

Planning Committee Report LA01/2017/0650/O	25 November 2020
PLANNING COMMITTEE	

Linkage to Council Strategy (2015-19)	
Strategic Theme	Protecting and Enhancing our Environment and Assets
Outcome	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
Lead Officer	Development Management & Enforcement Manager
Cost: (If applicable)	N/a

<u>No:</u> LA01/2017/0650/O	<u>Ward:</u> BALLYKELLY
<u>App Type:</u> Outline Planning	
<u>Address:</u> Between 38 & 42 Loughermore Road, Dunbrock, Ballykelly	
<u>Proposal:</u> Traditional rural dwelling	
<u>Con Area:</u> n/a	<u>Valid Date:</u> 23.05.2017
<u>Listed Building Grade:</u> n/a	
<u>Agent:</u> W J Dickson Chartered Architect, 76 Seacoast Road, Burnally, Limavady, BT49 9DW	
<u>Applicant:</u> Mr Lester Harrison, 38 Loughermore Road, Dunbrock, Ballykelly, BT49 9HY	
<u>Objections:</u> 0	<u>Petitions of Objection:</u> 0
<u>Support:</u> 0	<u>Petitions of Support:</u> 0

Executive Summary

While the application may represent a gap site within a substantial and continuously built up frontage the application site is not considered to be acceptable for development given the extensive engineering works required to provide retaining structures, raised levels and platforms for the dwelling and parking area to the rear. The proposed works would result in an overly engineered site which would detract from the visual character of the area. The proposal is contrary to Paragraphs 6.70 and 6.73 of the SPPS and Policies CTY8, 13 and 14 of PPS21.

Drawings and additional information are available to view on the Planning Portal- <http://epicpublic.planningni.gov.uk/publicaccess/>

1 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 **REFUSE** planning permission subject to the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located between Nos. 38 and 42 Loughermore Rd, Ballykelly. The application site is a roadside site which is currently an unmaintained plot of land. The site falls extremely steeply from the road towards the rear (south eastern) boundary of the site, and also in a north to south direction towards the watercourse to the southern boundary. The application site is defined in part along the roadside boundary by mature hedgerow and trees which are predominately to the southern section of the site adjacent the river, and is partly undefined. The southern and eastern boundaries of the site are defined by two watercourses which merge at the south eastern corner of the site, with mature trees along the watercourse. The northern boundary is undefined as it is proposed to establish this boundary.
- 2.2 The application site is located within the rural area, outside of any settlement limit as defined in the Northern Area Plan 2016, approximately 2km south west of Ballykelly. The wider area is predominately characterised by agricultural lands, with the immediate area defined by a number of roadside dwellings of varying scale and designs. To the south of the site two large detached properties occupy large curtilages (42 and 44), with an application previously approved within the garden of No. 42, while to the immediate north of the site there is a detached dwelling (No. 38) and a small pair of semi-detached properties (Nos. 34 and 36). To the rear of the application site is the Ballykelly River, which is bounded by a large strip of mature woodland and is designated as Ballykelly Glen Site of Local Nature Conservation Importance (LNC12) within the Northern Area Plan.

3 RELEVANT HISTORY

Planning history covering application site

B/2000/0314/O - Adjacent to 38 Loughermore Road, Dunbrock, Limavady - Site for dwelling – Application Withdrawn 01.09.2000

B/2002/0408/O - Adjacent to 38 Loughermore Road, Dunbrock, Limavady - Site for split level dwelling (with underground garage/store) – Permission Refused 20.12.2002

B/2003/0031/F - Land within the Limavady Borough Council area - Construction of an underground pipeline, 450mm diameter and maximum working pressure of 85 bar with one number above ground installation (AGI) – Permission Granted 11.12.2003

Adjacent Site

B/1999/0223/O - Between 38 and 43 Loughermore Road, Dunbrock, Limavady - Site for chalet bungalow with detached domestic garage – Permission Granted 29.10.1999

B/2000/0090/RM - Between Nos 38 & 43 Loughermore Road Dunbrock Limavady - Erection of chalet dwelling with detached domestic garage/carport – Permission Granted 10.04.2000

LA01/2017/0653/O - Between 38 and 42 Loughermore Road, Dunbrock, Limavady - Traditional rural dwelling with detached garage/store – Permission Granted 31.01.2019

4 THE APPLICATION

- 4.1 Outline Planning Permission is sought for a proposed infill single dwelling house. The application site is located on a small parcel of land adjacent to an existing bungalow to the north east, and is bounded to the rear and southern boundaries by two watercourses. The North West Gas Pipeline runs through the application site to the southern end of the site.

