

<b>Planning Committee Report LA01/2018/0134/F</b>	<b>26 August 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>App No:</u></b>	<b>LA01/2018/0134/F</b>	<b><u>Ward:</u></b>	<b>Dundooan</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Lands 6 metres South of 43 Ballyclogh Road, Bushmills</b>		
<b><u>Proposal:</u></b>	<b>Proposed infill dwelling, access, landscaping and ancillary site works</b>		
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Valid Date:</u></b>	<b>15.02.2018</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>		
<b>Applicant:</b>	<b>Mr Desmond Orr, 19 Corcreeny Road, Hillsborough, BT26 6EH</b>		
<b>Agent:</b>	<b>Clyde Shanks Ltd, 2nd Floor, 7 Exchange Place, Belfast</b>		
<b>Objections:</b>	<b>27</b>	<b>Petitions of Objection:</b>	<b>0</b>
<b>Support:</b>	<b>0</b>	<b>Petitions of Support:</b>	<b>0</b>

## **Executive Summary**

- This proposal is considered acceptable at this location having regard to the Northern Area Plan 2016 and all other material considerations.
- The site is located in the countryside outside any designated settlements.
- The principle of this development is acceptable attributing substantial weight to the planning approval on the site.
- The design of the dwelling and garage is satisfactory and will not detract significantly from local character.
- The proposal will not unacceptably harm neighbouring residential amenity.
- The proposal has adequate measures for on-site sewage treatment and a discharge consent has been granted.
- Access and parking arrangements are acceptable.
- The proposal is unlikely to significantly impact the designated sites or protected and priority species or habitats.
- The proposed development is acceptable from a drainage and flood risk perspective.
- 27 letters of objection has been received in relation to this application.
- No statutory consultee have raised any concerns with this proposal.
- The proposal complies with all relevant planning policies including the Northern Area Plan 2016, SPPS, PPS 21, PPS 15, PPS 3 and PPS 2.

**Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)**

## **1.0 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 **APPROVE** planning permission subject to the conditions set out in section 10.

## **2.0 SITE LOCATION & DESCRIPTION**

- 2.1 The application site is located at Lands 6 metres South of 43 Ballyclogh Road, Bushmills. The site is rectangular in shape comprising an agricultural field which is accessed via a field gate. The front section of the field slopes gradually from 39m to 36m. The rear section of the site slopes steeply from 36m to 26m down at the River Bush which forms the eastern boundary. Rushes are evident in the land adjacent to the River Bush. The western boundary of the site consists of hedging and the field access. The northern boundary consists of a post and wire fence with hedging commencing from the middle to the rear of the site. The southern boundary is defined by an existing post and wire fence with dispersed trees towards the front of the site and a group of trees at the rear of the site beside the river.
- 2.2 The site is located within the countryside outside any designated settlements. The surrounding area is characterised by agricultural fields, farm clusters and scattered dwellings.

## **3.0 RELEVANT HISTORY**

- 3.1 LA01/2016/0850/O: Land between 41 & 43 Ballyclogh Road, Bushmills: Proposed infill site for dwelling: Approval 17.11.2016

C/2012/0380/O: Between 41 & 43 Ballyclogh Road, Bushmills: Proposed infill site for dwelling: Approval 24.01.2013

C/2002/0300/F: Site adjacent to 45 Ballyclogh Road, Bushmills: Erection of dwelling with integral garage: Approval 03.10.2002

C/2000/0174/O: Adjacent to 41 Ballyclogh Road, Bushmills: Site for dwelling and garage: Refusal 18.04.2000

C/1998/0262: Ballyclogh Road, Bushmills: Site for dwelling: Approval 17.06.1998

C/1990/0307: Adj 41 Ballyclogh Road, Bushmills: Site for farm dwelling: Refusal 14.06.1990

## **4.0 THE APPLICATION**

- 4.1 Full planning permission is sought for Proposed infill dwelling, access, landscaping and ancillary site works.

## **5.0 PUBLICITY & CONSULTATIONS**

### **5.1 External:**

27 letters of objection have been received in relation to this application. The main issues raised are summarised below and will be considered and assessed in the remainder of this report:

#### Plans

- Drawings not to scale.
- The red line maps neither match the ground adequately or identify the boundaries, neighbouring lands or features of the site correctly. The application should be dismissed on inadequate plans/information submitted.
- Map boundaries on the site location plan are incorrect in terms of width. The stock proof fence is not a true or accurate boundary marker. The applicant does not own all of the land within the red line so the incorrect Certificate of Ownership has been completed.
- Red Line does not include visibility splays
- Stock fence curve at the bottom south east corner of the fence on the plan displaces the sycamore tree out of our curtilage (No. 41) into the applicant's site.
- The tree is now shown in No. 41's ownership however it is claimed the survey by LSS is still inaccurate after shunting of the

tree. Drawing No. 02B shows this tree in the ownership of the applicant as an existing accurate site survey which is not correct. This is an issue with the LSS survey and measurements provided. Plans are not accurate nor consistent with the ground.

- The distance between the Leylandii hedge north of No. 41 Ballyclogh Road and the site boundary is not accurate. Vague as use of the hedge as a point instead of the fixed corners of the garage.
- Confusion over line leading from the corner of the garage to the fence line at No. 41 Ballyclogh Road.
- Inaccuracies with the plans – Site plan, topographical survey, portrayal of No. 41 Ballyclogh Road
- Plans inaccurate in terms of measurements therefore consultee responses are on the grounds of incorrect plans.
- ‘Do not scale from drawings’ is not removed from Drawing No. 05D – Contextual Road Elevations
- Labels on Drawing No. 02B refer to FL – this is confusing as it could relate to Ground Floor Level, Finished Floor Level, Structural Floor Level or First floor level.
- Section AA does not include No. 41 Ballyclogh Road so is not accurate and does not compliment the Contextual Road Elevation.
- Contextual Road Elevation is false as more of the dwelling and No. 43 Ballyclogh Road will be visible from the road than shown.
- Contextual Road Elevation in relation to No. 41 Ballyclogh Road is not accurate as the dormer window is missing.
- Drawing 01E doesn’t show the position or size of the development in relation to the red line map and in relation to Nos. 41 & 43 Ballyclogh Road.
- Drawing No. 05B shows an outline of No. 41’s property which is inaccurate in terms of the dwelling orientation, the detached garage, the amount of hard surfacing to the front and the plotted hedge.
- On Drawing No. 05F “Proposed dwelling” was labelled in the rear garden of No. 41 on the Section B-B which is incorrect.
- “Proposed Dwelling” annotation which was in the wrong location on the plan was passed onto consultees for comments without sufficient checks to notice this was incorrect.
- Would prefer plans split into separate drawings as this would be clearer and allow better comparison and clarification.
- The time taken to receive a correct red line plan – this draws

- concern over this drawing and all drawings and documents.
- Inaccuracy over measurements means distrust in these plans on the whole even in terms of topography.
  - No. 41 Ballyclogh Road is mis-represented. Certain elements are missing such as the dormer windows. While the case officer knows the layout and appearance of No. 41 from the site visit, those doing desk based responses and discussions do not know how it looks except from these drawings. This drawing is wrong and places a disadvantage on transparent decision making.
  - Section A-A has not been carried out as requested by Planning Office.
  - Query over corner windows in development – discrepancy between floor plans and elevations.

### P1 Form

- Q3 of P1 Form is inaccurate as red line map was changed. The correct size of the site is not reflected in the form.
- No mention on Q16 about the potable water pipe off No. 41 Ballyclogh Road's water mains. This pipe should be disconnected from No. 41 Ballyclogh Road's domestic supply and not used during any building process as it would disrupt pressure.

### Impact on residential amenity

- Overlooking and loss of privacy to both neighbouring properties
- Overlooking of private amenity space, living room and dining room of No. 43 Ballyclogh Road from numerous windows on the side elevation. There are 11 windows and 2 doors overlooking No. 43 Ballyclogh Road on the North Elevation. There is also a prominent viewing window in the middle storey of the 3 storey building on the eastern elevation.
- Overlooking of No. 41 Ballyclogh Road from the front and south facing rooms of this proposal
- Loss of light, overshadowing and dominance to both neighbouring properties.
- Relocation of dwelling and garage further away from No. 43 Ballyclogh Road brings it closer to No. 41 Ballyclogh Road thus further harming their residential amenity. Compounded by large full height windows from the kitchen area on the southern

- elevation.
- Proposed garage is very close to boundary of No. 43 Ballyclogh Road and will dominate this property.
  - Although the dwelling and garage have been moved further away from No. 43 Ballyclogh Road it will have little effect on the loss of natural light and privacy to this property. The garage remains at 1.5 storey with a greater ridge height thus impacting upon amenity and privacy of No. 43 Ballyclogh Road.
  - Lack of proposed hedging along the whole of the boundary adjacent to No. 41 Ballyclogh Road. No protection of private amenity space for No. 41 Ballyclogh Road or the applicant's dwelling house.

