

Causeway Coasts and Glens Borough
Council
Planning Department
Cloonavin
66 Portstewart Road
Coleraine
BT52 1EY

Our ref: GMCB/OK/BP/P/PA
Your ref:

24th January 2021

BY E-MAIL

Dear Sirs

Re: Full Planning Application (ref: LA01/2019/0182/F) for proposed 2 storey, 3 bedroom cottage with pitched roof and single storey side projections and front porch and a double domestic store with covered log store on lands situated 24m NE of 50/51 Kerr Street, Portrush (“the Application”)

Our client: Porter Property Limited

We refer to the above and the forthcoming Planning Committee scheduled to take place on Wednesday, 27th January 2021.

Introduction

The Application was brought back before the Planning Committee on 25th November 2020 and appeared as agenda item 6.5. The Application was presented in normal course as detailed in the confirmed minutes of the meeting and the recommendation of the officer was overturned by the committee with a resolution to approve passed by a vote of 6 votes for and 4 votes against with 2 abstentions. It was further recorded in the minutes that delegated authority was provided to the planning officers with regard to conditions and informatives only.

On 30th November 2020, the public access file contained on the planning portal, the web page for the Application, was updated to record “Permission Granted” and assigned a date of the decision being “30th November 2020”. A copy of that screen shot is appended to this letter. We understand that this entry is triggered when the planning permission is issued by the planning authority.

Relisting of the Application

However, much to our client’s surprised he was informed by his agent that the Application has been relisted to appear before the Planning Committee at the committee meeting scheduled next week.

On inspection of Addendum Report 3, it notes that 6 objections were received after the resolution to grant was passed by the Planning Committee (only 4 of which are available to view). It then proceeds to detail the points of objection, conclude they have all been dealt with and then proceeds to recommend refusal of the Application once more. The

Addendum Report 3 fails to explain how in law the planning department and its officers have the powers to bring the Application back to the Planning Committee in a context whereby the only delegated powers provided to it were with regard to conditions and informatives. Further still, Addendum Report 3 notes that those matters which are material considerations to a planning application had already been dealt with in the previous reports. Indeed, from the review of the minutes it is readily apparent that those reports were placed before the Members and the Application considered at length on the day. As such, there are no new material considerations raised by the objectors.

The leading authority for the ability of the planning officers to return an application post resolution back to the planning committee is the case of *R (on the application of Kides) v South Cambridgeshire District Council [2002] EWCA Civ 926*. That case was premised upon a new material consideration arising post resolution but prior to issuance of the decision notice which would have weighed in the planning balance and which the Planning Committee should have taken into account.

However, critically in the present case the Addendum Report 3 notes that the issues raised have been dealt with previously and does not proffer any such opinion that some 'new' factor is a fresh material consideration which would 'weigh' in the planning balance. Thus, the principle established in *Kides* is not engaged.

As such, we are at a loss as to how in law a planning department and its officers can seek to return an application without any such delegated authority or fresh material planning considerations arising post resolution. The Addendum Report 3 fails to explain to the Planning Committee or the applicant how such action can be taken.

Further, to the extent other issues are raised which are not material considerations, i.e. a factor which would be weighted in the planning balance, they are wholly irrelevant. An example being the claims of a near miss regarding an accident.

Consequently, I would write on behalf of the applicant to outline that we do not believe that the planning department and its officers have the power to return the Application to the Planning Committee and would ask for an explanation as to how it believes it has the legal powers to do so given *Kides* is not engaged? The mere receipt of objections reiterating previous objections raised, raising nothing new and raising immaterial considerations does not justify the return of the Application to the Planning Committee recommending refusal in a context whereby a resolution to approve has been passed. The failure of Addendum Report 3 to explain how the planning department and its officers believe they have the power to do so is stark and unlawful.

Permission was granted on 30th November 2020

Further, as noted above the planning portal informs members of the public that planning permission was in fact granted on 30th November 2020. From review of the 4 of the 6 objections referred to the earliest date of an objection received was the 30th November 2020. The planning department and its officers must explain to the Planning Committee how it can come to pass that the planning portal records planning permission to have been granted on a specific date, a matter which would have required input of an officer to trigger and yet the Application is being returned to the Planning Committee as if such a permission had never issued.

We look forward to receipt of an explanation by return and in any event prior to the Planning Committee. This correspondence should be brought to the attention of the Planning Committee given the issues arising.

Yours faithfully,

SENT ELECTRONICALLY WITHOUT SIGNATURE

Carson McDowell LLP

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Enc.

Screen Shot



Planning » Application Summary

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LA01/2019/0182/F | Proposed 2 storey, 3 bedroom cottage with pitched roof and single storey side projections and front porch and a double domestic store with covered log store. (additional document relating to access received) | 24m NE of 50/51 Kerr Street Portrush

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Reference	LA01/2019/0182/F
Application Received	Tue 19 Feb 2019
Address	24m NE of 50/51 Kerr Street Portrush
Proposal	Proposed 2 storey, 3 bedroom cottage with pitched roof and single storey side projections and front porch and a double domestic store with covered log store. (additional document relating to access received)
Status	Pre Decision Resolution of Issues
Authority Decision	Permission Granted
Authority Decision Date	Mon 30 Nov 2020
PAC Decision	Not Available
PAC Decision Date	Not Available

There are 0 properties associated with this application.