

<b>Planning Committee Report LA01/2019/0381/O</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>No:</u></b> LA01/2019/0381/O	<b><u>Ward:</u></b> FEENY
<b><u>App Type:</u></b> Outline Planning	
<b><u>Address:</u></b> 80 metres North West of 83 Muldonagh Road, Claudy	
<b><u>Proposal:</u></b> Proposed off site replacement dwelling to include the retention of existing dwelling to be replaced	
<b><u>Con Area:</u></b> n/a	<b><u>Valid Date:</u></b> 11.04.2019
<b><u>Listed Building Grade:</u></b> n/a	
<b><u>Agent:</u></b> Healy McKeown Architects Ltd, The Studio, 6 Gortnamoyagh Road, Garvagh, BT51 5HA	
<b><u>Applicant:</u></b> Gabriel Hegarty, 83 Muldonagh Road, Claudy, BT47 4EJ	
<b><u>Objections:</u></b> 0	<b><u>Petitions of Objection:</u></b> 0
<b><u>Support:</u></b> 0	<b><u>Petitions of Support:</u></b> 0

## **EXECUTIVE SUMMARY**

- Outline planning permission is sought for a proposed off site replacement dwelling to include the retention of the existing dwelling to be replaced.
- 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 building to be replaced does not display the essential characteristics of a dwelling.
- The topography of the alternative site and ancillary works required for access to this site would result in an increased visual impact.
- DfI Roads has been consulted and raises no objection. The proposal complies with PPS3.
- An Office Meeting was held on this application on the 2<sup>nd</sup> September 2019. Affidavits from the neighbouring dwelling citing habitation of the subject building by a family member were submitted. The content of these has been considered. As the building does not display the essential characteristics of a dwelling the proposal fails to comply with Policy CTY 3 of PPS 21.
- Additional photographs were received by the Planning Department on the 31<sup>st</sup> October 2019. The recommendation to refuse remains.
- There are no objections to the proposal.
- The application is recommended for Refusal.

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

## 1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for recommendation set out in Section 9 and the policies and guidance in sections 7 and 8 and resolves to **REFUSE** planning permission subject to the conditions set out in section 10.

## 2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located at a group of farm buildings at No. 83 Muldonagh Road. The site includes a number of small white stone washed agricultural buildings positioned on the south side of the roadside. There is a larger building set further into the farmyard with an additional two smaller buildings with a lower pitched roof and ridge height. The buildings all have metal corrugated roofs.
- 2.2 The access into the farm passes directly in front of the buildings. The site of the buildings to be replaced has no defined boundaries due to its roadside location.
- 2.3 The alternative site comprises part of an existing agricultural field. The topography rises in a northerly direction away from the Muldonagh Road. The site sits at a higher level than the road. Site boundaries are defined by post and wire fencing and trees/hedgerow.
- 2.4 The surrounding area is characterised by an undulating topography of open countryside. The area is defined by rural dwellings and agricultural outbuildings. Buildings to the southern side of Muldonagh Road lie below the road level, with the topography of the land rising in a northerly direction away from the road.
- 2.5 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.

### **3 RELEVANT HISTORY**

#### **Planning History within the application site:**

B/2006/0330/F

Erection of an 'off site' replacement dwelling.

Approximately 50 metres northwest of 83 Muldonagh Road, Magheralis, Claudy.

Permission Granted: 11.11.2006

#### **Planning History adjacent to the application site:**

LA01/2017/1235/RM

Proposed 1½ storey dwelling on a farm.

40m West of 83 Muldonagh Road, Claudy.

Permission Granted: 24.04.2018

LA01/2016/0134/O

Proposed site for a one and a half storey dwelling on a farm.

40m West of No 83 Muldonagh Road, Claudy.

Permission Granted: 24.02.2017

### **4 THE APPLICATION**

- 4.1 Outline planning permission is sought for a proposed off site replacement dwelling which is to include the retention of the existing building to be replaced.
- 4.2 The alternative site is located approx. 50m to the north west of the dwelling to be replaced.

### **5 PUBLICITY & CONSULTATIONS**

#### **5.1 External**

Neighbours: There are no objections to the proposal.