### Design

- Inappropriate design and siting of the dwelling and garage.
- Irregular angle of the siting of this proposal – should be parallel and facing Ballyclogh Road
- Inappropriate height, scale & massing of dwelling and garage
- Unacceptable design of the dwelling (a re-design has not occurred)
- Garage is over scaled for a domestic garage.
- Detached garage not in keeping with integral garages adjacent.
- Garage could be construed almost as a second dwelling on the site due to its dimensions and the location of the pedestrian door facing No. 43.
- Awkward location of garage as well as being out of scale
- Ridge height of proposed garage is greater than the ridge height of the roof of No. 43 Ballyclogh Road.
- The dwelling at No. 43 Ballyclogh Road was required to be set down into the landscape whereas the ridge heights of this development exceed the ridge height of this neighbouring property.
- Rear return for this dwelling is not secondary nor does it replicate the typology of adjacent dwellings or the pattern of development along Ballyclogh Road.
- The proposed dwelling and garage positioned on a narrow infill site is going to be highly silhouetted, overbearing and crowding.
- Height of dwelling is unacceptable as it is above Nos. 41, 43 & 45 Ballyclogh Road as these are all 1.5 stories.
- The proposal will have a significant visual impact. Development is out of keeping with the rural environment. No dwellings on the

river side are higher than 1.5 stories. This proposal is 2 storey to the front and 3 storey to the rear. This building is significantly different from those surrounding it. This proposal does not integrate with the surrounding landscape and neighbouring buildings. The scale fails to blend with the landform and open setting of the site.

- Contrary to Policy CTY 8 of PPS 21 as the application site is not an infill as it is not a small gap in a substantial and continuous built up frontage
- Contrary to the guidance within “Building on Tradition”
- Contrary to Policies CTY 13 & 14 of PPS 21 as harms rural character and does not integrate.
- Proposed dwelling does not conform to the measurements stated in previous outline conditions. The frontage of the house exceeds the specified measurement even before adding the frontage of the garage.
- Re-modelling of landform
- Bank collapse inter-related with unrestricted excavation works and rock drilling
- Private amenity space for the proposed dwelling cannot be achieved without significant engineering and land re-profiling works as the site slopes steeply to the rear.
- Excavation work could cause damage to neighbouring properties
- Lack of sufficient landscaping details, including soft and hard landscape, and location and detail relating to external features including fuel storage. Lack of detail of boundary treatments proposed on the site.
- Proposed Hedges along the boundary have the potential to be contrary to The High Hedges Act NI 2011.

#### Biodiversity Checklist

- Inaccurate
- Badgers frequent the site contrary to information contained in the Biodiversity Checklist
- Biodiversity Checklist refers to “Lands at 41 Ballyclogh Road” which is incorrect.
- Confusion over dates quoted in this Biodiversity report. A site walk was carried out on 12<sup>th</sup> January 2019 however, a site survey was undertaken on 20<sup>th</sup> January 2018 before the application was submitted to Planning. This report varies from



- that of a report done on lands within 100m of the site.
- The Area of the Site in the Biodiversity Checklist has been left blank yet Q7 has been completed advising development is not in a rural location on a site greater than 0.5 hectares in area which is incorrect as the site area on the P1 Form is 0.62755. The draft checklist is invalid because the question has been answered inaccurately.

### Drainage and sewerage disposal

- Concern not enough space east of the property for a septic tank with infiltration, saturated and unsaturated zones without affecting the ecosystem of the river or the lands either side.
- Concern over how wc in garage will be serviced.
- Drawings do not show a soakaway plotted for the septic tank which is not in accordance with paragraph 5.98 of PPS 21.
- Drainage concerns
- Concern over drainage field being the actual boundary of adjoining land.
- The area of the site adjacent to the River will be subject to flooding
- Outstanding resolution of drainage proposals and evidence of Consent to discharge
- Inaccurate maps submitted with discharge consent application
- Incomplete depiction of wc drainage in discharge consent application
- Boundary incursion into the curtilage of No. 41 Ballyclogh Road shown on plans submitted with discharge consent application.
- Approval of discharge consent is based on falsified information

### Access

- Visibility splays from the site along the Ballyclogh Road to the south may encroach upon No. 41 Ballyclogh Road's land

### Other

- Lack of appointment made between the applicant/agent and the occupiers of No. 41 Ballyclogh Road in terms of arranging access for the survey to be completed.
- Will restrictions on Permitted Development be necessary for this

- development given its size?
- Damaging to the market value of No. 43 Ballyclogh Road.
  - The flawed and failed Delegated Management Report as well as unresolved issues not actioned or noted by the previous case officer.

## 5.2 Internal:

DFI Roads: No objections

NI Water: No objections

Environmental Health: No objections

DAERA: Water Management Unit: No objections

DAERA: Natural Environment Division: No objections

Shared Environmental Services: No objections

DFI Rivers: No objections

## 6.0 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)

PPS 2 – Natural Heritage

PPS 3: Access, Movement and Parking

PPS 15 – Planning and Flood Risk

PPS 21: Sustainable Development in the Countryside

### **Supplementary Planning Guidance**

Building on Tradition – A Sustainable Design Guide for the NI Countryside

Development Control Advice Note 15 Vehicular Access Standards

## **8.0 CONSIDERATIONS & ASSESSMENT**

### **Planning Policy**

- 8.1 The application site is located within the countryside outside any designated settlement. The proposal consists of a dwelling and garage that has been re-orientated to be parallel to the Ballyclogh Road similar to adjacent properties.

- 8.2 Objections have been received in relation to the plans submitted for this application (for a full detailed list see paragraph 5.1). Plans have been amended several times to address inaccuracies that have been detailed.
- 8.3 The proposed dwelling must be considered having regard to the NAP 2016, SPPS, PPS policy documents and supplementary planning guidance specified above.
- 8.4 The main considerations in the determination of this application relate to: plans and application form, principle of development, visual impact and rural character, design, relationship with neighbouring dwellings, sewerage, access and parking, flooding, natural heritage and consideration of objections.

### **Plans and Application Form**

- 8.5 All proposed plans showing the development are to scale. In relation to the site location plan being incorrect in terms of measurements, amendments have been received altering site boundaries. The P1 Form has been amended in terms of Q3 and the agent advises this figure is accurate based on the recent plans submitted. The sycamore tree is now shown in the curtilage of No. 41 Ballyclogh Road on Drawing No. 05G (Site plan) and 02C (Existing site survey). The P1 Form was amended with Certificate C completed in terms of land ownership with notice served on Nos. 41 & 43 Ballyclogh Road. The Planning Authority is content that the P2A form clearly identifies all owners/those with an interest in the land so there is no prejudice. Although objectors insist there are inaccuracies with the measurements of the site, planning permission does not confer title. It is the responsibility of the developer to ensure they own all the land necessary to carry out the proposed development. Land ownership disputes are a legal matter outside the remit of the Council.
- 8.6 All amended plans have “do not scale” removed with better detail provided in relation to annotations for ground floor, first floor, finished floor and structural floor levels. The red line on the site location plan shows the visibility splays. The site

location plan is not required to show the development beside neighbouring properties as a site plan (Drawing No. 05G) has been provided showing the development in relation to Nos. 41 & 43 Ballyclogh Road. The outline of No. 41 Ballyclogh Road shown on Drawing No. 05G is now correct in terms of orientation, the garage, hard surfacing and the distance from the hedge. The confusion relating to the corner windows in this development has been explored. The agent submitted perspective views of the corner window to bedroom 02 and bedroom 01 & bathroom (Drawing No. 16) to supplement proposed floor plans and elevations. Neighbours were re-notified of this additional plan which shows the masonry reveals more clearly and how these windows will be constructed on site.

- 8.7 Section B-B was amended with the incorrect annotation “Proposed dwelling” removed. While consultees were notified of amended plans with this incorrect annotation, they were aware of the proposed location of the dwelling and garage as shown on the block plan. Section B-B was provided to assist with the planning assessment of this application not for the purposes of consultee comments. In addition to Section B-B, Section A-A and a proposed long section was provided. The Section A-A does not show No. 41 Ballyclogh Road because the topography of the site would not allow a meaningful comparison. A Section B-B was provided to assist in assessing the relationship of the proposed dwelling and garage with No. 41 Ballyclogh Road. Objections state No. 41 Ballyclogh Road has been mis-represented on section B-B as certain elements are missing. On review of this, the front and rear dormers, the front chimney and the front projection are missing from this plan. This drawing is a section primarily showing the difference in levels and allowing overall height comparisons between the proposal and No. 41 Ballyclogh Road. The Section B-B is considered satisfactory for the purposes of assessing this application and a site inspection of No. 41 Ballyclogh Road occurred so the Council is aware of the appearance of this dwelling. The Contextual Road Elevation whilst missing the front dormer, chimney and front projection of No. 41 Ballyclogh Road is considered accurate for the purposes of assessing this application in terms of height comparisons and reflects the topography and context of the proposed site with the existing dwellings.

