



<b>Planning Committee Report LA01/2017/1129/O</b>	<b>26<sup>th</sup> September 2018</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>No:</u></b> LA01/2017/1129/O	<b><u>Ward:</u></b> GREYSTEEL
<b><u>App Type:</u></b> Outline Planning	
<b><u>Address:</u></b> Lands 187m South West of No. 293 Clooney Road, Greysteel	
<b><u>Proposal:</u></b> The replacement of existing dwelling house under Policy CTY 3 of PPS 21.	
<b><u>Con Area:</u></b> n/a	<b><u>Valid Date:</u></b> 07.09.17
<b><u>Listed Building Grade:</u></b> n/a	
<b><u>Agent:</u></b> Lee Kennedy, 2 Templetown Park, Maydown, Londonderry, BT47 6TZ	
<b><u>Applicant:</u></b> Mr & Mrs Hugh O'Neill, 10 Tireigher Road, Park	
<b><u>Objections:</u></b> 0	<b><u>Petitions of Objection:</u></b> 0
<b><u>Support:</u></b> 1	<b><u>Petitions of Support:</u></b> 0

**Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)**

## **1 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 SITE LOCATION & DESCRIPTION**

- 2.1 The site is located on the main A2 Clooney Road and comprises the southern portion of an existing agricultural field, adjacent to the main road. There is an existing building on the site which is finished in white wash to the front elevation and stone walls to the remaining elevations. The building is divided into two, with a smaller room at the eastern end and a larger room at the western end. There is no interconnecting doorway between the two. One doorway accesses the smaller room, while there are two doorway openings to the larger room. There are two window openings to the front elevation, one to each room, and three window openings to the rear elevation, two to the larger room and one to the smaller room. There is a red corrugated roof to the entirety of the building.
- 2.2 The roadside boundary is defined by a concrete post and wire fence and mature native species hedgerow. The western boundary is defined by a mound of earth with planting to the rear, and the eastern boundary is defined by an existing field boundary. The northern boundary of the site is currently undefined. There is an existing field gate to the roadside at the front of the existing building, at the time of the site inspection the site was accessed from an open field gate in the south-eastern corner of the site.
- 2.3 The character of the surrounding area is rural comprising agricultural fields and occasional dwellings and farm buildings.
- 2.4 In the Northern Area Plan the site is located in the countryside, outside of any defined settlement development limits. There are no specific zonings or designations covering the site. The site is located off the Clooney Road which is identified as a Protected Route.

### **3 RELEVANT HISTORY**

- 3.1 There is no relevant planning history on the site or the immediate surrounding area.

### **4 THE APPLICATION**

- 4.1 Outline Planning Permission is sought for the replacement of an existing dwelling house under Policy CTY 3 of PPS 21.

### **5 PUBLICITY & CONSULTATIONS**

#### **5.1 External**

Neighbours: There are no objections to the proposal

One letter of support has been received in relation to this application.

#### **5.2 Internal**

Environmental Health Department: No objections

NI Water: No objections

DAERA Water Management Unit: No objections

DAERA Natural Environment Division: Site contains habitat that has the potential to support priority and protected species therefore a Biodiversity Checklist is required.

DFI Roads: Should the Planning Authority decide that this application is a genuine replacement and is exempt from the Protected Routes Policy a condition has been provided.

DFI Rivers: No objections

Loughs Agency: No objections

### **6 MATERIAL CONSIDERATIONS**

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

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

6.2 The development plan is:

- Northern Area Plan 2016 (NAP)

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

6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as 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)

Planning Policy Statement 21: Sustainable Development in the Countryside

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

## **8.0 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to: principle of development; integration; rural character; natural heritage; and road safety.

## Principle of Development

8.2 The SPPS and Policy CTY1 of PPS 21 identify a number of instances when an individual dwelling house will be granted permission. 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.

Planning permission will be granted for an individual dwelling house in the countryside in the following cases:

- a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;
- a replacement dwelling in accordance with Policy CTY 3;
- a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;
- a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;
- the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or
- a dwelling on a farm in accordance with Policy CTY 10.

8.3 The application was submitted as an outline application for the replacement of an existing dwelling house. The agent makes reference to consideration of this under Policy CTY 3 of PPS 21 within the description of the application. Policy CTY 3 is therefore considered.

8.4 Policy CTY3 of PPS21 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. CTY3 also states that for the purposes of this policy all references to “dwellings” will include buildings previously used as dwellings.

8.5 The proposal is contrary to policy CTY 3 as the building on the site, as it stands, does not exhibit the essential characteristics of a dwelling despite all external structural walls currently being substantially intact. There is no link between the two separate rooms of the building, and no evidence was found to support that a link between the two rooms

may have previously existed during either of the site inspections that were carried out.

