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| Planning Committee Report - LA01/2017/0333/F To the rear of 211 Seacoast Road, Limavady | 24th January 2018 |
| PLANNING COMMITTEE | |

| Linkage to Council Strategy (2015-19) | |
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| 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 | Principal Planning Officer |
| Cost: (If applicable) | N/a |

**To the rear of 211 Seacoast Road,
Limavady**

LA01/2017/0333/F

24th January 2018

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| <u>No:</u> | LA01/2017/0333/F | <u>Ward:</u> | MAGILLIGAN |
| <u>App Type:</u> | Full Planning | | |
| <u>Address:</u> | To the rear of 211 Seacoast Road, Limavady | | |
| <u>Proposal:</u> | Erection of a detached 1 1/2 storey dwelling and detached domestic garage (change of design from approved dwelling under B/2007/0398/RM) | | |
| <u>Con Area:</u> | n/a | <u>Valid Date:</u> | 13.03.2017 |
| <u>Listed Building Grade:</u> | n/a | | |
| Agent: | C.McIlvar Ltd., Unit 7, Cookstown Enterprise Centre, Sandholes Road, Cookstown, BT80 9LU. | | |
| Applicant: | Desmond Quigley, 211 Seacoast Road, Ballyhenry East, Limavady, BT49 9EF | | |
| Objections: | 0 | Petitions of Objection: | 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 subject to the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located off the Seacoast Road and is accessed from an existing lane which serves the neighbouring property at 209 Seacoast Road and the adjacent Crane Hire premises at 211 Seacoast Road. The site comprises the existing access lane and a portion of an existing agricultural field. The site itself is relatively flat and site boundaries are presently undefined. A rendered wall with decorative pillars has been erected along the northern boundary of the adjacent Crane Hire premises. At the time of the site inspection foundations

appeared to be in place for the proposed dwelling which is the subject of this application.

- 2.2 There were also pools of water lying in various sections of the remainder of the agricultural field, which sits north of the application site.
- 2.3 The character of the surrounding area is rural. There is a neighbouring crane hire business adjacent to the site and occasional detached rural dwellings in the wider area.
- 2.4 In the Northern Area Plan the site is located in the countryside, outside of any defined settlement limits. There are no specific zonings or designations covering the site.

3 RELEVANT HISTORY

B/2008/0309/F

Enlargement of site and change of dwelling design from single storey to one and a half storey dwelling with detached garage/store.
To the rear of 211 Seacoast Road, Ballyhenry East, Myroe, Limavady.
Application Withdrawn 01.11.2010

B/2007/0398/RM

Erection of traditional rural dwelling with detached garage/store.
To the rear of 211 Seacoast Road, Ballyhenry East, Limavady.
Permission Granted 09.05.2008

B/2005/0863/F

Erection of two storey dwelling.
Behind 211 Seacoast Road, Limavady.
Permission Refused 28.06.2006

B/2002/0494/O

Site for dwelling and domestic garage.
To the rear of 211 Seacoast Road, Ballyhenry East, Limavady.
Permission Granted 19.11.2004

4 THE APPLICATION

- 4.1 Full Planning Permission is sought for the erection of a detached 1 ½ storey dwelling and detached domestic garage (which is a Change of design from B/2007/0398/RM).

5 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: There are no objections to the proposal

5.2 Internal

Environmental Health Department: No objections

NI Water: No objections

DAERA Water Management Unit: No objections

DFI Roads: Amended site layout plans required including visibility splays of 2.4m x 45m and a forward site visibility of 45m which will require control of additional lands on the western side of Seacoast Road.

DFI Rivers: Consider that the proposal is contrary to Policy FLD 1 of PPS 15.

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 15: Planning and Flood Risk

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: the principle of development; flood risk; access; and integration and impact on rural character.

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 for the erection of a

detached 1 ½ storey dwelling and detached domestic garage which is a change of design from the dwelling previously approved under application ref: B/2007/0398/RM. As no other case was made for a dwelling under Policy CTY 1 by the applicant, consideration must be given to whether a material start has been made on B/2007/0398/RM keeping it live in perpetuity and offering a fall-back position.

8.3 Regarding commencement of development the Council's website advises as follows:

Where you have been granted full planning permission or reserved matters application following the grant of outline planning permission, you may wish to commence development to implement your planning permission within the specified time period but not be in a position to complete your development. It is often a matter of judgement as to whether or not development has commenced to implement the planning permission.

However, the following are examples of when we would consider that development had commenced in accordance with the permission granted.

- *You have complied with conditions relating to works to be carried out prior to the commencement of other work, for example the construction of an access in accordance with the approved plans, **and***

1. you have commenced any work of construction in the course of the erection of a building, such as the digging of foundations and preferably pouring of concrete, driving piles or other substantive works;

2. the laying of any underground main pipe to the foundations or part of the foundations of a building.

Where development has commenced but not completed, the onus is on you to retain any documents or records of the work carried out, such as invoices, receipts, building control approval, dated photographs, in case there is a need to demonstrate commencement of development within the time period specified on your planning permission at a later date.

8.4 Application B/2007/0398/RM was approved on the 2nd May 2008. This permission subsequently expired on the 1st May 2010. In order to consider the current application, which is a change of house type from that previously approved, the agent was required to demonstrate that

a material start was made on the application site in accordance with the previous approval and prior to its expiration.