## Principle of Development

- 8.8 Several planning histories are found on the application site (see paragraph 2.1). An infill dwelling has been approved at land between Nos. 41 & 43 Ballyclogh Road under references LA01/2016/0850/O, C/2012/0380/O and C/2002/0300/F.
- 8.9 The site is located in the open countryside as determined by NAP 2016. The principle of an infill dwelling is considered under Policies CTY 1 and CTY 8 of PPS 21 and the SPPS which is still relevant for this application. The aim of the SPPS with regard to the countryside is to manage development in a manner which strikes a balance between protection of the environment from inappropriate development, while supporting and sustaining rural communities consistent with the RDS. Under paragraph 6.73 the section on “Infill/ribbon development” is relevant and states “provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage. Planning permission will be refused for a building which creates or adds to a ribbon of development.” The planning consideration for an infill dwelling under the SPPS is similar to the consideration under CTY 8 of PPS 21.
- 8.10 The SPPS and PPS 21 were considered under the previous application LA01/2016/0850/O and approval issued for an infill dwelling. The decision issued on 16<sup>th</sup> November 2016 with a deadline of 16<sup>th</sup> November 2019 for submission of a reserved matters application.
- 8.11 In consideration and assessment of the SPPS, Policy CTY 8 of PPS 21 and appeal decision 2017/A0132, the proposed site does not now in the opinion of officials represent an infill opportunity. The site is not within a substantial and continuously built up frontage as there is not a line of 3 or more buildings along a road frontage. The only property with a road frontage is No. 41 Ballyclogh Road. No. 43 Ballyclogh Road has an access lane from Ballyclogh Road but it is set back from the road with a field immediately in front. No. 45 Ballyclogh Road only has an access from Ballyclogh Road with views of this dwelling limited as it is set back from the road by approx. 90m.

8.12 Assessment concludes the site does not represent an infill opportunity and is contrary to Policy CTY 8 of PPS 21. However, all material considerations must be taken into account and this includes consideration of the previous planning approval for an infill dwelling at this site (LA01/2016/0850/O). At the time this application was submitted, there was an extant planning permission for a dwelling to be constructed on this site. The principle of this development is acceptable attributing significant weight to the planning approval on the site which was extant at the time of submission of this application. There has been no change in planning policy since this previous permission was granted. In light of the circumstances of this case, if permission is granted the timeframe for commencement will be restricted to approx. 2 years coinciding with the timeframe for commencement on reserved matters applications.

### **Visual Impact and Rural Character**

- 8.13 Permission will be granted where the proposal can be visually integrated into the surrounding landscape and it is of an appropriate design (Policy CTY 13 of PPS 21). Permission will be granted where the proposed building will not cause a detrimental change to, or further erode the rural character of an area (Policy CTY14 of PPS 21).
- 8.14 The site plan shows existing hedging along the front of the site adjacent to Ballyclogh Road except for the entrance. The northern boundary has proposed hedging towards the front of the site and existing hedging is being retained towards the rear of the site. The eastern boundary is the River Bush. The southern boundary consists of an existing stock fence with existing dispersed trees towards the front of the site and hedging is proposed towards the rear of the site.
- 8.15 Hedging is proposed along the boundary with No. 41 Ballyclogh Road starting approx. 31m in front of the proposed dwelling and running to the rear of the site. This amount of hedging is considered sufficient to assist with protection of views between the application site and the neighbouring property.
- 8.16 The site plan (Drawing No. 05G dated 16<sup>th</sup> July 2019) shows adequate details in terms of landscaping for site boundaries and hard and soft landscaping within the site. Objectors advise

proposed hedging along the site boundaries could be contrary to The High Hedges Act NI 2011. This Act applies to a complaint which alleges that the complainant's reasonable enjoyment of that property is being adversely affected by the height of a high hedge situated on land owned or occupied by another person. It generally refers to hedging that reaches a height of 2m or more. If proposed hedging within the application site were to become a height that could affect neighbouring amenity then a complaint should be made to the Council's Environmental Health Department who will investigate this matter.

- 8.17 No information has been submitted with regard to the fuel type or location in association with this dwelling and garage. The site is of adequate size to accommodate and store a residential fuel system and there is sufficient space within the site to ensure suitable separation distances from neighbouring properties.
- 8.18 Views of the proposal are from Ballyclogh Road and the River Bush. When travelling north along Ballyclogh Road, views of the proposal are restricted by vegetation belonging to the southern and northern boundaries of No. 41 Ballyclogh Road. When passing the front of the site, views will be possible of the proposal. When travelling south along Ballclough Road, views of the site are restricted by a group of trees/vegetation between the access laneways belonging to Nos. 43 & 45 Ballyclogh Road and roadside hedging. Views of the proposal will be possible from the access entrance point to No. 43 Ballyclogh Road and across the front of the site. The critical views of the proposal will be static and transient lasting for approx. 100m which is considered short range.
- 8.19 There are also views of this proposal from the River Bush. This would be predominately restricted to users of the river and its banks. It is not readily accessible to the public with no formal access or parking at this location. Notwithstanding this, it may on occasions have individuals passing the site. The proposal when viewed from this perspective reads as a combination of buildings with each block represented by two storey form which is acceptable.
- 8.20 In review of the contextual road elevation, the sections provided and a site inspection, the proposal is not considered to be a prominent feature in the landscape given its location approx.



84m from the edge of Ballyclogh Road. The proposal when viewed from the Ballyclogh Road has the benefit of a backdrop of rising land and vegetation on the other side of the River Bush assisting with visual integration. While the dwelling and garage is of a considerable size, the site can accommodate this development without eroding rural character. The proposal respects the spacing of traditional buildings found in the locality in that it is centrally located within the site and is parallel with the road. In addition, there is existing and proposed landscaping along the site boundaries which will assist with enclosure.

- 8.21 The proposal is considered to comply with paragraph 6.70 of the SPPS and Policy CTY 13 of PPS 21 and all criteria except (d) of Policy CTY 14 of PPS 21. Criteria (d) relates to ribbon development and as already explained in paragraphs 8.11 – 8.12 the proposal is not considered to represent a gap site in a substantial and built up frontage. However, significant weight has been attributed to the planning permission which was extant at the time of submission of this application.

### **Design**

- 8.22 The proposed dwelling is positioned parallel with the Ballyclogh Road in keeping with the properties located adjacent following amendments. The front of the dwelling is approx. 84m set back from the edge of the Ballyclogh Road. Given the topography of the land within the site, the dwelling has accommodation over 3 floors. The width of the site is approx. 40m where the dwelling and garage is being positioned so the site is not considered narrow in size.
- 8.23 The previous outline permission (LA01/2016/0850/O) was granted with conditions relating to the dwelling frontage to be 13m, the gable depth 8.5m and the ridge height 8m to assist with integration in the countryside. Following amendments, the measurements for the proposed dwelling frontage is 13m, the gable depth is 8.5m and the ridge height is 8m meeting the specifications on the last permission. The frontage of the garage is not included in this dimension as it is detached from the dwelling.

- 8.24 Ballyclogh Road consists of a mixture of dwellings of various heights with some being 2 storeys, 1.5 storeys and bungalows with the majority being traditional in design.
- 8.25 The front elevation of the proposed dwelling is relatively simple in design with single and two storey elements, pitched roofs and the majority of windows having vertical emphasis. Given the difference in levels within the site, the dwelling has been designed with a rear return connected with a flat roof.
- 8.26 Paragraph 5.67 of PPS 21 states “The most successful rural designs are those which are based upon simple shapes and forms of traditional buildings. It is however acknowledged that there will also be opportunities for contemporary or innovative design...provided the overall design and orientation are acceptable.” Although the proposed dwelling does not follow traditional designs evident along the Ballyclogh Road, it has a gable depth and frontage reflective of rural dwellings. Concerns are expressed in relation to the height of this dwelling as it is not 1.5 storeys similar to Nos. 41, 43 & 45 Ballyclogh Road. The ridge height is 8m which meets previous outline conditions and whilst higher than properties immediately adjacent, the scale and massing of the front elevation is generally sympathetic to other dwellings located within the wider rural context. It is acknowledged the proposed dwelling has a large rear return taking advantage of the sloping levels within the site to provide additional accommodation which is not characteristic of the pattern of development along Ballyclogh Road. Notwithstanding this, the design while not being typical of this local area does not adversely harm the character of the surrounding area given the positioning of this rear return behind the front of the main dwelling, the distance set back from the Ballyclogh Road and the limited public views available of this aspect when travelling either direction along the Ballyclogh Road due to screening from roadside hedging, vegetation and trees planted to the north of Nos. 41 and 43’s accesses.
- 8.27 The construction of this dwelling will require re-modelling of the landform due to the topography of land within the site. Excavation works are proposed at the rear of the main dwelling to facilitate the rear return. The floor level of the proposed dwelling will be 35.5 whereas the floor level of the rear return will be 32.7 (a difference of approx. 2.8m). It is not anticipated

that excavation works would contribute to bank collapse given the separation distance of approx. 43m from the River Bush. Although the land slopes steeply towards the River Bush, the proposed dwelling will have ample rear private amenity space, which can be designed to be usable despite the topography. The excavation works have been considered and are acceptable in the context of this particular site. The level of excavation is not considered so significant to have a detrimental impact on rural character. If excavation works result in damage to neighbouring properties, then this is a civil matter to be resolved between the parties concerned.

