south of the site via the watercourse/mill race along the northern boundary. This 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**

8.21 The proposal indicates that foul sewage is to be disposed of via a septic tank and surface water via soakaway. The application site is hydrologically connected to River Roe and Tributaries SAC via a watercourse along the north-east site boundary. The watercourse enters the Castle River which supports nursery and spawning habitat for Atlantic Salmon which is a selection feature of the SAC approx. 1.1Km downstream the proposal.

8.22 Shared Environmental Services have requested that additional information be provided in order to allow them to complete the Habitats Regulations Assessment. This information includes comment from DAERA Natural Environment Division insofar as related to designated sites, and the Flood Risk Assessment and comments from Rivers Agency. As it has been requested that the application be considered in the absence of a Flood Risk Assessment, Shared Environmental Services are unable to complete the necessary Habitats Regulations Assessment and therefore cannot determine if there will be any likely environmental impact on the River Roe and Tributaries SAC. Therefore as it has not been demonstrated that the proposal will not have an adverse impact on a European designated site the proposal is contrary to Paragraph 6.176 of the SPPS and Policy NH1 of PPS2.

## **9.0 CONCLUSION**

9.1 The application site fails to meet with the principle planning policies as there is no substantial and continuously built up frontage within the rural area at this location, and consequently

no gap to infill as there are not the require amount of buildings within the countryside to form a built up frontage. The proposal does not meet with any of the permissive circumstances for development in the countryside, and no over-riding reasons have been provided as to why development is necessary at this location. The application proposal will result in urban sprawl from the settlement limit of Drumsurn into the countryside and will result in the creation of ribbon development along the laneway. The site lacks a sufficient level of screening and integration in order to allow a dwelling to integrate satisfactorily. The proposal has failed to demonstrate that the development is not within the fluvial floodplain of the watercourse or is not at risk from surface flooding. The proposal has not demonstrated that the proposal will not have an adverse impact on a European Designated site. The proposal is subsequently contrary to Paragraphs 6.70, 6.71 and 6.73, 6.107, 6.113 and 6.176 of the SPPS and Policies CTY1, CTY8, CTY13, CTY14 and CTY15 of PPS21, Policy NH1 of PPS2 and Policies FLD1 and FLD3 of PPS15. Refusal is recommended.

