

<b>Planning Committee Report – LA01/2016/0825/F Rear of 160C Seacoast Road, Crindle, Limavady</b>	<b>24<sup>th</sup> January 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>	Principal Planning Officer
<b>Cost: (If applicable)</b>	N/a

**Rear of 160C Seacoast Road  
Crindle  
Limavady  
LA01/2016/0825/F  
Full Application**

**24<sup>th</sup> January 2018**

<b><u>No:</u></b>	LA01/2016/0825/F	<b><u>Ward:</u></b>	Magilligan
<b><u>App Type:</u></b>	Full Application		
<b><u>Address:</u></b>	Rear of 160C Seacoast Road, Crindle, Limavady		
<b><u>Proposal:</u></b>	Proposed application for Planning (CTY2a) for a single storey dwelling with detached garage.		
<b><u>Con Area:</u></b>	N/A	<b><u>Valid Date:</u></b>	7 <sup>th</sup> July 2016
<b><u>Listed Building Grade:</u></b>	N/A		
<b>Agent:</b>	Alymer Sherrard, 45 Tully Road, Limavady, BT49 9HW.		
<b>Applicant:</b>	Mr G Neely		
<b>Objections:</b>	<b>3</b>	<b>Petitions of Objection:</b>	<b>0</b>
<b>Support:</b>	<b>0</b>	<b>Petitions of Support:</b>	<b>0</b>

**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 section 7 & 8 and resolves to **REFUSE** full planning permission for the reasons set out in Section 10.

## **2 SITE LOCATION & DESCRIPTION & CHARACTER OF AREA**

The site is located to the rear of 160c Seacoast Road, Crindle, Limavady. The site is accessed from an existing lane which in turn is accessed from Seacoast Road. The site is immediately to the rear of 160c Seacoast Road, a detached 1 ½ storey dwelling. The north eastern party boundary with 160c Seacoast road is defined with a 2m post and wire fence, dense hedgerow and assorted vegetation/ trees. The south eastern boundary, to the rear of the proposed site, is defined with dense hedgerow, vegetation and assorted trees of varying heights. The

remaining boundaries of the site are undefined. The general topography of the site would seem to be relatively flat. However, at the time of visiting the site, rubble and assorted building waste was present. Several large mounds and ridges have been overgrown with grass. In the south eastern corner of the site foundations are present. One foundation, which is a course or two of block above existing ground level, appears to be for a garage and the other set of foundations/ footings at existing ground level would appear to be for a dwelling. Both sets of foundations seem to have been in-situ for a considerable amount of time. During the official's site inspection on 26<sup>th</sup> August 2016 a mobile home was also present on the site.

- 2.1 The site is outside any settlement development limit as set out in the Northern Area Plan 2016 and is not subject to any specific designation or zoning within the plan.

### **3 RELEVANT HISTORY**

B/2005/0881/O. Rear of 160c Seacoast Road, Crindle, Limavady. Site for dwelling with detached garage. Permission Granted 11th May 2006.

B/2009/0015/RM. Rear of 160c Seacoast Road, Crindle, Limavady. Single storey dwelling with detached garage. Permission Granted 30th March 2009.

- 3.1 For the permission to remain active in perpetuity a material start on the development must have been made before 11th May 2011.
- 3.2 The original proposal was described as, 'Renewal of lapsed planning permission B/2009/0015/RM (CTY2a) for single storey dwelling with detached garage.' The description was subsequently changed during the processing of the application to 'Proposed application for Planning (CTY2a) for a single storey dwelling with detached garage.'
- 3.3 During the processing of the application the applicant stated on the P1 form that the site had been partially developed with a hard core access road and hard core placed around the site in February 2009 and that the foundations were excavated and poured on 2nd of April 2012. Subsequent to an Office Meeting held in the Planning Office on 18<sup>th</sup> of January 2017 the

applicant submitted receipts for stone and invoices for site works dated the 6<sup>th</sup> & 7<sup>th</sup> of April 2009.

3.4 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.*

3.5 A material start was not made within the time frame. Aerial photography from the site supports the applicant's claim that foundations were not poured until after the expiration of permission B/2009/0015/RM. Aerial photography also shows that although some material seemed to have been stored

adjacent to the site on 24/07/2011 the access arrangement, as granted, was not in place at this time. Subsequent Aerial photographs from 09/06/2013 do not show the access, as approved, pertaining to B/2009/0015/RM on site. In regard to the foundations they are not visible on site 27/7/2011 and in fact the site and surrounding field appears to be still in agricultural use at this time therefore prestart conditions were not complied with and a material start has not been made in accordance with Planning Permission and before the expiry of the Planning Permission.