- 8.28 Proposed materials/finishes for the dwelling include off white painted render and green larch vertical board panelling for the walls. Pitched roofs will be finished in bangor blue slates and flat roofs will be raised seam zinc. Rainwater goods will be natural aluminium. Windows and doors will be black anodized aluminium frames and cills with green timber shutters. These materials are considered satisfactory for a more contemporary design within the rural area.
- 8.29 The proposal entails a detached garage. Plans show space for the parking of 2 cars and a wc at ground floor level. The upper floor level is to be used as a loft. Objectors expressed concern that this garage could be used as another use such as a residential dwelling. However, this change of use would require planning permission and be subject to assessment.
- 8.30 The dimensions of the garage are approx. 7.4m wide x 8m deep x 6.5m high. The front elevation of the garage is west facing. The garage is positioned north of the proposed dwelling almost in line with the adjacent dwelling. Although garages are typically set further back into a site in the countryside behind dwellings, the positioning of the proposed garage is considered acceptable because it does not protrude beyond the front of the proposed dwelling. A proposed garage in the countryside does not have to be an integral garage. A detached garage is fully acceptable and in keeping with garages in the wider area.
- 8.31 The garage consists of a roller shutter in the front elevation, a blank rear elevation, two pedestrian doors in the north facing elevation and 3 velux windows in the south facing elevation. The garage has a pitched roof. The design of the garage is

typical of other detached garages in the rural area. The dimensions of the garage overall are acceptable and in keeping with other approved garages in the rural area. The proposed materials/finishes for the garage are off white painted render for the walls and bangor blue slates for the roof. These finishes are satisfactory and match those of the proposed dwelling.

### **Relationship with neighbouring dwellings**

- 8.32 The proposed dwelling and garage will not unacceptably impact the residential amenity of neighbouring properties.

#### *No. 41 Ballyclogh Road Assessment*

- 8.33 The location of the front of the proposed dwelling is approx. 44m behind the rear elevation of No. 41 Ballyclogh Road. The separation distance is approx. 53m measured from the corner of No. 41's rear elevation and the corner of the front elevation of the new dwelling. Given this relationship and separation distances, there will be no overshadowing or dominance issues to this neighbouring property.
- 8.34 In terms of overlooking, there are no anticipated issues with views from proposed ground floor windows as a hedge is proposed along the shared boundary which will help mitigate views when established. Windows at first floor level include a landing and bedroom in the front elevation. Although there may be some views towards the rear of No. 41 Ballyclogh Road, it is not considered unacceptable given the large separation distances involved. First floor windows in the side elevation relate to a bedroom but this window is to be finished in obscure glass so overlooking will be minimised. The only other window is a velux window over the open plan kitchen area but this will not result in unacceptable overlooking. Windows in the rear elevation of the dwelling will not result in a loss of privacy to No. 41 Ballyclogh Road as views are towards the River Bush and the rear of their plot which is not considered detrimental to their private amenity space.
- 8.35 The proposed garage will not harm the residential amenity of No. 41 Ballyclogh Road given its location north of the proposed dwelling and separation distances.

### *No. 43 Ballyclogh Road Assessment*

- 8.36 The location of the dwelling follows a similar building line to the neighbouring property No. 43 Ballyclogh Road. Taking into consideration the site orientation, the height of this development and difference in levels, the dwelling should not result in unacceptable overshadowing, loss of light or dominance to No. 43 Ballyclogh Road given the separation distances from the common boundary of approx. 21m from the side elevation of the main dwelling, 22m from the stairway area and 24m from the rear return.
- 8.37 In terms of overlooking of No. 43 Ballyclogh Road, there are no perceived issues from the front and rear elevations of this dwelling. There are a number of windows directly facing this property from the side elevation of the new dwelling. Uses relate to kitchen/living area, stairwell, bathroom and bedrooms. The ground floor bedroom and first floor bathroom in the front of the dwelling will not result in unacceptable overlooking of No. 43 Ballyclogh Road as views are partially screened by the location of the garage adjacent and there are adequate separation distances. While views are possible of No. 43 Ballyclogh Road from the windows in the rear return of the new dwelling, the loss of privacy envisaged would not be so detrimental to warrant the withholding of planning permission given the large separation distances involved (approx. 22 - 24m). There is also existing hedging along the shared boundary which will help to mitigate views from this rear return.
- 8.38 The proposed garage will not result in overlooking of No. 43 Ballyclogh Road because the velux windows have been removed from the north facing elevation and there are just 2 pedestrian doors directly facing this property. There were concerns with the original position of the detached garage (Drawing No. 05C dated 30<sup>th</sup> November 2018) in relation to No. 43 Ballyclogh Road in terms of overlooking, overshadowing, loss of light and dominance given the positioning of the garage, separation distances, the site orientation and the difference in ground levels. Amendments were received showing the garage positioned parallel with the road; in line with the front of the proposed dwelling; the external staircase removed, the velux windows in the north facing elevation removed; as well as being

set off the shared boundary with No. 43 Ballyclogh Road by approx. 4.5m.

- 8.39 The amended location for the garage results in a better relationship with No. 43 Ballyclogh Road because the garage is not angled and is not sitting in front of this neighbouring property at such a close distance. The amended garage location has a separation distance of 4.5m opposed to 1 – 1.6m from the shared boundary. Taking into account the height of the garage, the amendments submitted and the new relationship with No. 43 Ballyclogh Road, the proposed garage should not adversely impact their residential amenity in terms of overshadowing, loss of light and dominance to such a significant extent to warrant refusal of this proposal.

### **Sewerage**

- 8.40 Policy CTY 16 of PPS 21 advises planning permission will only be granted for development relying on non mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.
- 8.41 NI Water was consulted and advised public water supply within 20m of the proposal but there is no foul sewer within 20m of the proposal. The use of a septic tank is subject to written consent from Northern Ireland Environment Agency and approval from Environmental Health. Environmental Health was consulted and provided general advice on Septic tank/Sewage Treatment Plants.
- 8.42 DAERA: WMU was consulted and advised Discharge consent under the terms of the Water (NI) order 1999 is required for the discharge of sewage effluent from the proposed development. However, due to the location and other constraints, WMU are concerned that attaining a discharge consent may not be technically/financially feasible. In assessment of this, it was determined further information was required to ensure this site could accommodate a dwelling with adequate sewerage disposal. It was recommended the applicant apply for a consent to discharge at this site.

- 8.43 The agent advised the dwelling will now have a Tricel Vitae 97.5% sewage treatment tank instead of a septic tank. It will be no less than 15m from any dwelling, no less than 3m from the boundary, and no less than 10m from the River Bush. The agent advised NIEA: Water Management Unit Domestic Consents Department have approved the discharge consent application which was submitted 26<sup>th</sup> June 2019 and copies were forwarded by email on the 9<sup>th</sup> September 2019 for our consideration.
- 8.44 Objections have been received in relation to the discharge consent. Issues raised include inaccurate maps submitted with this application and incomplete depiction of wc drainage. The site location map submitted shows a boundary incursion into the curtilage of No. 41 Ballyclogh Road. This is not a matter for the Council. Although there are concerns presented in relation to this discharge consent, any boundary issues in relation to land ownership are a civil matter between the parties involved. The lack of omission in terms of the wc in the garage linking into the sewage treatment tank is a matter to be resolved by the applicant and Water Management Unit. From a planning perspective, all soakaways and the discharge from the wc in the garage has been shown linking into the sewage treatment plant on Drawing No. 05G dated 16<sup>th</sup> July 2019.
- 8.45 The proposal has adequate measures for on-site sewage treatment and will not create a pollution risk considering no objections have been raised from any of the consultees and the discharge consent application has been approved. This development is compliant with Policy CTY 16 of PPS 21.