- 8.5 Evidence submitted by the agent included an inspection report from Building Control dated 25.04.2012 (2 years after expiration of B/2007/0398/RM) which did not demonstrate that the works were carried out prior to expiration of the previous approval. Further documentation in the form of a receipt in relation to digger hire and the digging of foundations were submitted. These did not demonstrate that works were carried out prior to the expiration of the previous approval when considered alongside aerial imagery, refer to paragraph 8.9 for details.
- 8.6 The agent was advised that further evidence was required and a signed affidavit was submitted from the farmer leasing the lands. There are no specific dates contained within this statement. Reference is made to 'in and around' specific months but it is not possible to verify this information. Given the specific time period of the approval, specific dates are critical in determining whether or not a material start was made in time. As it was noted in the affidavit that footings were dug, and then subsequently filled in, further information was requested in relation to this.
- 8.7 The further information submitted included an undated aerial photograph which cannot be considered as there is no information or date on the photograph which can conclusively tie it to a specific date.
- 8.8 There is no evidence that a material start was made on the site in accordance with the previous approval prior to its expiration. All of the information submitted by the agent was considered alongside dated aerial imagery of the site.
- 8.9 Aerial imagery indicates that foundations of a square structure were dug, but these only appeared in April 2012, 2 years after the expiration of the planning permission, and were not present in any other aerial images from any other years. This accords with the date of the Building Control Inspection Report. These works did not occur within the timeframe of the previous approval, nor where they located in accordance with the approved plans. They do not constitute a material start in relation to B/2007/0398/RM.
- 8.10 Further to the above, condition 7 of the reserved matters approval is a pre-start condition which states that;

'The development hereby permitted shall not be commenced until the existing accesses marked A and B on the approved plans have been permanently closed and the road properly reinstated.'

DFI Road's consultation response on the current application of 22nd March 2017 notes that DFI Roads will require the two field accesses, detailed on the previous Planning Approval Ref: B/2007/0398/RM, permanently closed off. As such, this condition requiring work to be carried out prior to the commencement of other work was not complied with.

- 8.11 As no material start was made in relation to the previous approval, there is no valid approval in place which would allow for the consideration of the proposal as a change of design to B/2007/0398/RM. As no fall-back position exists the proposal would not be considered as an exception under Policy CTY 1 and the agent has not demonstrated any other policy for the assessment of the proposal or demonstrated an overriding need for a dwelling at this location, the proposal fails to comply with Policy CTY 1.

Flood Risk

- 8.12 Policy FLD 1 of Planning Policy Statement 15 – Planning and Flood Risk states that development will not be permitted within the 1 in 100 year fluvial flood plain or the 1 in 200 year coastal flood plain unless the applicant can demonstrate that the proposal constitutes an exception to the policy.
- 8.13 The application site is located within the estimated Coastal Floodplain (Q200) and more significantly the 1 in 100 year fluvial flood plain of the designated River Roe. The agent acknowledges this by ticking yes at Q19 of the P1 form, '*is the site within an area of known risk of flooding*'. The proposal does not constitute an exception to Policy FLD 1.
- 8.14 DFI Rivers Agency has advised that the proposal is considered to be contrary to Policy FLD 1 of PPS 15 and Rivers Agency would object to any such development taking place.

Access

- 8.15 It has not been demonstrated that safe access can be provided onto the public road. DFI Road's consultation response of 22nd March 2017 states that access visibility splays of 2.4m x 45m and a forward sight visibility of 45m, which will require control of additional lands on the western side of Seacoast Road, are required. As the principle of

development was not considered acceptable no further information was requested to avoid putting the applicant to any unnecessary expense.

Integration and Impact on Rural Character

- 8.16 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. As noted in paragraph 8.11 the principle of development is not considered acceptable on this site and there is no fall-back position. Notwithstanding this, the proposal is assessed in relation to integration, design and rural character.
- 8.17 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 topography of the site is relatively flat and open as site boundaries are undefined. The site lacks long established natural boundaries and would rely primarily on the use of new landscaping for integration. Any new dwelling would be a prominent feature within the landscape. The design of the dwelling is not considered appropriate for the site given the lack of enclosure and views of the site from both the Seacoast Road and Aghanloo Road. The overall development would have a detrimental impact on rural character and is therefore contrary to Policy CTY 14.

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. There is no fall-back position as it has not been demonstrated that a material start was made on the site in accordance with planning approval B/2007/0398/RM. The proposal would fail to integrate and have a detrimental impact on rural character. The proposal does not constitute an exception to Policy FLD 1 of PPS 15 which seeks to prevent development in flood plains. The proposal is contrary to Policy AMP 2 of PPS 3 as the applicant has failed to demonstrate that the proposal would not prejudice road safety. 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 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 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 proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, therefore would not visually integrate into the surrounding landscape.
3. 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.
4. The proposal is contrary to paragraph 6.107 of the Strategic Planning Policy Statement for Northern Ireland and Policy FLD 1 of Planning Policy Statement 15 'Planning and Flood Risk' in that development is not permitted within the 1 in 100 year fluvial flood plain or the 1 in 200 year coastal flood plain and the proposal does not constitute a valid exception to the general presumption against development in flood plains.
5. The applicant has failed to demonstrate that the proposal would not prejudice road safety in accordance with Policy AMP 2 of Planning Policy Statement 3 – Access, Movement and Parking.

Site Location Map

ACEmap[®] Online Scale 1:2500 Plan No. 01905NE
 Printed: 01/11/2010 Customer Ref. Plot I.D. 61159-1
 This map relates to the following address or grid reference
 211, SEACOAST ROAD, BALLYHENRY EAST, LIMAVADY, BT49 9EF, 187358152

