

Planning Committee Report LA01/2018/0393/F	27th March 2019
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>No:</u> LA01/2018/0393/F	<u>Ward:</u> Greysteel
<u>App Type:</u> Full	
<u>Address:</u> 295 Clooney Road Ballykelly	
<u>Proposal:</u> Demolition of all existing structures to accommodate a new purpose built canine kennels with 10 no. internal kennels, reception, storage and associated car parking to lands west within the boundaries of 295 Clooney Road.	
<u>Con Area:</u> N/A	<u>Valid Date:</u> 10.04.2018
<u>Listed Building Grade:</u> N/A	
<u>Agent:</u> Brian Donnelly 7 Church View Drumsurn Limavady	
<u>Applicant:</u> Robert Duddy 295 Clooney Road Ballykelly BT49 9JE	
<u>Objections:</u> 0	<u>Petitions of Objection:</u> 0
<u>Support:</u> 0	<u>Petitions of Support:</u> 0

Drawings and additional information are available to view on the Planning Portal- 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 for the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is in the rural area outside any settlement development limit as shown in the Northern Area Plan. The characteristics of the wider area is rural countryside with some dispersed dwellings.
- 2.2 The site comprises a rectangular shaped portion of land measuring 0.04 ha in area adjacent to No. 295 Clooney Road. The access is direct to the Clooney Road, a protected route. The site currently comprises 3 sheds, one set back from the road and a second and third adjacent the front boundary. One shed adjacent the roadside boundary is made of tin and is painted red and the other 2 sheds on site are built with stone / concrete blocks and painted white. The buildings are used by Drumagore Dog Training but no planning history exists for this use.
- 2.3 The topography of the site is flat and the rear boundary is defined by a 2 m high retaining wall. The land rises behind the retaining wall in a southerly direction. This land to the south is within the curtilage of No 295 but not included in the planning application.
- 2.4 The closest watercourse is 163 metres away to the south east. The boundary to the north adjacent the Clooney Road is formed by a 1 metre high wall. The application boundary to the west is enclosed by a field gate, to the east the boundary is undefined to the rear of the yard and defined by 1m high wooden fence at the front of the dwelling. The rear curtilage boundaries of the

existing dwelling are defined by a 1 metre high post and wire fence.

3 RELEVANT HISTORY

- 3.1 B/2009/0296/O – 295 Clooney Road, Ballykelly – Erection of replacement two storey dwelling and attached garage (7.5 m high ridge) – Approved – 18.11.2009
- 3.2 B/2011/0235/RM – 295 Clooney Road, Greysteel – Proposed replacement dwelling, 2 storey dwelling with attached garage and stores – Approved – 02.02.2012
- 3.3 LA01/2017/1346/F – 295 Clooney Road, Greysteel - Ground floor single storey rear extension incorporating a bedroom and shower – Approved – 19.12.2017

4 THE APPLICATION

- 4.1 This application seeks permission to demolish all existing structures and erect a new purpose built canine kennels with 10 no. internal kennels, reception, storage and associated car parking.
- 4.2 The new building measures 23.8 metres long, 4.8 metres wide and between 4.1 – 4.8 metres in height. The existing access to the dwelling house is to be used and 6 car parking spaces are proposed. The building is to be finished with a black concrete tiled roof and walls to be finished with smooth render with stone cladding at the entrance.

5 PUBLICITY & CONSULTATIONS

External

All neighbours identified for notification within the terms of the legislation where notified on 16th April 2018 and 14th February 2019. The application was advertised on 25th April 2018 and 27th February 2019.

5.1 Internal

- 5.2 Environmental Health Department: No objection

- 5.3 NI Water: No objection
- 5.4 DFI Roads: As the proposal is not deemed an exception to Protected Routes Policy recommend refusal. It is contrary to Annex 1 – Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking.
- 5.5 DAERA – Drainage and Water: No objection subject to conditions.