3.6 The application was added to the weekly list of contentious applications in March 2017 and was referred to the planning committee in April 2017. Committee deferred consideration of the application to allow the submission of additional information. As no further information was received the application was brought before the Committee on 28th June 2017. The Committee resolved to approve permission pending the resolution of outstanding access issues.

3.7 The Committee resolved to approve full planning permission for the reasons set out:

- A material start had been made on the previous approval and this is a fall-back position.
- The proposal is an exception to the SPPS and PPS 15 as this is previously developed land.
- The inert material is to be used within the site and would have been used in the construction of the previous permission.
- Agent is to submit revised plans to overcome the reason for refusal with regards to access.

3.8 Subsequent to the Committee Meeting on 28 June 2017, amended house plans were submitted on 11 July 2017. These constituted a substantial change to the application and as such are a new relevant material consideration that needs to be considered by the Planning Committee as the decision maker before the application is issued. These plans have been subject to a subsequent revision. In addition, a further substantive objection has been submitted which requires consideration by the Planning Committee.

## **4 THE APPLICATION**

- 4.1 This is a full application for a single storey dwelling with detached garage at the rear of 160C Seacoast Road, Crindle, Limavady.

## **5 PUBLICITY & CONSULTATIONS**

### **External:**

#### **5.1 Neighbours:**

Three objections have been received from 160c Seacoast Road. A summary of their content is as follows:

- The application does not meet the criteria as set out in CTY2a of PPS21.
- The objector controls use of the lane which would facilitate access and a path for services to the site.
- The Applicant has brought a considerable amount of imported waste to the site.
- The change of levels, created by the volume of waste on the site, has displaced surface water into the objector's property leaving their rear gardens continuously flooded.
- Applicant does not have domestic access over laneway to public road and only possesses an agricultural access.
- The original description of the application acknowledged that works had been undertaken outside of the date required to keep the permission live in perpetuity.
- Dated aerial photography from OSNI and Google Earth does not show an access driveway and hard-core around the site contrary to the claim of the applicant at the previous Committee Meeting.
- A photograph, said to be taken from the Objectors garden, shows a body of standing water which they claim demonstrates flooding caused by surface water run-off from the subject site.
- As a material start was not made within the timeframe and as the subject site is within a flood plain PPS15 should be given determining weight in light of the consequences for the intended occupiers and neighbouring residents.
- No fall-back position exists and the application should be refused as it is contrary to FLD1 of PPS15.

**Internal:**  
5.2 **NIEA: Drainage & Water-** No objection.

**NIEA: Waste Management/ Land & Groundwater Team-**  
Current use of application site for storage of imported builders waste may have caused land to be affected by contamination. Based on the limited environmental information provided unable to advise whether this development would have significant adverse impacts on the water environment. Waste authorisation may be required for the imported waste on the site and use of a crusher on site may require Pollution Prevention & Control Authorisation.

**Transport NI:** Transport NI request amended plans showing visibility splays redrawn to correct side of Road. Subsequent to the Committee Meeting of 28<sup>th</sup> June 2017, several iterations of the block plan was submitted attempting to address Transport NI's concerns and reflecting the changing house types on the site:

02 Rev 3, received 03/07/2017 (Revision of Access)  
02 Rev 4, received 11//07/2017 (Revision of House type & Access)  
02 Rev 5, received 03/08/2017 (Revision of Access)  
02 Rev 6, received 18/08/2017 (Revision of Access)  
02 Rev 7, received 06/10/2017 (Revision of House Type)  
02 Rev 8, received 16/10/2017.

The final version of the block plan has been cleared to the satisfaction of Transport NI. There are no outstanding access issues.

**Environmental Health:** No objection.

**Loughs Agency:** No objection.

**Northern Ireland Water:** No objection.

**Rivers Agency:** Site is within 1 in 200 year Coastal Flood Plain. Rivers Agency will not permit development in the flood plain unless the Planning Authority deems this to be an



exception under FLD1 of PPS15. If proposal is an exception a Flood Risk Assessment should be completed by the applicant.

## **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 development 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
- 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.
- 6.7 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

Northern Area Plan 2016

Strategic Planning Policy Statement

PPS 3 - Access, Movement and Parking

PPS15 – Planning and Flood Risk

PPS 21 – Sustainable Development in the Countryside

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this Full application are; the principle of development; representations; risk of flooding and impact on adjacent residential properties; integration and impact on rural character; potential contamination and access arrangements.
- 8.2 The site is outside any defined settlement development limit as set out in the Northern Area Plan and is not subject to any specific designation or zoning within the plan. There are no further designations within the site or the immediately adjacent area. 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 a dwelling and garage, the main policy considerations are paragraphs 6.70 and 6.73 of SPPS, CTY 1, 2a, 13 and 14 of PPS21 and FLD1 of PPS15.