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

Shared Environmental Services – No objections subject to condition

DAERA WMU– No objections subject to condition

DAERA NED – No objections

Rivers Agency – No objections subject to siting

Loughs Agency – No objections

Health and Safety Executive – No objections

Gas Pipeline Operator – No objections subject to appropriate siting

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 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)

Planning Policy Statement 21: Sustainable Development in the Countryside

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 15: Planning and Flood Risk

Supplementary Planning Guidance

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

8.0 CONSIDERATIONS & ASSESSMENT

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

Principle of Development

- 8.2 Policy CTY1 of PPS 21 identifies a number of instances when an individual dwelling house will be granted permission. The development of a small gap site within an otherwise substantial and continuously

built up frontage is considered under Policy CTY 8. The application was submitted as an outline application for a proposed infill dwelling and garage, but has been amended to omit reference to the garage.

- 8.3 Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. A substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.
- 8.4 The application site is located along the roadside and has development located to the north east and south west of the site. To the immediate south west of the application site is a dwelling at No. 42 and ancillary buildings to the rear. Part of the existing curtilage of this site was recently granted planning approval for an infill dwelling under LA01/2017/0653/O, however as this has not been constructed it cannot be taken as representing a building for the purpose of defining a built up frontage. Beyond No 42 is another dwelling and ancillary buildings at No. 44 located further to the south west. To the north east of the application site are three roadside dwellings at Nos. 34, 36 and 38. All of the aforementioned dwellings on both sides of the application site are roadside and have a common frontage onto Loughermore Road. Given the presence of these five properties it is accepted that by definition there is a substantial and continuously built up frontage at this location.
- 8.5 While there is the presence of a gap within a continuously built up frontage the proposal is required to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.
- 8.6 There are a mix of dwelling types and plot sizes along the frontage ranging from small semi-detached dwellings with small curtilages, to large two storey properties with large curtilages. These properties have a range of frontage lengths along the Loughermore Rd, with no uniformity. To the south west No. 44 has a frontage length of approximately 80m. The remaining curtilage of No. 42, excluding the lands comprised within planning approval LA01/2017/0653/O equates to approximately 47m. The plot immediately adjacent to the south of

the application site, approved under planning application LA01/2017/0653/O has a frontage length of approximately 43m. The three dwellings at Nos, 34, 36, and 38 have frontage lengths of 45m, 16m and 23m respectively. The plot width of the application site is approximately 46m. The average plot width of these properties within the built up frontage equates to 42.8m. Building on Tradition outlines that a gap can be infilled where the proposed frontage equates to the average plot width in the ribbon. Taking this into account the proposed plot width is comparable to the plot widths of Nos. 34, the remaining curtilage of No. 42 and application site LA01/2017/0653/O within the frontage, and is only 3m wider than the plot average which is not considered to be a significant amount.

- 8.7 The gap between buildings at Nos. 38 and 42 is 116m which, when considered against the plot width of the application site and average plot width results in the gap being 2.7 times wider than the plot, which would suggest the gap is too large for two dwellings. However consideration should be given to the physical conditions on the ground when assessing the potential for development. The application site is separated from the adjacent plot by a water course which is defined by woodland. In addition there is a main gas pipeline running through the southern portion of the application site which has a no development buffer around it which precludes development. Considering the presence of the river and gas pipeline, the amount of potential developable space is considerably reduced, and would be reduced to a level whereby the gap between Nos. 38 and 42 could only realistically accommodate two dwellings. Officials are satisfied that the application site represents part of a small gap which could only accommodate a maximum of two dwellings.

Integration and Rural Character

- 8.8 While the site could in principle accommodate a dwelling the proposal must also satisfy all other planning and environmental criteria, and as such the proposed site must be suitable for development. The application site is an undeveloped and relatively unmaintained parcel of land, which falls away significantly from the roadside towards the rear (east) and southern boundaries with the change in levels between the road and rear of site of almost 8m.
- 8.9 In order to develop the site extensive site works and engineering works will be required. Amended plans were submitted on 18th October 2019 in response to concerns raised in respect of the visual impact the proposed development would have. The revised indicative

site plan and cross section have removed the detached garage from the proposal and have reduced the area to be developed from previously proposed. The proposed dwelling is to be set on a raised platform at a comparable level to the Loughermore Road. In order to provide this platform there will be approximately 6m of fill required to the rear of the dwelling with a retaining wall over 3m in height. To the rear of the dwelling is a rear yard which sits over 3m below the level of the dwelling. This yard will require in excess of 3.5m of fill with a further retaining wall to the rear of the site.