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 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS) – Planning for sustainable development 2015

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 4: Planning and Economic Development

Planning Policy Statement 21: Sustainable development in the countryside

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The application site is located in a rural area with access directly out onto a protected route. The main considerations in the determination of this application relate to the principle of development, access onto a protected route, integration and character, waste disposal and HRA.
- 8.2 The main policy consideration is contained within the Northern Area Plan 2016, the Strategic Planning Policy Statement and the relevant Planning Policy Statements. As this is a proposal for the demolition of existing structures and erection of new purpose built canine kennels comprising 10 no. internal kennels, reception, storage and associated car parking, the main policy considerations are paragraphs 6.70, 6.73, 6.77, 6.88 and 6.297 of the SPPS, Policies CTY 1, CTY 13, CTY 14 and CTY 16 of PPS 21 Sustainable Development in the Countryside; Policies PED 2, PED 6 and PED 9 of PPS 4 Planning and Economic Development; Policies AMP 2 and AMP 7 of PPS 3, Annex 1 – Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking. This application was initially brought to committee on 23rd January 2018 but was deferred to allow submission of additional information. Assessment of the scheme and the additional information is detailed in the relevant sections of the following assessment.

Principle of Development

- 8.3 The principle of development must be considered having regard to the Northern Area Plan, the SPPS and PPS policy and guidance documents before mentioned.
- 8.4 Paragraph 6.73 of the SPPS permits only non-residential development relating to farm diversification, agriculture and forestry development and conversion and re-use of existing buildings for non-residential use, where other planning considerations are met. As the proposal does not fall within any of the above criteria the proposal is contrary to Paragraph 6.73 of the SPPS.
- 8.5 Paragraph 6.88 applies and states that in the interests of rural amenity and wider sustainability objectives, the level of new building for economic development purposes outside settlements must however be restricted. Exceptions to this general principle may be justified in two circumstances:
- 8.6 Firstly, a small scale new build economic development project may be permissible outside a village or small settlement where there is no suitable site within the settlement. An edge of settlement location will be favoured over a location elsewhere in the rural area, subject to normal planning considerations. The site is located 1.35km from Greysteel and 2.5km from Ballykelly in the rural area which is outside any settlement limit. It has not been demonstrated that there is no suitable site in either settlement, at edge of settlement or that other planning considerations have been met.
- 8.7 Secondly a proposal for major or regionally significant economic development, where a countryside location is necessary because of size or site specific requirements. Such proposals should be able to demonstrate a significant contribution to the regional economy and be otherwise acceptable, particularly in terms of their environmental and transport impacts. An edge of town location should normally be favoured over a location elsewhere in the rural area. The proposal is not major or regionally significant economic development. Therefore the proposal does not comply with paragraph 6.88 of the SPPS.
- 8.8 Planning Policy Statement 21, Policy CTY1 sets out the range of types of development which in principle are considered to be acceptable in the countryside. CTY1 refers the reader to policy

PPS 4 for Planning and Economic Development. For the purposes of PPS 4, economic development uses comprise industrial business and storage and distribution uses. However, the policy approach and associated guidance contained within PPS 4 may be useful in assessing proposals for other sui generis employment uses such as dog training.

- 8.9 In PPS 4, Policy PED 2 - Economic Development in the Countryside states that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following policies:
- 8.10 The Expansion of an established Economic Development Use- Policy PED3. The proposal is not an expansion of an established Economic Development Use. Therefore, the proposal fails to comply with Policy PED 3.
- 8.11 The Redevelopment of an Established Economic Development Use- Policy PED 4. There is no planning permission for dog kennels and no Lawful Development Certificate has been issued for dog kennels or any other economic development use at this location. Therefore, the proposal is not redevelopment of an Established Economic Development Use. Therefore, the proposal fails to comply with Policy PED 4.
- 8.12 Major Industrial Development- Policy PED 5. The proposal is not Major Industrial Development. Therefore, the proposal fails to comply with policy PED 5.
- 8.13 Small Rural Projects- Policy PED 6. The proposal is not a Small Rural Project which would develop a small community enterprise park/centre or a small rural industrial enterprise on land outside a village or smaller rural settlement. Even when considering the criteria given for such development, the applicant has not demonstrated what alternative sites have been considered and has not demonstrated that no suitable site exists within a settlement; No information has been forthcoming to demonstrate how the proposal would benefit the local economy or contribute to community regeneration; In addition the siting is in the rural area and is clearly not associated with a settlement.
- 8.14 Policy provides a hierarchy by which to consider the acceptability of the site considering each in turn, the site is neither adjacent to an existing settlement or close to the settlement limit and contains buildings nor is it a site which is in a degraded or

derelict state. Therefore, the proposal fails to comply with policy PED 6.

