

Planning Committee Report LA01/2019/0818/O	26 August 2020
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> LA01/2019/0818/O	<u>Ward:</u> KINBANE
<u>App Type:</u> Outline Planning	
<u>Address:</u> Land adj to 'The Whins', 58 Straid Road, Ballycastle	
<u>Proposal:</u> Single new dwelling on a farm with associated siteworks and entrance from existing lane.	
<u>Con Area:</u> n/a	<u>Valid Date:</u> 30.07.2019
<u>Listed Building Grade:</u> n/a	
<u>Agent:</u> Arthur Acheson MRTPI, 41 University Court, 3-5 University Road, Belfast, BT7 1NA	
<u>Applicant:</u> Mr Alan Chambers, 56 Straid Road, Ballycastle, BT54 6NP	
<u>Objections:</u> 1	<u>Petitions of Objection:</u> 0
<u>Support:</u> 0	<u>Petitions of Support:</u> 0

EXECUTIVE SUMMARY

- Outline planning permission is sought for a single new dwelling on a farm with associated siteworks and entrance from existing lane.
- The site is located within the countryside, outside of any defined settlement development limits as defined in the Northern Area Plan 2016.
- The principle of development is considered unacceptable as the site is located on a site which does not visually link or cluster with an established group of buildings on the farm. The proposal does not meet the requirements of criterion (c) of Policy CTY 10 and CTY 13 of PPS 21.
- DfI Roads has been consulted following the receipt of an amended plan and raises no objection. The proposal complies with PPS3.
- One objection has been received in respect of this application.
- The application is recommended for Refusal.

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 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 off the Straid Road, approx. 80m back from the main road, and adjacent to the existing dwelling at No. 58 Straid Road. The site is made up of two rectangular parcels of land comprising an existing agricultural field which separates No. 58 from No. 58a, and a separate portion of land which lies to the west of No. 58.
- 2.2 The northern part of the site which comprises the existing agricultural field is rectangular in shape, with boundaries defined by timber post and wire fencing. The western boundary is supplemented by an existing hedgerow and young trees. The southern portion of the application site, lying to the west of No. 58, is denoted by its own timber post and wire fence boundary and is generally in poorer condition with heavily overgrown planting and gorse bushes covering much of the ground. The topography of the site as a whole is generally flat, although rough underfoot, and at the time of the site inspection the northern part of the site was passable underfoot despite being saturated. Access to the site is from the existing laneway serving the dwellings at No. 58 and No. 58a.
- 2.3 The surrounding area is rural and is characterised by agricultural fields and farm groupings. The dwelling at No. 58a is located to the northern boundary of the application site, and the dwelling at No. 58 to the south east of the site.

3 RELEVANT HISTORY

A search of the site showed:

E/2004/0101/O

Site of dwelling and garage.
200m SE of 63 Straid Road, Ballycastle.
Permission Refused

A search of the surrounding area showed:

E/2007/0355/O

Site for private domestic dwelling and garage.
Site 150m south east of 63 Straid Road, Ballycastle.
Application Withdrawn

E/2007/0210/F

Proposed change of house type to supersede previous approval E/2006/0270/RM.
South East of No. 63 Straid Road, Ballycastle.
Permission Granted.

E/2006/0270/RM

Proposed new dwelling and domestic garage.
South East of No 63 Straid Road, Ballycastle.
Permission Granted.

E/2005/0280/F

Erection of Dwelling.
Land SE of 63 Straid Road, Ballycastle.
Application Withdrawn.

E/2004/0598/RM

New Bungalow and Garage.
Opposite No. 63 Straid Road, Ballycastle.
Permission Granted.

E/2002/0430/O

Site for dwelling.
Land to south-east of 63 Straid Road, Ballycastle.
Permission Granted.

E/2002/0090/O

Site of dwelling & garage.

Opposite 63 Straid Road, Ballycastle.

Permission Granted.

4 THE APPLICATION

- 4.1 Outline planning permission is sought for a single new dwelling on a farm with associated site works and entrance from an existing lane.
- 4.2 In the Northern Area Plan 2016 the site is located in the countryside outside of any defined settlement development limits. There are no specific zonings or designations affecting the site.

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: One letter of objection has been received. The main issues raised are summarised below.