#### **5.2 Internal**

DFI Roads – No objections

Environmental Health – No objections

NI Water – No objections

DFC HMU – No objections

DAERA WMU– No objections subject to condition

DAERA NED – 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**

Northern Area Plan 2016

Planning Policy Statement 21 – Sustainable Development in the Countryside

## Planning Policy Statement 2 – Natural Heritage

### Guidance: Building on Tradition – A Sustainable Design Guide for the Northern Ireland Countryside

## **8 CONSIDERATIONS & ASSESSMENT**

### **Planning Policy**

- 8.1 The main considerations in the determination of this application relate to: principle of development, integration; rural character; natural heritage and Habitats Regulations Assessment.

### **Principle of Development**

- 8.2 Policy CTY1 identifies a number of instances when an individual dwelling house will be granted permission. The application has been submitted for a proposed off site replacement dwelling to include the retention of the existing building to be replaced. In this instance Policy CTY 3 is the relevant policy consideration.
- 8.3 Policy CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls are substantially intact.

Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy.

In addition to the above, proposals for a replacement dwelling will only be approved where all the following criteria are met:

- the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits;

- the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building;
- the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness;
- all necessary services are available or can be provided without significant adverse impact on the environment or character of the locality; and
- access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic.

8.4 The proposed building which is the subject of replacement currently comprises three agricultural outbuildings clustered alongside the remaining farm sheds, outbuildings and dwelling at No. 83 Muldonagh Road.

8.5 The building group is formed of a larger white stone washed building with a pitched roof orientated towards No. 83, and two smaller buildings with lower pitched roofs which are orientated gable end to the adjacent road. The external walls of the buildings are substantially intact and the buildings each have corrugated metal roofs. The floor level of the buildings sit lower than the road and the buildings are set into the natural topography of the site. There is no internal link between the two smaller buildings and the larger building, which has been marked on Drawing No. 02 as the dwelling to be replaced. There is an interconnecting door between the two smaller buildings. The smaller outbuildings are in a state of disrepair. The larger building is currently used for agricultural purposes.

8.6 The larger building has a central door opening, a larger window opening to the left and a smaller higher level window opening to the right. There are no rear windows and no internal division of rooms. The building is devoid of any characteristics or features of a dwelling. The floor is covered in straw and there are small metal drinking troughs fixed to two of the internal walls on a metal pipe track. It is evident from the site inspection that the building is currently used for agricultural purposes.

- 8.7 The western of the smaller outbuildings has a doorway positioned on the far right of its front elevation into the farm yard, adjacent to the gable end of the larger building. A small window opening is positioned on the far left of this elevation. From the roadside elevation there is a small access door. Internally there appear to be a collection of miscellaneous items stored, including a small stove with a flue attached. The flue is not currently connected. There is no fireplace or chimney. An access door in the far right hand corner provides access into the second smaller building positioned to the rear. Internally the building does not exhibit the essential characteristics of a dwelling. The buildings which are the subject of replacement therefore fail to exhibit the essential characteristics of a dwelling and the proposal is contrary to Policy CTY 3 of PPS 21.
- 8.8 In addition, the proposed replacement is to be sited off-site to the north west of the existing buildings, on the other side of the Muldonagh Road. The Concept Assessment, Drawing No. 03, submitted with the application states that the off-site location is adjacent to the existing replacement and thus will reduce the visual impact; the off-site site will be accessed utilising the existing access point along the road side which can provide visibility splays; and indicates that the existing mature trees and hedgerow which form three sides of the off-site boundary will allow the building to integrate into the surrounding landscape.
- 8.9 Given the positioning of the existing buildings and the restrictive curtilage, were the principle of replacement considered acceptable then an alternative site may be appropriate. However, the elevated nature of the proposed alternative site, on the other side of Muldonagh Road, where the land rises to the north, means that any new dwelling would be sited in an elevated position in relation to the road and would require significant ground works to accommodate a dwelling within this site. This would result in an increased visual impact than the building to be replaced. The Concept Statement indicates that access to the site would be from an existing access point but the Form RS 1, provided by DFI Roads in their response dated 8<sup>th</sup> May 2019, notes that access would be positioned in the centre of the proposed site frontage. Visibility splays of 2.4m x 60m are required in both directions, and given the change in level of between 2-3m from the road into the site, engineering works will



be required to create an access point from the road. Ancillary works to provide this new access would further exacerbate the detrimental visual impact of a dwelling on this site. The off-site location is contrary to Policy CTY 3.