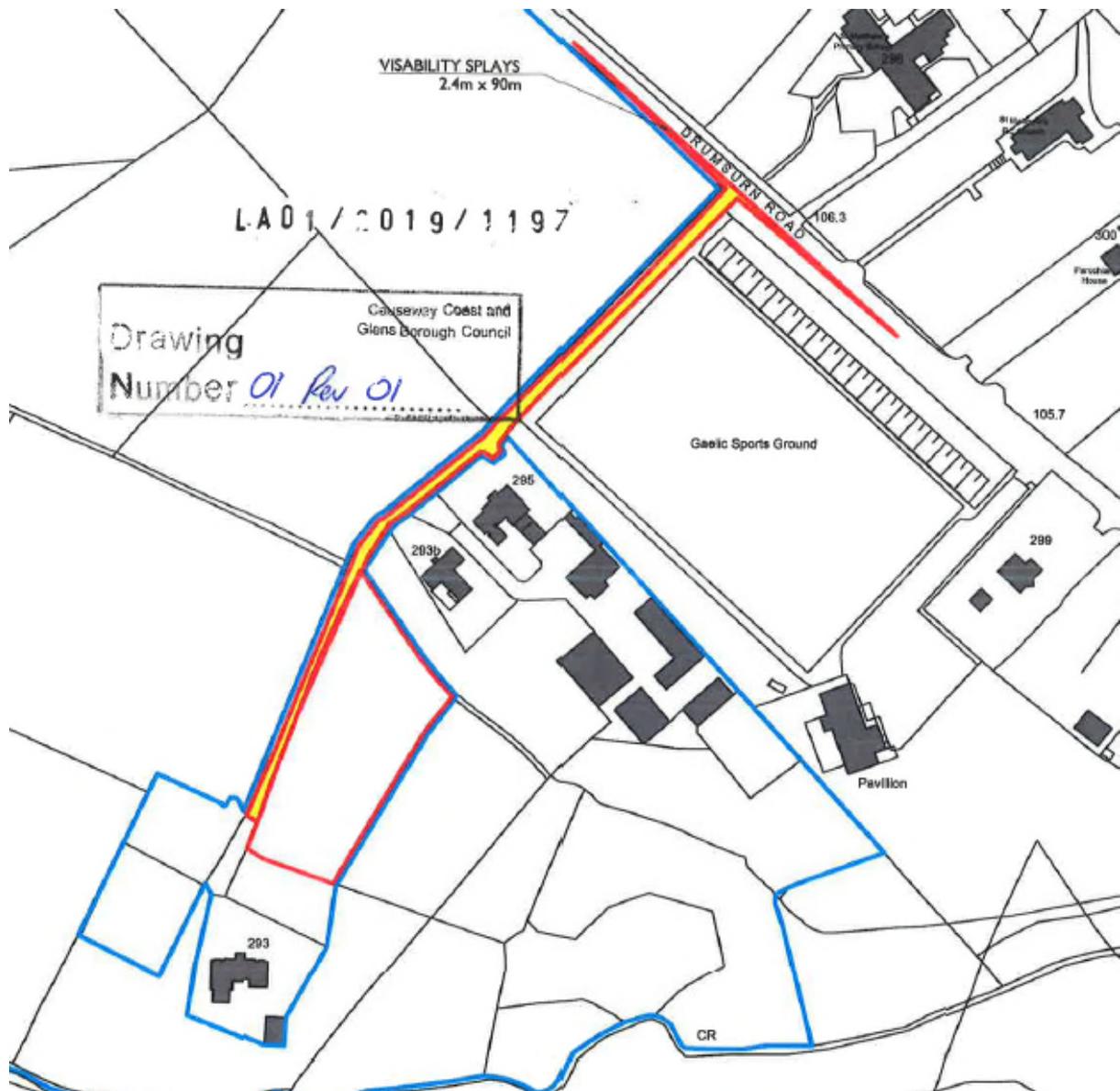
## **10.0 REFUSAL REASONS**

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 CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial and continuously built-up frontage at this location and the proposal would, if permitted, result in the creation of ribbon development along the existing lane.
3. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.70 and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed buildings would be a prominent features in the landscape; the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to

integrate into the landscape and the proposed building relies primarily on the use of new landscaping for integration.

4. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.70 and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted, be unduly prominent in the landscape, would create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
5. The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), Paragraph 6.71 and Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Drumsurn and the surrounding countryside through urban sprawl.
6. This proposal is contrary to Paragraph 6.107 of the Strategic Planning Policy for Northern Ireland (SPPS) and Planning Policy Statement 15 - Planning and Flood Risk policy FLD1 in that it has not been demonstrated that the site is not located within the 1 in 100 year fluvial flood plain and is not considered an exception to this policy nor has it been demonstrated that the proposal of overriding regional importance.
7. This proposal is contrary to Paragraph 6.113 of the Strategic Planning Policy for Northern Ireland (SPPS) and Planning Policy Statement 15 - Planning and Flood Risk policy FLD3 in that it has not been demonstrated that the site is not likely to be impacted upon by surface water flooding.
8. The application is contrary to Paragraph 6.176 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH1 of PPS2 in that it has not been ascertained that the proposed development would not adversely affect the site integrity of the River Roe and Tributaries Special Area of Conservation, a European designated site.

# Location Map



# Addendum

## LA01/2019/1197/O

### 1.0 Update

- 1.1 Application LA01/2019/1197/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 for development of a small gap.
  - (b) the proposal is acceptable under CTY8 of PPS21 and 6.73 of SPPS and is an exception and should be permitted because;
    - site is between 293 and 293b and is sufficient to accommodate up to a maximum of 2 dwellings
    - there is an existing line of 3 buildings along the private lane (293, 293b and 295) that form a substantial and built up frontage.
    - do not accept that 293 does not have a frontage to the private lane.
    - do not accept that buildings in development limit cannot be used to form a substantial built up frontage as buildings front lane and development will be read in conjunction with existing development
    - development does not mars distinction or create urban sprawl because there is a significant separation of 100m between proposed dwelling and existing development at 293b which would maintain a clear distinction between built up area and the countryside.

-states that appeal ref 2016/A0119 is not comparable because it is along the main road and application site is different because it is along a private land and the visual impact is minimal.

-quotes the Lamont Judicial Review and states that even if the site is deemed contrary to CTY8 due to the position of development limit, it is irrelevant as the application site is appropriate development of a small gap site while maintaining a clear distinction between the built up area and the countryside.

-states site is not excessive in size and quotes plot size, set back, scale and frontage length.

-site does not hamper any planned expansion of the settlement.