- 8.6 The arrangement of window and door openings does not clearly indicate that the building as it stands exhibits the essential characteristics of a rural vernacular dwelling. There is only one window to the front elevation of the larger room, at the eastern end of this room and precise in form. The adjacent smaller room also has one window to the front elevation which is rectangular in form. In relation to the door openings, there is one to the smaller room. There is no lintel in place for this opening and it is just a gap in the wall. The larger room has two door openings and while these do benefit from lintels, the solid void ratio between these and the window openings is not reflective of a rural vernacular dwelling.
- 8.7 Internally, the larger room is void of any original features which would demonstrate that the building displays the characteristics of a dwelling. There is the physical structure of a fireplace and chimney to the western end of this room, however there is no evidence of a chimney to this external side elevation. Internally the chimney stops noticeably short of the roof and does not link externally to allow an exterior flue. There is no hearth to the floor. The physical structure is constructed of clean red brick, with crisp cement that is visually different in appearance to the remainder of the structure and to the fireplace which is located in the separate smaller room. This would appear to have been a later addition to the building rather than an original feature which would have conclusively demonstrated that the building as it stands displays the essential characteristics of a dwelling. Evidence provided at the office meeting confirms its recent construction.
- 8.8 The smaller room also contains a fireplace and chimney, externally this is evident from the chimney which is situated at the eastern end of the ridge. The fireplace has a hearth and upon inspection it is possible to see that the chimney links externally. While there is a fireplace and chimney present in this room, there are no other internal features which conclusively demonstrate that the building currently displays the essential characteristics of a dwelling.
- 8.9 There is no existing internal link between the two rooms, and as noted above no evidence was found during either site inspection to support that a link between the two rooms may have previously existed. As neither room on its own or when read as a whole exhibits the essential

characteristics of a dwelling the proposal is contrary to Policy CTY 3 of PPS 21 and the SPPS.

8.10 The assessment under the SPPS and Policy CTY 3 is further supported by images obtained from Google Streetview dating back to 2008. Images from August 2008, March 2009, and March 2011 clearly show that substantial sections of the front elevation of the building are missing and that the building was in use for agricultural storage. The front elevation of the smaller room is almost entirely removed. Approx 40-50% of the front elevation of the larger room has been removed. The images from 2012 and 2015 are so overgrown that it is not possible to get a clear view of the front elevation. However, the most recent image from May 2017 shows vegetation cleared from the front of the building and the sections of the front elevation which were missing have been rebuilt with the eastern end window and door opening of the larger room visible. The images indicate that significant works have been undertaken to the front elevation following the use of the building for agricultural purposes. This was observed at the site inspection as the stonework to these sections of the front elevation was of a different form and pattern when compared to the original stonework construction of the rear elevation. As it is not possible to determine whether or not the original building, prior to the works taking place, would have demonstrated the essential characteristics of a dwelling, and the building as it stands does not demonstrate the essential characteristics of a dwelling the proposal is contrary to Policy CTY 3 of PPS 21 and the SPPS.

8.11 Policy CTY 3 also goes on to state that favourable consideration will 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. The replacement of this building would not bring significant environmental benefits and therefore is not considered eligible for replacement.

8.12 The agent submitted supporting information with the application to demonstrate how the proposal meets with the definition of a replacement dwelling as set out under Policy CTY 3. Following initial discussions in relation to the proposal further information was requested from the agent to demonstrate that the building was used as a dwelling. A further submission was received on the 26<sup>th</sup> February 2018 from the agent with supporting documentation from the applicant. Following the review and consideration of this information,

the proposal does not demonstrate the essential characteristics of a dwelling as outlined earlier in this report. Notwithstanding the census and historical maps submitted, it is not possible to determine whether the original building would have been a dwelling.

- 8.13 The agent referred to appeal reference 2011/A0302. This appeal is not comparable to the current proposal. In this appeal the Department considered that the appeal structure exhibits the essential characteristics of a dwelling. It was also concluded that at the time of application the appeal structure exhibited the essential characteristics of a dwelling.
- 8.14 Following the referral to the Planning Committee, the agent requested a meeting with the Planning Department to discuss the application. A meeting with the agent and applicant was held on the 18<sup>th</sup> May 2018.
- 8.15 The contents of the case officer report were discussed at the meeting and the agent presented information to demonstrate that they consider the building to demonstrate the essential characteristics of a dwelling. The images of the dwelling were discussed, including the images from Google Streetview. The applicant advised that they carried out works to the front elevation to rebuild sections following the use of the building for agricultural storage. The agent submitted images of the building and an example of a precedent case, LA01/2018/0027/O, elsewhere in the Borough at the meeting. The agent also referred to a planning appeal case, however this has already been considered in the report above. It was agreed that a further site inspection would be carried out.
- 8.16 The agent submitted an email which was received on the 24<sup>th</sup> May 2018 to rebut matters raised at the office meeting. A further site inspection was carried out on the 31<sup>st</sup> May 2018.
- 8.17 The second site inspection did not indicate any further evidence to support that that building as it stands exhibits the essential characteristics of a dwelling. While the agent and applicant acknowledge that alterations were carried out to the building to allow for its use as agricultural storage, and that the applicant was entitled to rebuild sections of the wall, this does not assist in the current assessment of the proposal in determining whether the building currently exhibits the essential characteristics of a dwelling. In relation to the internal features, it is noted that there is a fireplace and hearth in the smaller room at the eastern end of the building, but there is no internal link between this room and the larger room. The scale of the fireplace and hearth in relation to the size of this room would also not



