

<b>Planning Committee Report LA01/2019/0861/O</b>	<b>26<sup>th</sup> February 2020</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> LA01/2019/0861/O	<b><u>Ward:</u></b> TORR HEAD and RATHLIN
<b><u>App Type:</u></b> Outline Planning	
<b><u>Address:</u></b> Land immediately north east of 150 Torr Road, Cushendun	
<b><u>Proposal:</u></b> Proposed infill dwelling and garage between no.s 150 and 148 Torr Road	
<b><u>Con Area:</u></b> n/a	<b><u>Valid Date:</u></b> 13.08.2019
<b><u>Listed Building Grade:</u></b> n/a	
<b>Agent:</b> TC Town Planning, Unit C12 The Enterprise Centre, Rainey Street, Magherafelt, BT45 6DN	
<b>Applicant:</b> Mr Liam Hamilton, 150 Torr Road, Cushendun	
<b>Objections:</b> 0	<b>Petitions of Objection:</b> 0
<b>Support:</b> 0	<b>Petitions of Support:</b> 0

## **EXECUTIVE SUMMARY**

- Outline planning permission is sought for a proposed infill dwelling and garage between Nos. 150 and 148 Torr Road, Cushendun.
- The site is located within the countryside, outside of any defined settlement development limits as defined in the Northern Area Plan 2016.
- The site is within the Antrim Coast and Glens Area of Outstanding Natural Beauty.
- The principle of development is considered unacceptable as the site does not have a frontage onto Torr Road and is not therefore a gap site.
- The topography of the site is steeply sloping in a south westerly direction and as such significant earth works would be required to accommodate a dwelling within the site.
- DfI Roads has been consulted following the receipt of an amended plan and raises no objection. The proposal complies with PPS3.
- An amended Planning Application Certificate was received on the 19<sup>th</sup> November 2019. Re-Advertisement and Neighbour Notification of the application was carried out.
- There are no objections to the proposal.
- The application is recommended for Refusal.

**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 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 conditions set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The site is located on Torr Road and is accessed from the existing driveway serving No. 148 via its own existing field access gate. The site comprises an existing rectangular portion of an agricultural field, and a triangular portion which sits at an angle to the main part of the site in its western corner and which includes part of the existing garden of No. 150.
- 2.2 The site boundaries are defined by timber post and wire fencing, with the exception of the north western corner section which is currently undefined. Mature hedgerow planting runs along the defined field boundaries. A mature spruce hedge runs along the north western boundary with the dwelling at No. 148. The topography of the site is steeply sloping in a south westerly direction, with the lowest point of the site sitting around 1m higher than the property at No. 150.
- 2.3 The surrounding area is rural and is characterised by farm dwellings, farm buildings and the undulating landscape of Torr Road.

## **3 RELEVANT HISTORY**

### LA01/2017/0791/F

Proposed redevelopment of farm yard and buildings including replacement, renovation and amendments to existing buildings and enclosing existing external storage areas.

Approximately 80m South and South West of no. 150 Torr Road, Cushendun.  
Under Consideration

E/2007/0068/O

Proposed retirement dwelling and double garage  
37m North East of 150 Torr Road, Cushendun.  
Application Withdrawn

## **4 THE APPLICATION**

- 4.1 Outline planning permission is sought for a proposed infill dwelling and garage between nos. 150 and 148 Torr Road, Cushendun.
- 4.2 In the Northern Area Plan 2016 the site is located in the countryside outside of any defined settlement development limits. The site is located within the Antrim Coast and Glens Area of Outstanding Natural Beauty.

### **Habitats Regulation Assessment**

- 4.3 The potential impact 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.

## **5 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  
DfC Historic Monuments Unit – No objections  
DAERA Water Management Unit – 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 both 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

Planning Policy Statement 2 – Natural Heritage

Planning Policy Statement 21 – Sustainable Development in the Countryside

## **8 CONSIDERATIONS & ASSESSMENT**

### **Planning Policy**

- 8.1 The main considerations in the determination of this application relate to: principle of development, integration; rural character; access and; impact on AONB.

### **Principle of Development**

- 8.2 Policy CTY1 identifies a number of instances when an individual dwelling house will be granted permission. The application has been submitted for a proposed infill dwelling and garage. The development of a small gap site within an otherwise substantial and continuously built up frontage is considered under Policy CTY 8.
- 8.3 Policy CTY 8 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. A substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
- 8.4 The application site comprises an existing rectangular portion of an agricultural field, and a triangular portion which sits at an angle to the main part of the site in its western corner and which includes part of the existing garden of No. 150. The triangular portion of the site is the only point at which the application site abuts the road. The field where a dwelling will be sited does not present any frontage onto the road. As the site has no frontage onto Torr Road, it falls that there is no small gap on which development could be permitted.
- 8.5 While driving along Torr Road there is a degree of visual linkage between the two existing dwellings. However, when viewing the application site in this context, it does not visually read as a gap

between the two dwellings, even when taking into consideration the offset angles of the built form.