### **Access and Parking**

- 8.46 PPS 3 relates to vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. Planning permission will only be granted provided the proposal does not prejudice road safety or significantly inconvenience the flow of traffic. The new access for the dwelling is located close to the northern boundary of the site leading to the front of the proposed dwelling. DFI Roads was consulted in relation to this application and offer no objections subject to conditions and informatives. DFI Roads were also notified about objections raised in relation to this application. DFI Roads advise that the

visibility splays provided are acceptable. If the visibility splays encroach upon No. 41 Ballyclogh Road's land then this is a civil matter between the parties involved. It is the responsibility of the applicant to control all land required for development purposes. The proposal complies with Policy AMP 2 of PPS 3 and DCAN 15.

## **Flooding**

- 8.47 Consultation occurred with DFI Rivers who advised the eastern boundary of the site is adjacent to a watercourse that is designated and known as the River Bush. The development site outline lies partially within the strategic floodplain but the developed part of the site is elevated and does not lie within the 1 in 100 year fluvial flood plain. A 5m maintenance strip is required and the site layout drawing shows space for maintenance. It should be protected from impediments, land raising or future unapproved development and clear access and egress should be provided at all times. Drawing No. 05G dated 16<sup>th</sup> July 2019 shows a 10m undeveloped zone adjacent to the River Bush so this maintenance strip will be conditioned on any approval granted. Objectors raised concerns in relation to drainage and flooding but DFI Rivers have no specific reason to object to the proposed development from a drainage or flood risk perspective. The proposal complies with Policies FLD 1 & FLD 2 of PPS 15.

## **Natural Heritage**

- 8.48 The site is located adjacent/hydrologically linked to the Skerries and Causeway SAC and Runkerry ASSI. DAERA: NED was consulted and have considered the Biodiversity Checklist and objections received. Concerns have been raised regarding the ecological assessment that has been conducted, a number of discrepancies in the Biodiversity Checklist and the potential impact of the proposal on badgers and the River Bush. In relation to all the inaccuracies detailed by objectors, the Biodiversity Checklist document was amended to correct these mistakes.
- 8.49 NED welcomes the 10m no development zone adjacent to the River Bush and the sediment fence as these measures will help



protect the watercourse. NED acknowledges that an ecological survey conducted in the wider area in April 2018 as part of an associated planning application recorded an otter holt and a badger sett. However, neither of these features are within 100m of the current application site. It is clear that otters and badgers are present in the immediate area, however, NED is content that no badger setts, otter holts, or otter couches have been identified within 100m of the site.

- 8.50 NED require a 30m protective buffer zone to otter couches and a 25m protective buffer zone to badger setts. NED is content there is sufficient distance between the proposed development works and the protected resting places identified in the wider area. The construction of a single dwelling on the site will not significantly impact foraging and commuting badgers in the area.
- 8.51 Additionally, the 10m buffer to the River Bush, shown on plans, as well as compliance with all relevant pollution prevention guidance should help to minimise potential impacts of the proposal on otters using the river. The applicant should also be aware of the protection afforded to otters and badgers under the Habitats Regulations and the Wildlife (Northern Ireland) Order 1985 (as amended), respectively.
- 8.52 NED have considered all information currently available including the ecological information associated with the adjacent planning application LA01/2017/1049/O. NED have no objections to this application and conclude the proposed development is unlikely to significantly impact the designated sites or protected and priority species or habitats.
- 8.53 Consultation occurred with SES who have no objections to this proposal subject to conditions having reviewed the Biodiversity Checklist and being aware of the objections received. Having considered the nature, scale and location of the project it is concluded that provided mitigation is conditioned on any planning approval, the proposal will not have an adverse effect on site integrity of any European site. The potential impact of 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). A Habitats Regulations

Assessment was conducted and findings included provided conditions are adhered to, there should be no likely significant effect from this proposal on the Skerries and Causeway SAC. Mitigation measures relate to a suitable buffer of at least 10m between the location of all construction works and the adjacent watercourse. There also shall be no direct discharge of untreated surface water run-off during the construction and operational phases into the adjacent watercourse. No development should take place until a Consent to discharge has been granted under the Water (NI) Order 1999. These mitigation measures are to protect the integrity of the site features and conservation objectives of the Skerries and Causeway SAC.

- 8.54 SES have advised concerns relating to size of proposal site and EIA screening requirement will not impact Skerries and Causeway SAC as the proposal is approx. 7.45km upstream of the designated European Site. Concerns relating to badgers are related to general natural heritage concerns and so are not assessed within the Habitats Regulations Assessment. The 10m buffer adjacent to the River Bush will ensure there is no risk of contamination to Skerries and Causeway SAC downstream, in the event of a flood. It is noted that a private treatment plant is now proposed instead of a septic tank. The treatment plant is regulated by DAERA:Water Management Unit. The proposed condition relating to Discharge Consent being attained before development will ensure risks to the aquatic environment are fully assessed and regulated prior to discharge.
- 8.55 The proposal has been considered in relation to Policies NH 1, 2 & 5 of PPS 2 and is acceptable as there are no natural heritage concerns in relation to European Sites, Habitats and Species.

### **Consideration of Objections**

- 8.56 The majority of objections has already been considered and assessed throughout this report. Additional issues are assessed below:
- No mention on Q16 about the potable water pipe off No. 41 Ballyclogh Road's water mains. This pipe should be disconnected from No. 41 Ballyclogh Road's domestic supply and not used during any building process as it would disrupt

- pressure.  
(The potential interruption of water pressure during construction is not in the control of the Planning Authority. This would be a civil issue with the developer and adjacent landowners if such a concern should arise.)
- Lack of appointment made between the applicant/agent and the occupiers of No. 41 Ballyclogh Road in terms of arranging access for the survey to be completed.  
(A survey was conducted with information provided to the Council. The method of arranging for this survey to be completed was a matter between the applicant/agent and the residents of No. 41 Ballyclogh Road.)
  - Will restrictions on Permitted Development be necessary for this development given its size?  
(It is not considered necessary to impose permitted development restrictions given the size of the site, separation distances from neighbouring properties and the proposal is on an undesignated site. However, an exception to this is a specific prohibition on adjusting window and door openings.)
  - Damaging to the market value of No. 43 Ballyclogh Road.  
(Paragraph 2.3 of the SPPS advises “The Planning System...does not exist to protect the private interests of one person against the activities of another...The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities...Good neighbourliness and fairness are among the yardsticks against which development proposal will be measured.”)
  - The flawed and failed Delegated Management Report as well as unresolved issues not actioned or noted by the previous case officer.  
(The previous assessment of this application by the original case officer has been superseded and is no longer relevant to the assessment of this proposal. The application was assigned to a new case officer and has been re-examined and assessed.)

### **Habitats Regulations Assessment**

- 8.57 The potential impact of 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.

## **9.0 CONCLUSION**

- 9.1 The proposal is considered acceptable in this location having regard to the Northern Area Plan, and other material considerations, including the SPPS. Assessment concludes the site does not represent an infill opportunity and is contrary to Policy CTY 8 of PPS 21. However, the principle of this development is acceptable attributing significant weight to the planning approvals on the site with the most recent permission still being extant at time of submission of this application.
- 9.2 The design of the dwelling is satisfactory and will not detract significantly from the character of the local area. The dwelling and garage will not unacceptably harm neighbouring residential amenity. The site can accommodate this development without eroding rural character. The proposal has adequate measures for on-site sewage treatment and will not create a pollution risk and the discharge consent application has been approved.
- 9.3 The proposal does not prejudice road safety or significantly inconvenience the flow of traffic. Access and parking requirements are satisfactory. The proposed development is acceptable from a drainage and flood risk perspective. The proposed development is unlikely to significantly impact the designated sites or protected and priority species or habitats. Mitigation measures are in place to protect the integrity of the site features and conservation objectives of the Skerries and Causeway SAC. Approval is recommended.

## 10 CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 2 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011 and to ensure a timely implementation of this permission.

2. No development shall commence until the vehicular access, including visibility splays and any forward sight distance is provided in accordance with Drawing No. 05G bearing the date stamp 16th July 2019 and the Dept's DC(1) form dated 1st June 2019. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

3. The access gradient to the development hereby permitted shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

4. All hard and soft landscape works shall be carried out in accordance with the details shown on Drawing No. 05G received 16th July 2019 and the appropriate British Standard. The existing planting shall be permanently retained and the proposed planting shall be undertaken during the first planting season following commencement of development.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

5. Should any retained or newly planted tree, shrub or hedge be removed, uprooted or destroyed or dies or becomes, in the opinion of the Planning Authority seriously damaged or defective within 5 years, another tree, shrub or hedge of the same species as that

originally planted shall be planted at the same place, unless the Planning Authority gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

6. A 5m maintenance strip coloured blue shall be provided from the edge of the River Bush, in accordance with Drawing No. 05G date stamped 16th July 2019 which should be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development.