1.4 Agent states that the proposal visually integrates and is of appropriate design and would not be prominent because

-long established natural boundary of mature trees along southern boundary which will be maintained and augmented. New hedge will be planted along north and western boundary.

-a one-and-a-half storey dwelling of 6.5m respects the neighbouring properties and topography of the site and integrates when viewed from approach roads.

-site is only visible once past 293b and will only be noticeable by the homeowner and 2 neighbouring properties.

-site is not conspicuous from Gortnagross Road and provides 4 photographs.

1.5 Agent states that proposal is acceptable under CTY14 as it does not cause a detrimental change to or further erode the rural character of the area. The proposal respects the development pattern because

-respects spacing, 100m separation distance between dwelling and 293b maintains a clear distinction between built up area and countryside.

-65m separation distance between site and 293 respects spacing in countryside

-site integrates with group of existing buildings.

1.6 Agent states that the development will not mar distinction between settlement and surrounding countryside or create urban sprawl as

there is 100m between development and no 293b which maintains a clear distinction between built up area and countryside. A separation distance of 65m between site and 293 respects spacing of developments in countryside and quotes 3 examples which are comparable to the proposed site and were found to be acceptable by the council.

- 1.7 Agent states that client is willing to provide flood risk assessment to provide a more accurate extent to the fluvial flood plain however this work will require river modelling of the Castle River and the Mill Race. Due to cost the agent seeks that the FRA is conditioned as part of this development.
- 1.8 The agent proposes to undertake a Drainage Assessment as part of the FRA and seeks that this matter is dealt with via condition.
- 1.9 Regarding the refusal reason under PPS2, the agent advises that the issue of flooding can be dealt with via a condition.

## **2.0 Assessment**

- 2.1 Officials refer to paragraphs 8.4 to 8.9 of the Planning Committee report, where the Council amplifies the refusal reasons under paragraph 6.73 of the SPPS and CTY1 of PPS21. As the principle of development does not meet CTY8 and as there are no overriding reasons why the development is essential and could not be located in a settlement the proposal is contrary to the SPPS and CTY1 of PPS21.
- 2.2 As stated in paragraph 8.7 of the Planning Committee report, Policy CTY 8 requires the gap to be a small gap capable of accommodating a maximum of two dwellings. Paragraph 5.34 of PPS21 outlines that the gap to be considered is between buildings (building to building). This is the consistent approach of the Planning Department and the Planning Appeals Commission in assessing infill proposals, as outlined in appeal 2019/A0019. The proposed infill dwellings should be reflective of the surrounding development within the built-up frontage in terms of size, scale, siting and plot size. The dwelling at No. 295 has a plot width of approximately 39m while the dwelling at No. 293b has a plot width of approximately 40m. The dwelling at No. 293 has only a direct frontage onto the laneway of approximately 6m. When assessing the character of these dwellings the average plot size amounts to approximately 28.3m. The application site has a frontage of 130m.

Additionally the application site does not extend to the full gap between the dwellings at Nos. 293 and 293b, with a small paddock area existing between the site and No. 293. The gap between the dwellings at Nos. 293 and 293b is approximately 180m. When assessed against the average plot widths along the laneway, the gap is capable of accommodating 6 dwellings. Even when assessed against the largest plot width at 293b (40m), the gap is capable of accommodating at least 4 comparable sites. Therefore the application site is excessive in size when assessed against the existing character/pattern of development in the area. The application would not represent a small gap site capable of accommodating a maximum of two dwellings when respecting the other properties in a built up frontage, and would therefore fail to comply with Paragraph 6.73 of the SPPS and Policy CTY8.

- 2.3 Officials wish to reiterate paragraphs 8.4 to 8.9 of the Planning Committee report. The application relies on the dwellings at nos. 293b, 295 and No. 293 to meet with the criteria for a gap within a substantial and continuously built up frontage. However as the dwellings at Nos. 293b and 295 are located within the settlement limit of Drumsurn, they cannot be taken to represent buildings within or contributing to the formation of a substantial and continuously built-up frontage within the rural area.
- 2.4 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”*.
- 2.5 Therefore in assessing proposals for new infill dwellings, the criteria to which proposals must meet, such as the relevant number of buildings required to provide a substantial and continuously built up frontage, 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 substantial and continuously built up frontage and subsequently no gap in which to infill. The proposal is therefore contrary to Paragraph 6.73 of the SPPS and Policy CTY8.