- 8.6 The existing pattern of development is dwellings set at an angle, back from the road which are not directly accessed from Torr Road. There are two accesses from Torr Road which serve agricultural lands and buildings while also providing an access to Nos 148 & 150 Torr Road respectively. The application site, as presented, would include part of the existing garden at No. 150. The result of this is an unorthodox arrangement with No. 150 having no direct frontage onto Torr Road. When viewing the access point to the application site on Torr Road, the field in which the dwelling will be sited, is located to the rear and side of the existing dwellings. While the access forms part of the defined application site and will front Torr Road, the land where a dwelling would be situated, does not have any frontage onto the road. Therefore it is not possible for the site to be considered as a small gap site with a frontage onto Torr Road, as either No. 150 sacrifices its frontage with Torr Road to facilitate the necessary works for a domestic access, or if No. 150 retains its frontage, there is no domestic access into the land where the dwelling will be sited.
- 8.7 Policy CTY 8 also requires a site to meet other planning and environmental requirements. The topography of the site is steeply sloping in a south westerly direction and will require engineering works to accommodate a dwelling. Policy CTY 13 and CTY 14 are considered in paragraphs 8.11 – 8.15 below.
- 8.8 In the Supporting Statement submitted with the application, a case has been presented that the site is an acceptable infill opportunity. In Picture 1 within this statement, the agent argues that the site will round off the established linear development along this part of the road. Policy CTY 8 does not facilitate the rounding off or clustering of development in the way CTY 2a allows. The agent has not argued this area is a cluster and it fails to meet the policy requirements of CTY 2a. Instead CTY 8, which the agent argues, allows for the consideration of a small gap site within an otherwise substantial and continuously built up frontage. In Figure 4 of the supporting statement, the plot sizes are presented. Officials would view this assessment differently in that the patch of grass to the south of No. 150 is not considered to form part of its plot as it lies outside the defined curtilage. This

would reduce the size of this plot by almost half. Furthermore, while the residential plots are clearly defined by a wall, the size of the agricultural plot containing the farm sheds has no clear definition and is separate to these frontages by a watercourse. The application plot would be larger than the adjoining residential plots, while significantly smaller than the large agricultural buildings and plot to the South and therefore is not reflective of the existing development pattern in this respect. Figure 5 of the supporting statement shows the approximate site frontages. Again Officials would be of a different opinion as No. 150 will no longer have a frontage onto Torr Road given that that part of the garden delivering a frontage onto Torr Road is now within the application site. Additionally, the adjacent strip of land to the south, between No.150 and the watercourse, is not part of the dwelling plot and cannot be considered as *built up frontage* onto Torr Road for the purposes of CTY 8. The proposal is not reflective of the plot sizes in this area.

8.9 The two examples within the Causeway Coast and Glens area quoted by the agent (LA01/2016/0653/O & LA01/2018/0310/F) are distinguishable from the application site as there is a substantial and continuously built up frontage and the application sites respect the existing development pattern in respect of the site frontages and plot sizes. In any case, each application must be considered on its own merits.

8.10 Given the character of the site and the surrounding area, the application site does not present as a small gap site within an otherwise substantial and continuously built up frontage. The site also fails to meet other planning and environmental requirements, considered in the report below. The proposal fails to comply with Policy CTY 8. Subsequently the proposal is contrary to Policy CTY 1 as it does not constitute one of the types of development acceptable under Policy CTY 1 and there are no overriding reasons why development is essential and cannot be located in a settlement.

## **Integration**

8.11 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. Policy CTY 8 also

requires that proposals meet other planning and environmental requirements.

8.12 As this is an outline application there are no details of how it is proposed to accommodate a dwelling on the site. Given the topography of the site, any dwelling may be situated in an elevated position in relation to the existing dwelling at No. 150, while also requiring engineering works to accommodate a dwelling.

8.13 Paragraph 5.64 of CTY 13 states that a new building that relies on significant earth works, such as mounding or cut and fill for integration, will be unacceptable. Thus any new dwelling would be a prominent feature in the landscape and rely on new landscaping for integration. The proposal is considered to be contrary to Policy CTY 13.

### **Rural Character**

8.14 Policy CTY 14 states that 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.

8.15 The application site does not constitute an exception under Policy CTY 8 and consequently development of the site would result in a build up of development that would be detrimental to the rural character of the area. The proposal will have a detrimental impact on the rural character of the area and the proposal is contrary to Policy CTY 14.