Reason: To enable maintenance of the adjacent watercourse under Schedule 5 of the Drainage Order Northern Ireland 1973.

7. A clearly defined buffer of at least 10 metres as indicated on Drawing 05G date stamped 16th July 2019, shall be marked with the use of a silt fence as proposed in the Biodiversity Checklist Doc 02 REV B date stamped 26th June 2019 and must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/ material/spoil etc. and the adjacent watercourse.

Reason: To protect the integrity of the site features and conservation objectives of Skerries and Causeway SAC.

8. No development should take place on-site until a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure a practical solution to sewage disposal is possible at this site thus protecting water quality that leads to Skerries and Causeway SAC.

9. The proposed first floor window coloured yellow in the south elevation and floor plan shall be glazed with obscure glass in accordance with the stamped approved drawings Nos. 10D dated 2nd May 2019 and 07C dated 21st February 2019 before occupation of the dwelling and permanently retained as such.

Reason: In the interests of residential amenity.

10. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, or any Order revoking and re-enacting that Order, no alterations to any windows/doors or the addition of new windows/doors to the dwelling and garage hereby approved shall be permitted without prior written consent from the Council.

Reason: In the interests of neighbouring residential amenity.

## 11 INFORMATIVES

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
5. You should refer to any other general advice and guidance provided by consultees in the process of this planning application by reviewing all responses on the Planning Portal at <http://epicpublic.planningni.gov.uk/publicaccess/>.
6. The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:
  - a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes the otter (*Lutra lutra*);
  - b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;

- c) Deliberately to disturb such an animal in such a way as to be likely to -
- i. affect the local distribution or abundance of the species to which it belongs;
  - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young;
- or
- iii. Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of otter activity on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 0289056 9558 or 028 9056 9557.

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);
- damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;
- damage or destroy anything which conceals or protects any such structure;
- disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.



If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557

The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild bird; or
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- obstruct or prevent any wild bird from using its nest; or
- take or destroy an egg of any wild bird; or
- disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season between 1st March and 31st August.

The applicant should refer and adhere to all relevant Guidance for Pollution Prevention, including but not limited to, the following:

PPG 1: Understanding your environmental responsibilities - good environmental practices; GPP 4: Treatment and disposal of wastewater where there is no connection to the public foul sewer; GPP 5: Works and maintenance in or near water; PPG 6: Working at construction and demolition sites; PPG 18: Managing fire water and major spillages; GPP 21: Pollution incident response planning; and GPP 22: Dealing with spills.

The full list is available here:

<http://www.netregs.org.uk/environmental-topics/pollutionprevention-guidelines-ppgs-and-replacement-series/guidance-for-pollution-prevention-gppsfull-list/>.

# Site Location Plan

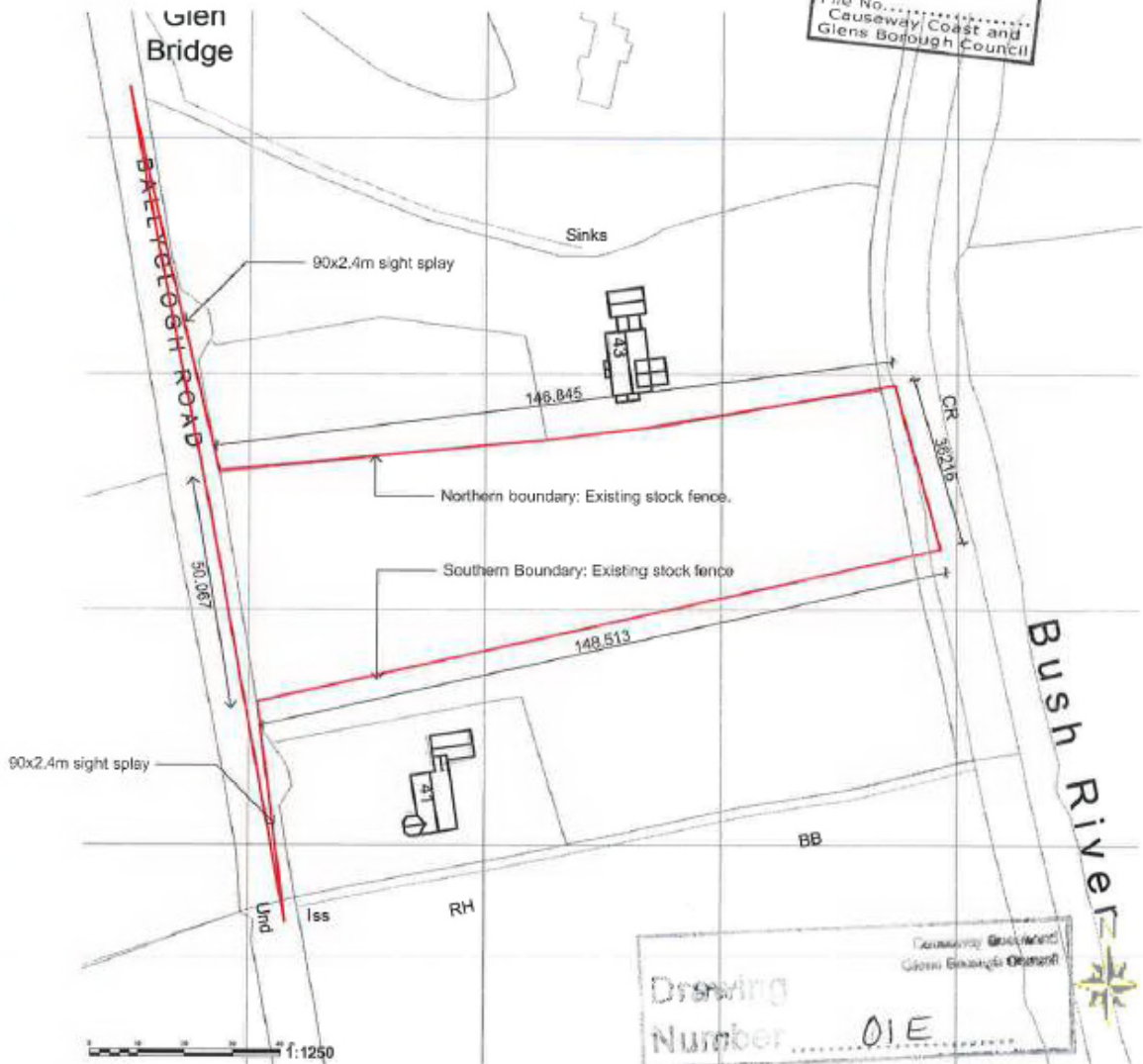


LA01/2018/0134



SITE LOCATION PLAN  
 OSNI AREA 5 HA  
 SCALE: 1:1250  
 CENTRE COORDINATES: 293877 , 437165

Planning Office  
 RECEIVED  
 26 JUN 2019  
 File No. ....  
 Causeway Coast and  
 Glens Borough Council



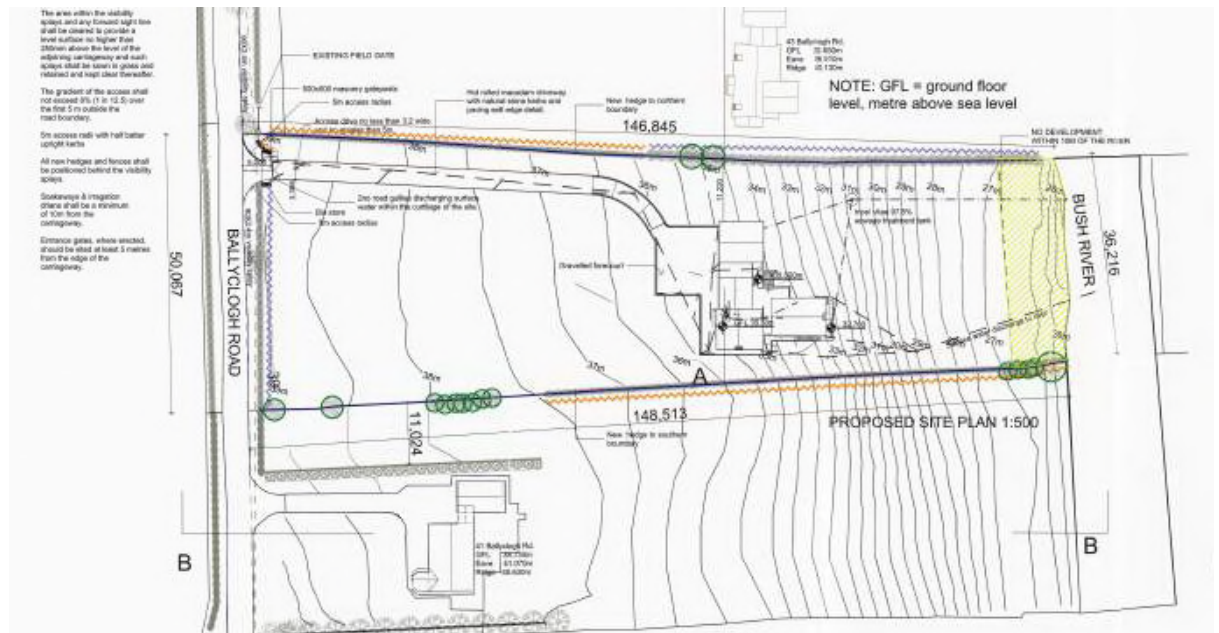
Supplied by Streetwise Maps Ltd

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17:22:57 20/01/2017

# Block Plan



# Erratum

## LA01/2018/0134/F

Please note an error in paragraph 8.10 of the Planning Committee Report relating to the previous planning approval LA01/2016/0850/O.