- the use of part of the application site by various wildlife, including badgers.
- the condition of the unmade lane serving their property, No. 58 Straid Road, the maintenance of the lane. The increased risk of a road traffic accident at the entrance to the lane resulting from the intensification of its use.
- Rural character of the area.

5.2 Internal

DFI Roads – No objections

Environmental Health – No objections

NI Water – No objections

DAERA Water Management Unit – No objections

DAERA Land & Groundwater Team – No objections

DAERA Natural Environment Division – Further information is required.

DAERA – Countryside Management Inspection Branch – 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 principle of the type and scale of development proposed must be considered having regard to the SPPS and PPS policy documents specified above. The main considerations in the determination of this application relate to: principle of development, integration; rural character; natural heritage; traffic; and other matters.

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 as an outline application for single new dwelling on a farm. Proposals relating to dwellings on farms are considered under Policy CTY 10.

- 8.3 Policy CTY 10 states that permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

a) the farm business is currently active and has been established for at least 6 years;

b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and

c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane.

Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- *demonstrable health and safety reasons; or*
- *verifiable plans to expand the farm business at the existing building group(s).*

8.4 The application relates to a farm holding which extends to just over 82 hectares with the principal farm lands located at Straid Road, and additional lands at Ballinlea Road and Maghery Road. In DAERA's consultation response (27th August 2019) it confirmed the farm business ID is a Category 1 farm business and has been in existence for more than 6 years. The farm business has also claimed payments through the Basic Payment Scheme or Agri Environment Scheme in each of the last 6 years. It was confirmed that the application site is located on land for which payments are currently being claimed by the farm business. Additionally the agent submitted evidence detailing the single farm payments associated with the farm business, demonstrating more than six years of active farming. This is an active and established farm business for the requisite period and the proposal meets criterion (a).

8.5 The applicant has stated on the P1C that no dwellings or development opportunities have been sold off from the farm holding since 25 November 2008. A development site was sold in March 2005 and evidence in the form of a solicitor's letter and land registry details were submitted with the application. The evidence submitted demonstrates that this transaction occurred prior to 25th November 2008. Additionally a planning history search in relation to farm lands shown on the 2018 farm business maps, and in relation to the applicant's farm business ID number was carried out. There is no planning history in relation to the applicant's farm business ID number. A planning history search of the farm lands identified a previous planning application which was subsequently withdrawn. As no new dwellings or development opportunities have been sold off from the farm holding prior to 25th November 2008, the proposal is compliant with criterion (b).

- 8.6 The application site is made up of two rectangular parcels of land comprising an existing agricultural field which separates the dwelling at No. 58 from the dwelling at No. 58a, and a separate portion of land which lies to the west of No. 58. Neither of these dwellings are associated with the farm. There are no other buildings within the vicinity of the site. Criterion (c) requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm. Exceptionally, policy allows for consideration to be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group.
- 8.7 The agent has submitted a case that there are demonstrable health and safety reasons for the proposed dwelling to be located at an alternative site. A copy of the farm's Health and Safety Policy and Risk Assessments (DOC 02) was submitted with the application. A further independent health and safety assessment with photographs was prepared by Mr. T Chambers and received by Council on 5th November 2019. Mr. T Chambers is an Agriculture Health and Safety advisor. The assessment details the operations which occur on the farm and the nature and frequency of any associated activities and Mr. Chambers very strongly recommends clear and adequate separation from the hazards identified within his assessment when choosing a site for any new dwelling on this farm. An office meeting was then held on the 11th November 2019. At the meeting the agent stated that the author of the Health and Safety assessment advised not to site next to the yard. Having reviewed this specific case, officials are of the opinion that, given the health and safety reasons, it would not be appropriate to have a site that clusters with an established group of buildings on the farm.
- 8.8 Policy requires the new building to be visually linked or sited to cluster with an established group of buildings on the farm. While it is not appropriate to cluster, it has not been demonstrated that this could not be achieved through the siting of a dwelling on a site that would visually link with an established group of buildings on the farm. Such visual linkage can be achieved on other land within the farm holding (as shown in the DAERA farm maps). It

is possible to propose a dwelling on a site, within the farm, that meets the policy requirements while providing appropriate separation from the health and safety issues arising at the established group of buildings on the farm. Therefore, it has not been demonstrated that there are demonstrable health and safety reasons for proposing a dwelling on the site subject to this application.