### **Access**

8.16 In DfI Roads consultation response of 19<sup>th</sup> September 2019 comments received stated that amended plans, written confirmation that the applicant has control of lands for visibility splays and an amended Q12 of the P1 Form were required in order to provide the necessary sight visibility splays. Following circulation of the application as a recommended refusal on the contentious weekly list, and the subsequent request for a referral to the Planning Committee, the agent was afforded the opportunity to address the DfI Roads comments. The agent subsequently submitted an amended plan and additional

information to address DfI Roads comments. Further consultation was carried out, and DfI Roads raises no objection to the proposal.

### **Impact on AONB**

8.17 Policy NH 6 of PPS 2 states that planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality and all the following criteria are met:

a) the siting and scale of the proposal is sympathetic to the special character of the Area of Outstanding Natural Beauty in general and of the particular locality; and

b) it respects or conserves features (including buildings and other man-made features) of importance to the character, appearance or heritage of the landscape; and

c) the proposal respects:

- local architectural styles and patterns;
- traditional boundary details, by retaining features such as hedges, walls, trees and gates; and
- local materials, design and colour.

As outlined earlier in this report, the principle of development on this site is considered to be unacceptable as it is contrary to CTY 1. Development of the site would result in a build up of development that would be detrimental to the rural character of the area. The proposal would therefore fail to comply with criteria (a) of the above policy and is contrary to Policy NH 6 of PPS 2.

## **9 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 the development of gap sites as outlined in Policy CTY 8. In addition, a new dwelling would fail to integrate, have an adverse impact on rural character, and have a detrimental impact on the

character of the AONB. The proposal is contrary to Policies CTY13 and CTY 14 of PPS 21, and Policy NH 6 of PPS 2. 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 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap site within an otherwise substantial and continuously built up frontage.

3. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, as the proposed site would not visually integrate into the surrounding landscape.

4. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, create a ribbon of development along Torr Road which results in a suburban style build-up of development when viewed with existing and approved buildings and results in a detrimental change to the rural character of the countryside.

5. The proposal is contrary to Paragraph 6.187 of the SPPS and Policy NH 6 of Planning Policy Statement 2, Natural Heritage in that the development, if permitted, would have a detrimental impact upon the character and appearance of the Antrim Coast and Glens Area of Outstanding Natural Beauty.



# Addendum

## LA01/2019/0861/O

### **1.0 Update**

- 1.1 An email was submitted on 20<sup>th</sup> January 2020 by the applicant's agent, TC Town Planning, supporting the existing argument and citing 2 appeal decisions for consideration.

### **2.0 Assessment**

- 2.1 The above correspondence has been uploaded onto the Planning portal.
- 2.2 The supporting information states they consider the application site is in general conformity with the existing pattern of development. This conflicts with Para 8.6 of the Planning Committee report.
- 2.3 The 2 appeals cited within the statement are 2018/A0209 & 2017/A0249
- 2.4 Neither of these appeals have been submitted and the supporting information identifies discrete issues within the 2 Commissioners' reports. As with any planning decision, these appeals must be read as a whole, and not in isolated or selective fragments, and must bear in mind the context and character of the sites and any adjoining development. Each application must also be assessed on its own merits.
- 2.5 The sole argument advanced regarding planning appeal 2018/A0209 in support of this planning application is that the Commissioner accepted a 14 metre frontage which was less than the adjoining frontages. In reading this appeal decision, the Commissioner identifies that there is no dispute that this is a substantial and built up frontage and policy is satisfied in this regard (Para.6). This differs from the application under consideration. Furthermore, there was no uniform site frontage in this appeal and the Commissioner is critical of the Council's analysis in that it failed to take account of para 5.34 of CTY 8 and that it is the gap between the buildings that needs to be

considered. The Commissioner goes on to highlight that the Council failed to take cognisance of the widening configuration of the appeal site and that when this is all taken into account, the appeal site is comparable to those within the substantially built up frontage. Therefore this appeal is not comparable.

- 2.5 Appeal 2017/A0249 relates to a gap site within a substantial and built up frontage. The supporting statement argues the Commissioner accepted dwellings set back 85 metres from the road. However, in that appeal both dwellings had frontages to the road which is the critical matter. Therefore it is irrelevant how far the dwellings are set back from the road as policy allows dwellings to be set back provided there is a common frontage to the road. Again this is different to the planning application under consideration.
- 2.6 The supporting information presents a further argument regarding the area to the south of No.150 as being within the curtilage of no. 150 as it is continually managed and manicured, and appears domestic. This matter is addressed within Para 8.8 of the report. Of relevance and consideration is the planning status and use of the land, rather than its appearance. When looking at the dwelling (No.150 Torr Road), the area of land to its south would not be considered to be part of the front garden given the existing wall defining the dwelling and its curtilage, the intervening agricultural access and its physical removal from the dwelling.

### **3.0 Recommendation**

- 3.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse the proposed development in accordance with Paragraph 1.1 of the Planning Committee report.