The last sentence should read as:

“The decision issued on 16<sup>th</sup> November 2016 with a deadline of 15<sup>th</sup> November 2019 for submission of a reserved matters application.”

# Erratum 2

## LA01/2018/0134/F

Please note errors in paragraph 3.1 relating to decision dates of previous planning histories.

LA01/2016/0850/O – The approval date should read as 16.11.2016

C/2012/0280/O – The approval date should read as 23.01.2013

C/2002/0300/F – The approval date should read as 01.10.2002

C/2000/0174/O – The refusal date should read as 17.04.2000

Please note an error in paragraph 8.39 of the Planning Committee Report in relation to separation distances of the garage from the shared boundary.

The sentence should read as:

“The amended garage location has a separation distance of 11m opposed to 2.5 – 4m from the shared boundary.”

# **Erratum 3**

## **LA01/2018/0134/F**

Please note an error in paragraph 8.8 of the Planning Committee Report in relation to the number of planning approvals on the site.

The sentence should read as:

“An infill dwelling has been approved at land between Nos. 41 & 43 Ballyclogh Road under references LA01/2016/0850/O and C/2012/0380/O.”

# **Addendum**

## **LA01/2018/0134/F**

### **1.0 Update**

- 1.1 Correspondence was received from an objector requesting information to be circulated to members of the Planning Committee prior to the Planning Committee meeting. The pack included correspondence from the Council to the objectors dated 25<sup>th</sup> July 2018 and 7<sup>th</sup> September 2018. Other documents included the Consent to Discharge of Effluent with associated maps; correspondence from the Council to the Agent dated 21st January 2019; the previous case officer planning report which is no longer relevant to the assessment of this application; the site location map (Drawing No. 01E); the planning committee report with various sections highlighted yellow; and a google aerial map showing the site in relation to other buildings with annotations.

### **2.0 Assessment**

- 2.1 The above correspondence has been uploaded onto the Planning portal in agreement with the objector.
- 2.2 No further additional information has been submitted from that previously considered in the assessment of the application.

### **3.0 Recommendation**

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



# Addendum 2

## LA01/2018/0134/F

### 1.0 Update

- 1.1 Further correspondence from, 15<sup>th</sup> January 2020, 17<sup>th</sup> January 2020 and 10<sup>th</sup> February 2020.

### 2.0 Assessment

- 2.1 Various questions and queries raised in the correspondence received are answered as follows in the paragraphs below.
- 2.2 Queries relating to the previous case officer involvement. The previous case officer had no involvement in the processing of the planning application or attended any meetings following re-allocation.
- 2.3 In relation to the P2A form submitted. The Planning Authority is content that this form clearly identifies all owners/those with an interest in the land so there is no prejudice. There is no need for the P2A form to include notification to DFI Roads about visibility splays as DFI Roads are consulted formally within the processing of the application they are not prejudiced as they are aware of the extent of the visibility splays and the land required. The ownership of land is a civil matter and the legislation does not ask for the boundaries of ownership to be shown only that notice is served. Due to notification from an objector a revised Planning Application Certificate was submitted 17<sup>th</sup> April 2018 serving notice on two interested parties. Case law states that where no prejudice has occurred as a result of the non-compliance with the completion of a Planning Certificate, the permission will stand (*O'Brien v West Lancashire Borough Council* [2012]).
- 2.4 The stated site size is quoted in Q3 of the P1 Form which is completed by the agent. While the size of the site is still a contentious issue with objectors, planning permission does not

confer title. It is the responsibility of the developer to ensure they own all the land necessary to carry out the proposed development.

- 2.5 The phrase “substantial weight” is used within the Planning Committee Report with no evidence to support it. It is merely an interpretive opinion and defies the fact of stated policy. In response to this, weight to be given to any consideration is a long, well established principle in planning law. Lord Hoffman in *Tesco Stores Ltd v Secretary of State for the Environment and West Oxfordshire District Council* (1995) said:

'The law has always made a clear distinction between the question of whether something is a material consideration and the weight which it should be given. The former is a question of law and the latter is a question of planning judgment, which is entirely a matter for the planning authority. Provided that the planning authority has regard to all material considerations, it is at liberty (provided that it does not lapse into Wednesbury unreasonableness) to give them whatever weight the planning authority thinks or no weight at all.'

This well-established principle is set out in the SPPS at Para 3.4 page 12 which states:

3.4 The SPPS does not seek to promote any one of the three pillars of sustainable development over the other. In practice, the relevance of, and weight to be given to social, economic and environmental considerations is a matter of planning judgement in any given case. Therefore, in summary, furthering sustainable development means balancing social, economic and environmental objectives, all of which are considerations in the planning for and management of development.

- 2.6 Objectors state the garage should be included in the frontage width of the dwelling as it is considerable in size and stature and adds excessively to the road frontage. It remains the opinion of the Council that the garage does not form part of the dwelling frontage as it is a detached building. If the garage were integral then its dimension would be included in the dwelling frontage. There are no policies specifically relating to frontage measurements and what should and should not be included. However, the scale and massing of the garage in association with the dwelling has been considered and found to be visually acceptable in this context.

- 2.7 Assessment in relation to the proposed garage and its relationship with No. 43 Ballyclough Road is contained within paragraphs 8.38 – 8.39 of the Planning Committee Report.
- 2.8 Please refer to paragraph 8.34 for assessment of overlooking to No. 41 Ballyclough Road. Although the balcony has not been specifically mentioned, the overlooking from this area was considered. The small balcony is recessed and does not project beyond the front elevation of the dwelling restricting views towards No. 41 Ballyclough Road. Although there may be some views from the front elevation of the proposed dwelling towards the rear of No. 41 Ballyclough Road, it is not considered unacceptable given the large separation distances involved, the recessed design and the oblique angle.
- 2.9 The response from Environmental Health advises the proposed development is situated approx. 390m SE from an existing Citroen Garage. Future occupants of the development may suffer intermittent disturbance and loss of amenity as a result of noise and odours arising from activities associated with the agricultural business. This is for information purposes for future owners/occupiers and to inform them that recourse under statutory nuisance legislation is prohibited. This is not a planning condition, and would fail to meet with the tests for a planning condition, but is simply an informative that the applicant should be aware of.
- 2.10 In paragraph 8.20 of the Planning Committee Report, the proposal is described as being centrally located within the site. It is agreed that there is no site equi-distance on each neighbour side of the proposal nor between the road and river. However, due to the size of the site this development proposal can be accommodated with adequate separation distances from neighbouring properties, the road and the river without eroding rural character.
- 2.11 The omission of the dormer window in the roof of No. 41 Ballyclough Road has already been considered in paragraph 8.7 of the Planning Committee Report. The applicant's roof design in comparison with other property designs along the Ballyclough

Road has been considered. A pitched roof design is not considered to be a new 'species design' introduced into the local area, as this roof form is typical of the local rural context.