- 2.5 Officials have confirmed at paragraph 8.7 that the dwelling at No. 293 has only a direct frontage onto the laneway of approximately 6m.
- 2.6 The development limit has been drawn around the two dwellings at Nos. 293b and 295 together with the GAA and other development along the Drumsurn Rd. Development of the application site would extend development outwards from the settlement limit into the countryside and towards the dwelling at No. 293, and would provide a visual link between the defined urban setting and the rural dwelling at No. 293 which would mar the distinction between the settlement and countryside. As the proposal would result in urban sprawl the proposal is contrary to Paragraph 6.71 of the SPPS and Policy CTY15 of PPS21.
- 2.7 The agent advises that the proposal would not mar the distinction or create urban sprawl as there would be a significant separation of almost 100m between 293b and the proposed dwelling. This contradicts the statement used earlier in the “detailed response” document that states that the site is “sufficient to accommodate up to a maximum of 2 houses” when officials have clearly indicated that the largest frontage is 40m or the average plot size is 29.3.
- 2.8 Officials did not put forward PAC 2016/A0119 as a comparable appeal however in consideration the commissioner clearly found reliance on buildings within the settlement development limit for the purposes of infill development or forming a cluster to be misplaced. Officials refer to paragraph 8.6 of the Planning Committee report.
- 2.9 Officials disagree with the comments that even if the proposal is deemed contrary to CTY8, it is irrelevant as the proposal is appropriate development for a small gap site while maintaining a clear distinction between the built up area and surrounding countryside. The proposal must meet all of the criteria of CTY8 or there must be overriding reason why the development is essential and cannot be located within a settlement. The proposal fails to comply with CTY8 for the reasons set out in the committee report and no overriding reasons have been forthcoming as to why the development is essential and cannot be located within the settlement.
- 2.10 Officials refer to paragraph 8.7 of the Planning Committee report which discusses in detail the frontage lengths and how the application would not represent a small gap site capable of

accommodating a maximum of two dwellings when respecting the other properties in a built up frontage.

- 2.11 Officials reiterate the comments expressed in paragraphs 8.14 and 8.15 of the Planning Committee report regarding integration. The comments expressed by the agent regarding the new hawthorn planting along the north and western boundaries reinforces the refusal reason under CTY13 which relies on new landscaping for integration which is contrary to CTY13.
- 2.12 Officials reiterate the comments expressed in paragraphs 8.14 and 8.15 of the Planning Committee report regarding rural character. The proposal is unduly prominent, would result in ribbon development and would have a detrimental impact on the character of the area. The character of the area is development located within the settlement development limit with an individual rural dwelling. The site creates ribbon development along the lane which in turn is detrimental to rural character.
- 2.13 The development indicated on Fig 05 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 and did not mar the distinction or result in urban sprawl.
- 2.14 The development indicated on Fig 06 dates back to 1975 to 1994. All of which was approved by the Department of the Environment under a different policy context.
- 2.15 The development indicated on Fig 07 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 and did not mar the distinction or result in urban sprawl.
- 2.16 The above mentioned planning history is not comparable with the current site.
- 2.17 Officials refer to paragraphs 8.17 to 8.19 of the Planning Committee report in regards flooding. DFI Rivers Agency were consulted on the initial proposal and the revised proposal and have advised that a Flood Risk Assessment and Drainage Assessment is required to provide a more accurate extent to the fluvial

floodplain to determine if the proposed dwelling remains within the floodplain or otherwise, and to assess the structural integrity of the mill race along the northern site boundary. As outlined in the preamble, PPS15 adopts a precautionary approach to development and the use of land that takes account of climate change and emerging information relating to flood risk through the implementation of the EU Floods Directive in Northern Ireland and the implementation of sustainable drainage systems. The issue of flooding cannot be dealt with via condition and must be considered in detail in the decision making process. The proposal is contrary to PPS15.

- 2.18 The site is hydrologically linked to the River Roe and tributaries SAC and Shared Environmental Services have requested that additional information be provided in order to allow them to complete the Habitats Regulations Assessment. This information includes comment from DAERA Natural Environment Division insofar as related to designated sites, and the Flood Risk Assessment and comments from Rivers Agency. As it has been requested that the application be considered in the absence of a Flood Risk Assessment, Shared Environmental Services are unable to complete the necessary Habitats Regulations Assessment and therefore cannot determine if there will be any likely environmental impact on the River Roe and Tributaries SAC. Therefore as it has not been demonstrated that the proposal will not have an adverse impact on a European designated site the proposal is contrary to Paragraph 6.176 of the SPPS and Policy NH1 of PPS2.

### **3.0 Recommendation**

- 3.1 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.