### **Principle of development**

- 8.3 As explained in paragraph 3, the previous planning permission on the site has lapsed and no material start has taken place to keep the planning history live in perpetuity therefore the site has no fall-back position and must be considered afresh under current planning permission.
- 8.4 Policy CTY1 of PPS21 states that there are a range of types of development that may be acceptable in principle in the countryside. In this case, the applicant could only make a case for a dwelling in an existing cluster, Policy CTY1 therefore refers to Policy CTY2a.
- 8.5 Policy CTY 2a entitled “New dwellings in Existing Clusters” states that planning permission will be granted for a dwelling at an existing cluster of development provided certain criteria are met:
- The cluster of development lies outside a farm and consists of four or more buildings (excluding ancillary buildings) of which at least three are dwellings;
  - the cluster appears as a visual entity in the local landscape;

- the cluster is associated with a focal point such as a social/ community building/ facility, or is located at a cross roads;
- the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- development would not adversely impact on residential amenity.

This is reiterated by paragraph 6.73 of SPPS.

- 8.6 When considered in the context of the policy, the cluster of development associated with this proposal lies outside a farm and consists of at least 15 dwellings and two partially developed sides not including the subject site. The cluster appears as a visual entity in the local landscape commencing at the Coast public house and restaurant to the south with the dwelling at 160c Seacoast Road marking the end point to the north. The focal point associated with the cluster is the aforementioned Coast public house and restaurant and cricket pitch. The application site is bounded on at least two sides by development with 160c Seacoast Road immediately adjacent and the partially developed site to the south (B2007/0215/RM). The partially developed site would appear to have an approval active in perpetuity as aerial photographs of the area from 02/05/2011 show evidence of foundations in-situ prior to the expiry of permission on 15/06/2011.
- 8.7 The proposed site provides a suitable degree of enclosure with mature, dense vegetation on the North eastern and South Eastern boundaries which effectively screen view of the site from the public road. The development can be absorbed by the existing cluster and would suitably round off the northern boundary of this pattern of development. There are no concerns regarding the direct impact to surrounding residential amenity as a result of the proposed development. However, it is of note that the identified site is within a flood plain and surface water may be displaced onto neighbouring sites as an indirect consequence of development or an attempt to raise existing ground levels. There will be no overlooking or overshadowing issues with the proposal due to its orientation,

modest scale and existing mature boundaries screening much of the proposal from other development. The principle of development complies with policy CTY1 and 2a of PPS21 and paragraph 6.73 of SPPS.

### **Representations**

8.8 An objection, received 18<sup>th</sup> September 2017, made on behalf of the residents of 160c seacoast Road, asserts that a material start was not made on the approved site before the expiration of the permission therefore the application should be considered afresh. A statement, photographs and aerial imagery were presented to support their argument which is summarised below-

- The original description of the application, which mentioned renewal of a lapsed permission, was the applicant acknowledging that works had been undertaken outside of the date required to keep the permission live in perpetuity.
- Dated aerial photography from OSNI and Google Earth does not show an access driveway and hard-core around the site contrary to the claim of the applicant at the previous Committee Meeting.
- A photograph shows a body of standing water which they state demonstrates flooding caused by surface water run-off from the subject site.
- As a material start was not made within the timeframe and the subject site is within a flood plain PPS15 should be given determining weight in light of the consequences for the intended occupiers and neighbouring residents.
- No fall-back position exists and the application should be refused as it is contrary to FLD1 of PPS15.

The objection supports the contention that a material start was not made before the expiration of the previous permission. Therefore the application should be considered afresh as no fall-back position exists.

### **Risk of Flooding**

8.9 The Flood Hazard Map (NI) indicates that the site lies within the 1 in 200 year Coastal flood plain and as the applicant has not demonstrated that the site constitutes one of the exceptions to

policy, the proposal is not permitted by policy FLD1 of PPS15. Rivers Agency as the competent authority on such matters has confirmed that this proposal is contrary to Policy FLD1 of PPS 15, Planning and Flood Risk, and that they object to any such development taking place.

#### **8.10 Integration and impact on rural character**

CTY13 and CTY14 and paragraph 6.70 of SPPS stresses that all development in the countryside must integrate into its setting, respect rural character and be appropriately designed. CTY 13 and 14 of PPS21 require a suitable degree of integration to avoid an unduly prominent development that would detract from the character of the area.