- 8.10 An office meeting was held on the 2<sup>nd</sup> September 2019. Affidavits from the neighbouring dwelling citing habitation of the subject building by a family member were submitted. I note the content of these documents. However, as presented on the ground and following site inspection, the buildings do not display the essential characteristics of a dwelling in order to satisfy the policy requirements of Policy CTY 3.
- 8.11 This stance is supported in PAC decisions. For example, in appeal reference 2018/A0052, which relates to a replacement dwelling at a site 40m south of No. 84A Magheramore Road, Dungiven, census information, historical maps and evidence from the Appellant had indicated that there was a dwelling in the locality of the appeal site at one time. It was unclear what element of the L shaped structure evident on the maps formed the dwelling and where it was sited. The Commissioner stated that despite the external walls and roof of the appeal building being substantially intact, the building did not exhibit the essential characteristics of a dwelling and therefore did not meet the policy requirement of Policy CTY 3. This appeal decision has strong similarities to the subject application.
- 8.12 As the buildings do not display the essential characteristics of a dwelling and the principle of a replacement dwelling remains unacceptable the proposal fails to comply with Policy CTY 3. Additionally the proposal is contrary to Policy CTY 3 as the off-site location would result in a significantly greater visual impact than the existing building and engineering works to provide access further exacerbate the detrimental visual impact of a dwelling on this site. As there are no overriding reasons why development is essential and cannot be located in a settlement the proposal is also contrary to Policy CTY 1.

## **Integration**

8.13 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.

8.14 As this is an outline application there are no details of how it is proposed to accommodate a dwelling on the site. Given the topography of the site approx. 2-3m above road level, any dwelling is likely to be situated in an elevated position in relation to Muldonagh Road and the building that is the subject of replacement.

8.15 The alternative site is likely to require significant earth works to accommodate a dwelling. Paragraph 5.64 of CTY 13 and Building on Tradition state that a new building that relies on significant earth works, such as mounding or cut and fill for integration, will be unacceptable. Thus any new dwelling would be a prominent feature in the landscape and would fail to blend with the existing landform. In addition ancillary works would fail to blend with the surroundings given that the site will require an engineered access as a result of the difference in level between the road and the off-site site. The proposal is contrary to Policy CTY 13 and the SPPS.

### **Rural Character**

8.16 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.

8.17 The proposal would have a detrimental impact on the rural character of the area. A new building would be unduly prominent on the proposed alternative site due to the topography of the off-site location and the considerable change in level between the road and the site. The impact of ancillary works associated with the creation of a new access would further damage the rural character of the area. The proposal is contrary to Policy CTY 14 and the SPPS.

### **Natural Heritage**

8.18 It has not been demonstrated that the proposal would not result in an unacceptable adverse impact on habitats, species or features of natural heritage. As the principle of development was not considered acceptable no further information was requested. Should the principle be considered acceptable then a biodiversity checklist should be completed by the agent/applicant for the site.

### **Habitats Regulation Assessment**

8.19 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.

## **9 CONCLUSION**

9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations. The proposal does not accord with the principle of a dwelling in the countryside as set out by Policy CTY 1 of PPS 21 including having regard to the specific policy for replacement dwellings as outlined in Policy CTY 3. In addition, a new dwelling would fail to integrate and have an adverse impact on rural character. The proposal is contrary to Policies CTY13 and CTY 14 of PPS 21.

9.2 The applicant has failed to demonstrate that the proposal would not result in an unacceptable impact on habitats, species or features of Natural Heritage Importance. The proposal is contrary to Policy NH 5 of PPS 2. Refusal is recommended.