be considered reflective of a previous use as a residential dwelling. This presence of this fireplace and hearth on its own is not enough to conclusively demonstrate that the building exhibits the essential characteristics of a dwelling.

8.18 In respect of the reference made to a precedent case in the Borough, LA01/2018/0027/O, in this instance the building clearly exhibits the essential characteristics of a dwelling. While part of one gable wall was removed to provide access for farm vehicles and the building was used for agricultural purposes, the essential characteristics of a dwelling were still evident and outline planning permission was granted.

8.19 The issue of whether an existing building represents a replacement dwelling opportunity has been presented to the PAC in appeal reference 2013/A0253. In considering the proposal the Commissioner stated that the fabric of the appeal building must be judged as it is now. The Commissioner concluded that the appeal building did not presently exhibit the essential characteristics of a dwelling and therefore did not represent a replacement opportunity to satisfy the requirements of CTY 3. No evidence was presented to demonstrate that there were overriding reasons why the development was essential in accordance with CTY 1. This has strong similarities to the subject application.

### **Integration**

8.20 Policy CTY 1 of PPS 21 and paragraph 6.70 of the SPPS state that all proposals must be sited and designed to integrate sympathetically with their surroundings.

8.21 A new dwelling on the site would not be a prominent feature in the landscape provided it was sensitively designed and sited. The existing natural boundaries, particularly the roadside frontage would provide a suitable degree of enclosure. Notwithstanding this, the principle of a dwelling on the site remains unacceptable. The proposal complies with the SPPS and Policy CTY 13 of PPS 21.

### **Rural Character**

8.22 Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A dwelling on this site would not result in a detrimental impact on the rural character of the surrounding area provided it was sensitively designed and sited. Notwithstanding this,

the principle of a dwelling on the site remains unacceptable. The proposal complies with the SPPS and Policy CTY 14 of PPS 21.

### **Natural Heritage**

8.23 In a consultation response from DAERA – Natural Environment Division, it was noted from a desk top survey of GIS and aerial photography records that the application site has trees and hedgerow habitat bounding and within the application site, and has the potential to support a variety of species including but not limited to bats and wild birds which may be affected by this application. Aerial photography also records that the building on site may be of bat roost potential. There are records of bat roosts in the local area. In relation to the modification, conversion, demolition or removal of buildings NED recommends that a Biodiversity Checklist is carried out which highlights certain types of buildings that have a reasonable likelihood of bats being present for which survey may be required. As the principle of development was not considered acceptable no further information was requested. The proposal is therefore contrary to the SPPS and PPS 2.

### **Road Safety**

8.24 DFI Roads was consulted in respect of the proposal and had no objections. As the proposal fails to comply with the criteria for a replacement dwelling under Policy CTY 3 of PPS 21 the proposal is therefore contrary to criteria (a) of the Consequential Revision to Policy AMP 3 Access to Protected Routes.

## **9.0 CONCLUSION**

9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations. The proposal does not accord with the principle of a dwelling in the countryside as set out by Policy CTY 1 of PPS 21 including having regard to the specific policy for replacement dwellings as outlined in Policy CTY 3. The applicant has failed to demonstrate that the proposal would not result in an unacceptable impact on habitats, species or features of Natural Heritage Importance and is contrary to PPS 2. The proposal would result in the creation of a new vehicular access onto a Protected Route thereby prejudicing the free flow of traffic and conditions of general safety therefore the proposal

would be contrary to Annex 1 of PPS21 the consequential amendment to Policy AMP 3 of PPS 3. Refusal is recommended.

## **10 REFUSAL REASONS**

1. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.
2. The applicant has failed to demonstrate that the proposal would not result in an unacceptable adverse impact on habitats, species or features of Natural Heritage Importance in accordance with Policies NH 2 ad NH 5 of Planning Policy Statement 2 – Natural Heritage.
3. The proposal is contrary to paragraph 6.297 of the Strategic Planning Policy Statement and Annex 1 – consequential amendment to Policy AMP3 of Planning Policy Statement 3, Access, Movement and Parking, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, A2 Clooney Road, thereby prejudicing the free flow of traffic and conditions of general safety.

# Site Location Map