- 8.9 Given the foregoing and that there are no verifiable plans to expand the farm business at the existing group of buildings, the proposal fails to comply with criterion (c) of Policy CTY 10.
- 8.10 The proposal is contrary to Policy CTY 10. The principle of a dwelling at this site is unacceptable as the proposal is also contrary to Policy CTY 1 as it does not constitute one of the types of development acceptable under this policy and there are no overriding reasons why the development is essential at this location 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 10 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. The site benefits from an existing mature boundary along the western side. The existing dwelling and mature garden at No. 58a separates the site from the main road, and the dwelling at No. 58 sits to the rear of the front part of the application site, with the rear part of the site sitting to the side boundary of No. 58. Given the position of the site and the existing natural boundaries a new dwelling would not be a prominent feature in the landscape.
- 8.13 Notwithstanding the above, as the application is for a proposed new dwelling on a farm and the site is not visually linked or sited to cluster with an established group of buildings on the farm, the proposal is contrary to criterion (g). The proposal therefore fails to comply with 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 If a dwelling was sited in the southern corner of the application site, and of an appropriate scale and design, it would not result in a detrimental impact on the rural character of the area. The proposal complies with Policy CTY 14 subject to a condition restricting the siting of any dwelling, should planning permission be forthcoming.

Natural Heritage

8.16 One objection was received in respect of this application indicating that the site is home to wildlife, including badgers. As badgers are a protected species, Policy NH 2 – Species Protected by Law, is considered. Consultation was carried out with DAERA - Natural Environment Division (NED) who is the competent authority on natural heritage matters. NED has advised that a Preliminary Ecological Appraisal should be carried out to identify protected or priority species and habitats that may use the site. As the principle of development is not considered acceptable (Para. 8.10), this has not been requested from the agent. As it has not been demonstrated that the proposal would not be likely to harm species protected by law, should the principle be considered acceptable under CTY 1, the additional information requested by NED is necessary and cannot be subject to a negative condition. The potential impact or harm to protected or priority species or habitats is currently unknown and a precautionary approach must be adopted.

8.17 As the applicant has failed to demonstrate that the proposal would not be likely to harm species protected by law, the proposal is contrary to Policy NH 2 of PPS 2 and should also be refused for this reason.

Traffic

- 8.18 DfI Roads has been consulted as the competent authority on traffic matters and it raises no objection subject to a condition regarding submission of 1:500 scale plan and accurate site survey with any reserved matters application.

Other Matters

- 8.19 The matters raised within the objection letter have been considered within the report. DfI Roads and NED were both consulted on these. DfI raises no objection and NED seeks a Preliminary Ecological Appraisal to identify protected or priority species and habitats. It is not considered that a dwelling at this location would have a detrimental impact on the rural character of the area, however the principle of a dwelling at this location is not considered acceptable.

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. Regard has been given to the specific policy for dwellings on farms as outlined in policy CTY 10. Although the proposal meets criteria (a) and (b) of policy CTY 10, there is land where a new dwelling could visually link with an established group of buildings on the farm and therefore the proposal fails to meet the requirements of criterion (c) of CTY 10 and the requirements of Policy CTY 13. As it has not been demonstrated that the proposal would not be likely to harm species protected by law, the proposal fails to meet policy NH2. The proposal is contrary to Policies CTY 1, CTY 10 and CTY 13 of PPS 21, and Policy NH 2 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 Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been

demonstrated that; the proposed new building is visually linked with an established group of buildings on the farm; health and safety reasons exist to justify an alternative site not visually linked with an established group of buildings on the farm and; verifiable plans exist to expand the farm business at the existing group of buildings to justify an alternative site not visually linked with an established group of buildings on the farm.

2. 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, in that: the proposed dwelling is not visually linked with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

3. The proposal is contrary to Paragraph 6.187 of the Strategic Planning Policy Statement for Northern Ireland and Policy NH 2 of Planning Policy Statement 2, Planning and Nature Conservation in that the proposal is likely to harm bats and badgers protected by law, and insufficient information has been submitted to establish otherwise.

Site Location