## 10 REFUSAL REASONS

1. The proposal is contrary to Paragraph 6.73 of the SPPS and Policy CTY 1 of Planning Policy Statement 21 “Sustainable Development in the Countryside”, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

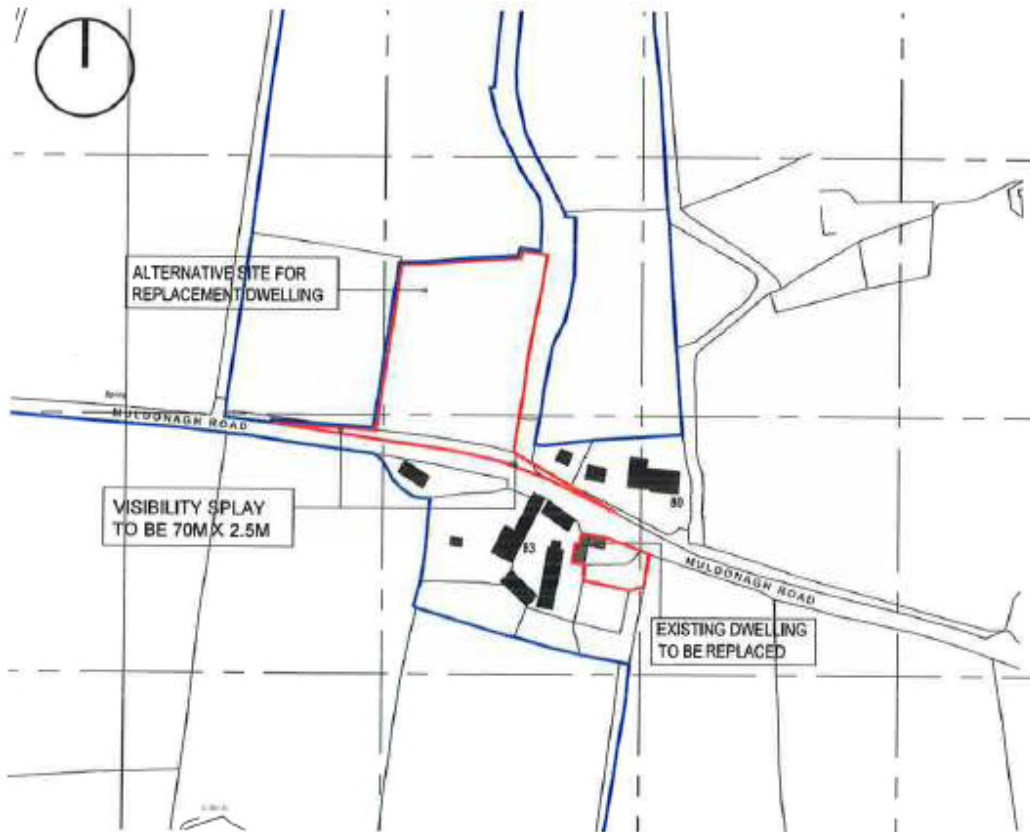
2. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling and the proposed replacement dwelling is not sited within the established curtilage of the existing dwelling.

3. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that: the proposed building is a prominent feature in the landscape; the ancillary works do not integrate with their surroundings; the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape.

4. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

5. The applicant has failed to demonstrate that the proposal would not result in an unacceptable adverse impact on habitats, species or features of Natural Heritage Importance in accordance with Policy NH 5 of Planning Policy Statement 2 – Natural Heritage.

# Site Location



Site Location Plan 1:2500

- Denotes Lands Relating to Application Site Area: 0.47 Ha
- Denotes land under control of Applicant

LA01/2019/0381  
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 9 APR 2019  
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 Causeway Coast and  
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Causeway Coast and  
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 Drawing  
 Number 01 .....

Project: PROPOSED REPLACEMENT DWELLING  
 80M NW OF 83 MYLDONAGH RD, CLAUDY, BT47 4EJ

Project title: SITE LOCATION PLAN

Date: MARCH 2019  
 Scale: 1:2500 @ A4  
 Job No. 2019102  
 Rev No. C

Drg No.  
**PL-01**

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