- 2.12 For information on the excavation works, figures and assessment please refer to paragraph 8.27 of the Planning Committee Report.
- 2.13 As to whether or not visibility splays are achievable without the use of Nos. 41 & 43's land, this is a matter between the applicant and objectors. From a planning perspective, the visibility splays provided are acceptable. It is the responsibility of the applicant to control all land required for development purposes.
- 2.14 The Executive summary mentions the proposal complies with all relevant planning policies. This is only a summary with full planning assessment of PPS 21 in particular CTY 8 under paragraphs 8.8 – 8.12 of the Planning Committee Report.
- 2.15 Some of the complaint responses were redacted on the planning portal due to data protection. Un-redacted copies can be shown to the members on request.
- 2.16 The High Hedges Act NI 2011 has been properly considered under paragraph 8.16 of the Planning Committee Report. In terms of windows that will potentially overlook see planning assessment of overlooking in paragraphs 8.34, 8.37 and 8.38.
- 2.17 The glass corridors were not specifically mentioned in the Planning Committee report but the design of this dwelling has been considered in paragraphs 8.22 – 8.31 of the same report. The overlooking of No. 43 Ballyclough Road from this proposal was considered in the Planning Committee report under paragraph 8.37. The glass corridors are at ground floor level and relate to a stairwell/hall so overlooking from these windows is not unacceptable given the use and adequate separation distances.
- 2.18 The proposal as assessed in the Planning Committee report was found not to represent an infill opportunity in accordance with Policy CTY 8 of PPS 21. However, the principle of this

development is acceptable attributing significant weight to the planning approval on the site which was extant at the time of submission of this application. The objectors do not agree with this logic as planning decisions on LA01/2016/0850/O and C/2012/0380/O were incorrect and contrary to planning policy. There should be no justification for allowing another incorrect planning decision against planning policy when both previous outline permissions have expired. Objectors believe the Appeal quoted (2017/A0132) should remove weight from the argument that this application should be approved. Appeal 2017/A0132, attached, was included in paragraph 8.11 as it is relevant to how the PAC consider infill and a substantial and continuously built up frontage. This decision refined the policy direction at that time.

- 2.19 In paragraph 8.24 of the Planning Committee report, Ballyclough Road was never claimed to be a “uniform style rural environment”. It was described as a mixture of dwellings of various heights with some being 2 storeys, 1.5 storeys and bungalows with the majority being traditional in design.
- 2.20 The siting of a pedestrian entrance into the garage is a matter for the applicant and whether or not objectors think it is a logical location is irrelevant.
- 2.21 Comments were made relating to the conditions of the outline planning permission. This is a full application and is not required to accord with the conditions of the outline planning permission.
- 2.22 The proposed rear return is 66m from the boundary of No. 45 Ballyclough Road. Due to the distance and siting of the proposed dwelling there would be no considered adverse detrimental impact on the private amenity of No. 45.
- 2.23 Further comment has been made to the three storey appearance of the proposed dwelling. The dwelling comprises two two storey blocks with a one storey link. The dwelling is not 3 storey and has a clear two storey appearance when viewed from the rear emphasised by the pitches of the two blocks set perpendicular to each other.
- 2.24 An issue was also raised in relation to the existing wooden fence stiles located on the boundary and not shown in the proposed

plans. Following consultation with the Public rights of way officer in the Council, they confirmed that there was no public right of way in that area. Any accesses through the land existing or proposed would be a private matter with the landowner.

- 2.25 An issue has been raised that the type of fuel for the dwelling has not been submitted and that it could be located near the boundaries or the watercourse. A condition has been used to restrict development within 5m of the watercourse. Home heating in some circumstances does not require planning permission and would not normally be included within a planning application. There is no indication of the type of fuel being used other than the solar panels shown on the roof of the return.
- 2.26 Informative 5 refers the applicant to all consultee responses and their informatives.

### **3.0 Recommendation**

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



Planning Appeals  
Commission

## Appeal Decision

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<b>Appeal Reference:</b>	2017/A0132
<b>Appeal by:</b>	Nicola Millar
<b>Appeal against:</b>	Outline Planning Permission
<b>Proposed Development:</b>	Dwelling and Garage
<b>Location:</b>	Between 30 and 32 Shinnys Road , Coleraine
<b>Planning Authority:</b>	Causeway Coast and Glens Borough Council
<b>Application Reference:</b>	LA01/2017/0004/O
<b>Procedure:</b>	Written Representations with Commissioner's site visit on 19 <sup>th</sup> January 2018
<b>Decision by:</b>	Commissioner Helen Fitzsimons 29 <sup>th</sup> January 2018.

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### Decision

1. The appeal is dismissed.

### Reasons

2. The main issues in this appeal are whether the proposed development is acceptable in principle in the countryside and whether it would be harmful to rural character.
3. The appeal site lies out with any settlement or designation as defined by the Northern Area Plan 2016 (NAP). There are no plans or policies in the plan relevant to the appeal proposal within NAP. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) PPS 21 provides the relevant policy context for the appeal proposal.
4. Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is a dwelling in accordance with Policy CTY 8 'Ribbon Development'. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, it also includes the exception that 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 will be permitted. For the purposes of this policy the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

5. The term road frontage must mean that buildings have direct frontage to the road with no features in between. The appellant is relying on No 32 Shiny Road a detached dwelling and garage; and No 30 Shiny Road a dwelling and a commercial building south east of No 30 Shiny Road to form the substantial and continuously built up frontage along the road. The appeal site is located between Nos 32 and 30 Shiny Road.
6. No 32 Shiny Road is physically demarked from the road by a fenced paddock to the front of the dwelling and has frontage to that paddock and not the road. No 32 Shiny Road lies behind a stand of mature trees which, on the ground, serve to demark this dwelling and garage from an area of intervening land between it and the road. As a consequence, No 32 Shiny Road is not a road frontage building. The commercial building is set behind a band of mature vegetation, which defines a deep roadside ditch, and it does not have direct frontage to the road. Given all of this there is no substantial and continuous built up frontage to allow the appeal site to constitute a small gap for the purposes of policy. It is not an exception under Policy CTY 8 of PPS 21. Its addition to the existing development along this part of Shiny Road would result in an unacceptable build up of development that would adversely impact on the amenities of the area. The Planning Authority has sustained its reason for refusal based on the SPPS and Policy CTY 8 of PPS 21

This decision is based on the 1:2500 scale site location plan.

**COMMISSIONER HELEN FITZSIMONS**



**Documents**

**2017/A0132**

**List of Documents**

Planning Authority: - PA1 Written Statement and Appendices (Causeway Coast and  
Glens Borough Council

Appellant: - A 1 Written Statement and Appendices (TJ Mc Dowell - Agent)  
A2 Comments



**SITE VISIT REPORT: Monday 20<sup>th</sup> January 2020**

*Committee Members:*

*Alderman Boyle, Duddy, Finlay, S McKillop and McKeown*

*Councillors Anderson, Baird, Dallat O'Driscoll, Hunter (Chair), McGurk, MA*

*McKillop, McLaughlin (Vice Chair), McMullan, P McShane, Nicholl and Scott*

**TIME: 10AM**

**1. LA01/2018/0134/F Lands 6 metres South of 43 Ballyclogh Road, Bushmills**

**App Type:** Full application

**Proposal:** Proposed infill dwelling, access, landscaping and ancillary site works

**Present:** Alderman Boyle, Councillors Hunter, Baird, MA McKillop, McMullan, McShane and officials Shane Mathers, Jennifer Lundy.

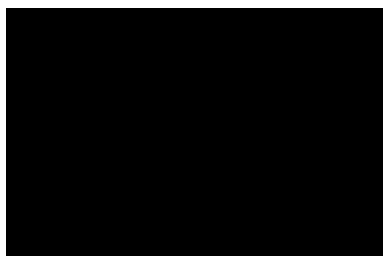
**Comments:**

The site visit commenced at the existing entrance to the site. J.Lundy pointed out the context of the site in relation to the existing dwellings, existing boundaries and existing and proposed boundary vegetation. J. Lundy showed the proposed plans, the access and drive way, the front elevation plans were also shown and the details to the front described such as the stepped in balcony, detached garage, vertical emphasis, pitched roof. The members and officials, excluding Ald Boyle and Cllr MA McKillop, then walked down to the location of the proposed property. Officials highlighted the location of the front of the proposed property and the relationship with the existing properties. The levels of the site were highlighted, the sections in the plans were shown and level of cut required and the fall to the River Bush. At this location the side elevational drawings were also shown and talked through in detail highlighting the levels, the proposed windows and the general design and the relationships with the existing properties. The rear elevations were also shown to the members. Members observed accordingly.

All present members and officials then moved to the rear of adjacent property, No 43 Ballyclogh Road, to view the proposed dwelling. The relationship to the proposed site, the change in levels between the sites, along with the siting of

the proposed dwelling and the extent of its footprint. Again, the windows and positioning were shown in relation to the existing property. Members observed accordingly. Members were advised that the proposed development is to use a treatment plant as opposed to a septic tank. Members asked what the method of disposal was at the existing properties.

All present members and officials then viewed the site from the rear of No 41 Ballyclogh Road. At this location the plans were shown in relation to the positioning of the proposed dwelling to the existing property. The proposed elevations were shown and the windows highlighted, including the window to be obscure glazing. Members were also shown the plan showing the existing and proposed planting. The topography of the site was highlighted and the plan showing the sections was shown to the members. Members observed accordingly.



20/01/20

20.1.2020