- 8.15 A proposal for economic development use, in addition to the other policy provisions of PPS 4, will be required to meet all the general criteria in Policy PED 9. The proposal complies with some of the criteria however it fails to comply with criteria 'g' because the Clooney Road as a protected route is unable to handle safely extra vehicular traffic from this location. The proposal fails to comply with criteria 'j' as the site layout, building design and landscaping arrangements are not satisfactory. The proposal fails to comply with criteria 'm' because there is not satisfactory measures to assist integration into the landscape.
- 8.16 The proposal is not a farm diversification scheme and the reasons given in the e-mail dated 19th October 2018 from the agent in support of the referral are not considered exceptional circumstances. There are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. The proposal fails to meet policies CTY 1 of PPS 21 and PED 2, PED 6 and PED 9 of PPS 4.

Access onto a Protected Route

- 8.17 DFI Roads previously had concerns about the submitted visibility splays under Policy AMP 2 and parking under AMP 7 but an assessment of the amended plans have alleviated these concerns and they are now content that the proposal meets Policies AMP 2 and AMP 7. However, the A2 Clooney Road is a Protected Route, the Protected Route Policy namely Annex 1 – Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking must be considered. The policy specifies that approval may be justified in cases which meet the criteria for development in the countryside and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route. As the principle of development has not been established as detailed in paragraph 8.3 – 8.15, the proposal is not deemed an exemption to the Protected Routes Policy. Thereby, if permitted would prejudice the free flow of traffic and conditions of general safety. The proposal is contrary to Annex 1 of PPS 21, the consequential amendment to Policy AMP 3 of PPS 3.

Integration and Rural Character

- 8.18 Policy CTY 1 of PPS 21 and paragraph 6.70 of the SPPS state that all proposals must be sited and designed to integrate into its setting, respect rural character, and be appropriately designed. As noted above, the principle of development is not considered acceptable on this site. Notwithstanding this, the proposal is assessed in relation to integration, design and rural character.
- 8.19 Policy CTY 13 states that permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposed building is 23.8 metres long, 4.8 metres wide and between 4.1 – 4.8 metres in height. The visual impact of the building which is 23.8m long is unacceptable due to its size and design with no break or step in design and would result in a dominant feature in this roadside location. There will be critical views from the Clooney Road immediately in front of the site and for a short distance to the south west. The overall development would fail to visually integrate and would have a detrimental impact on rural character and is therefore contrary to Policy CTY 13, CTY 14 and paragraph 6.70 of the SPPS.

Waste Disposal

- 8.20 The applicant proposes to discharge foul sewerage to a private treatment unit. DAERA - Drainage and Water were previously consulted and had requested further information. The committee meeting on 23rd January 2019 deferred the decision until additional information was submitted. The additional information was received on 18th February 2019. Re-consultation has now been carried out. Planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.
- 8.21 Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made.
- 8.22 In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances.

8.23 DAERA - Drainage and Water are now content subject to conditions. The proposal therefore complies with Policy CTY 16 of PPS 21 as it has been demonstrated that the proposal would not create a pollution problem.

Habitats Regulation Assessment

8.24 The potential impact of this proposal on Special Areas of conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

9.0 CONCLUSION

9.1 The proposed development is considered unacceptable having regard to the Northern Area Plan and other material considerations. The development fails to comply with the SPPS, PPS 3, PPS 4 and PPS 21 in that the proposed new purpose built canine kennels which is subject of the application is an unacceptable form of development that has no policy support and no exceptional circumstances have been put forward in support of the application. The direct access to the Clooney Road would result in the intensification of use of an existing substandard access onto a protected route, thereby prejudicing the free flow of traffic and conditions of general safety. The proposed building is a dominant feature in the landscape which does not integrate into the surrounding landscape and would result in a detrimental change to the rural character of the countryside. As the proposal is unacceptable, refusal is recommended.

10 REASONS FOR REFUSAL

1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to the paragraph 6.88 of the Strategic Planning Policy Statement for Northern Ireland and Policies PED 2, PED 6 and PED 9 of Planning Policy Statement 4, Planning and Economic Development, in that the site is located within a rural countryside area and no exceptional circumstances have been demonstrated to justify relaxation of the strict planning controls exercised in this area.
3. The proposal is contrary to Paragraph 6.297 of the SPPS and Annex 1 – Consequential amendment to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing substandard access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
4. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal has an inappropriate design which would create a dominant feature in the landscape, therefore would not visually integrate into the surrounding landscape.
5. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

Site Location Plan (Not to scale)