The proposed development would not be unduly prominent in the landscape due to its modest size and sympathetic design, mature boundaries screening views from the public road and its position within the cluster. The proposal will not primarily rely on new landscaping to integrate and ancillary works would adequately integrate. The design of the dwelling is modest in scale and is acceptable in this rural location. In regard to the landform it is difficult to ascertain exact ground level due to the quantity of waste material on site. However, if the site was developed, the plans indicate the proposal would successfully blend with the landform, trees and surrounding development. The principle of development complies with paragraph 6.70 of SPPS and policies CTY13 and 14 of PPS21.

#### **Amended Design**

- 8.11 The original iteration of the proposal, dated 7 July 2016, which was considered during the Planning Committee Meeting of 28 June 2017, presented a linear design with two sizeable single storey side projections and a single storey rear projection. The design of the dwelling is modest in scale with finishes, fenestration and characteristics acceptable in this rural location.

Subsequent to the Committee Meeting of 28 June 2017 a change of house type, received 11 July 2017, was submitted. The revised design features a single storey side projection and a single storey rear projection. The design, while materially different from the original iteration, exhibits characteristics appropriate for the rural area and is relatively modest in scale. The design is acceptable for this location.

The final iteration of the proposal, received 6<sup>th</sup> October 2017 reflects identically the design relating to the lapsed permission B/2009/0015/RM. The design exhibits characteristics appropriate for the rural area and is relatively modest in scale. The design is acceptable for this location.

### **Impact on adjacent residential properties**

- 8.12 Three letters of representation were received from the resident of 160c which is located immediately in front of the site along the Seacoast Road. The letters state that the application does not meet the criteria as set out in CTY2a of PPS21. The objector points out that they control use of the lane which would facilitate the access and a path for services to the site. Issue is raised with the considerable amount of waste which has been imported to the site and add that the resultant change of levels, created by the volume of waste on the site, has displaced surface water into the objector's property leaving their rear gardens continuously flooded. The final representation received, subsequent to the Council Meeting of 28<sup>th</sup> June 2017, asserts that a material start was not made on the approved site before the expiration of the permission therefore the application should be considered afresh. A statement, photographs and aerial imagery were presented to support their argument, details of which have been provided in paragraph 8.7.

As explained in paragraph 8.6, officials are of the opinion that the proposal complies with the criteria set out in policy CTY2a. The issue of control of the lane is ultimately a civil matter between the Applicant and the Objector. The volume of waste on the site has been noted and advice was sought through formal consultation with the competent authority NIEA. The Planning Authority shares the Objectors concerns regarding development on the site potentially displacing surface water onto neighbouring sites and supports their argument regarding the absence of a fall-back position.

### **Potential contamination**

- 8.12 As outlined in paragraph 5.2 NIEA: Waste Management/ Land & Groundwater Team advised in their consultation response that the site was currently used for storage of imported builders waste which may have caused the land to be affected by contamination. Based on the limited environmental information provided NIEA are unable to advise whether this development

would have significant adverse impacts on the water environment. Waste authorisation may be required for the imported waste on the site and use of a crusher on site may require Pollution Prevention & Control Authorisation.

- 8.13 NIEA require further supporting information for redeveloping this potentially contaminated site as detailed in the NIEA Guide “Required Environmental Information, A guide to supporting information required for effective consultations”. As with all potentially contaminated sites it is imperative that a comprehensive risk assessment is completed that identifies all unacceptable risks to the water environment and if required a remediation strategy should be agreed to mitigate all risks. Therefore in the absence of this information there is insufficient data to assess the extent of contamination at the site, the nature and extent of unacceptable risks and whether they can be managed through a remediation strategy.

#### **Access arrangements**

- 8.14 Subsequent to the Committee Meeting of 28 June 2017 amended access details have been submitted and agreed by Transport NI. There are no outstanding issues with regard to the access.

## **9 CONCLUSION**

- 9.1 The proposal accords with the principle for a dwelling in the countryside as set out by Policy CTY 1 of PPS 21. However, the site is located in the flood plain and is not an exception to policy and is contrary to FLD1 of PPS15. PPS15 must be given determining weight because of the consequences for occupiers as a result of flooding, in terms of personal safety and damage to property. Additionally, there are valid concerns regarding the displacement of surface waters onto neighbouring lands and the impact on the neighbour’s amenity as a result. There is no fall-back position as development has not lawfully begun. Refusal is recommended.

## 10 Refusal Reasons

- 10.1 The proposal is contrary to paragraph 6.107 of the SPPS and PPS15 Policy FLD1 in that the proposed site is located within a 1 in 200 year coastal flood plain and does not constitute one of the exceptions outlined in the Policy.
- 10.2 The proposal is contrary to paragraphs 4.11 and 4.12 of the SPPS in that it has not been demonstrated that the proposal will not have a significant adverse impact on the water environment.