- 8.10 Policy CTY13 of PPS21 requires proposals to visually integrate into their immediate and wider setting. This requirement is not solely confined to dwellings but includes associated site works. Policy CTY13 and Building on Tradition promote appropriate design which includes respecting the natural contours of the site in order to avoid unnecessary or excessive site works. Additionally Paragraph 5.64 of PPS 21 outlines that sites which rely on significant earth works, such as mounding or cut and fill for integration will be unacceptable. The proposed development does not respect the natural contours of the site but instead relies heavily on engineering works to accommodate a dwelling which otherwise would not be feasible on the site. While views of the application site will be relatively short, the views of the dwelling and ancillary works will have an adverse visual impact and would be contrary to Policies CTY13 and CTY14 of PPS21.
- 8.11 As this is an outline application, specific details of the dwelling have not been provided. The dwellings adjacent to the site to the north are modest, single storey/chalet type dwellings and sited in close proximity to the roadside. The revised plans have indicated that a dwelling on the site would have a finished floor level similar to Loughermore Road and would be single storey with a ridge height of 5.5m above finished floor level. Given the revised floor levels and overall height, a dwelling on the site would be comparable to the adjacent property at No. 38, and as such removes the concerns regarding the potential for a dwelling on the site to appear as a prominent feature in the immediate landscape, which existed under the previously submitted plans. However as the engineering works and dwelling would have an adverse impact and be contrary to Policies CTY 13 and CTY14, the proposal fails to meet the full requirements of Policy CTY8. As the proposal fails to comply with Policy CTY8 and no over-riding reasons have been provided as to why the development is essential in this location, the proposal is also contrary to Policy CTY1.

8.12 The agent quoted a planning approval (B/2004/0806/RM), which they feel is comparable to the application site. In that instance the proposal has a small basement floor to the rear section of the dwelling which has the appearance of a single storey dwelling from the roadside. In that application there is a significantly less amount of engineering works proposed within the site and the application works with the existing levels without appearing overly engineered. The change in levels within that example (B/2004/0806/RM), was approximately 3m across the site, compared to the 8m across the current application site. The quoted application did not have to raise ground levels or provide retaining structures to the rear of the dwelling to provide a new ground level, working sympathetically with the natural topography of the site. Therefore this application is not directly comparable to the proposed application.

Natural Heritage and Habitats Regulations Assessment

8.13 Given the significant amount of mature trees and vegetation surrounding the site and the existing watercourses along the southern and eastern site boundaries there is a likelihood that the site or immediate vicinity could have the potential to support habitats or species. DAERA Natural Environment Division were consulted on the proposal and at the outset requested additional information to assess the potential impact on priority habitats and protected species. An Extended Phase 1 habitat Survey Report was submitted by the applicant which assessed the impact of the proposal on a range of species including bats, badgers, otters, birds and others and well as habitats including woodland, amenity grassland, running water, buildings etc.

8.14 The report highlighted that a number of the habitats which were in the vicinity of the site had a moderate to high ecological potential/value, while others have lower value such as the hedgerow along the western (roadside) boundary of the site. In terms of species there were a number of species identified in the vicinity of the application site such as birds and bats. There were no evidence of badgers within or adjacent the site, while otter spraint was detected approximately 20m downstream of the site, with no holt or resting place detected within 150m of the site, no amphibians or reptiles were found during the surveys.

8.15 While there is potential for bats and birds to be impacted by the proposed development, a range of mitigation has been proposed within the report such as vegetation removal outside of breeding

season, directing light away from mature vegetation along site boundaries, suitable buffer between development, refuelling etc. and the watercourse. The report highlighted that two ash trees exist within the western boundary of the site with the southernmost tree having moderate bat roosting potential. The findings of the report conclude that through appropriate mitigation it is likely that all significant ecological impacts can be avoided. Natural Environment Division were re-consulted upon submission of the report and have outlined that the applicant should either carry out a Bat Survey to DAERA specifications or submit a plan to show all trees with moderate Bat Roost Potential to be retained. The agent has subsequently submitted a block plan which shows two trees to the south western corner being retained behind the required visibility splays. Subject to this being an accurate representation of the position of the trees and access geometry officials are satisfied that the tree with moderate Bat Roost Potential can be retained, however a condition of any approval should be that if any tree with Bat Roost potential is to be removed then a full Bat Survey shall be carried out prior to its removal. All trees to the east/south east of the site should be conditioned to be retained to avoid any significant impact on the SLNCI.

- 8.16 The site is hydrologically linked to Lough Foyle Area of Special Scientific Interest (ASSI), Lough Foyle RAMSAR site, Lough Foyle Special Protection Area (SPA) which are of international importance and protected by the Habitats Regulations. Shared Environmental Services were consulted on the proposal and concluded that having considered the nature, scale, timing, duration and location of the project it is concluded that, provided that mitigation is provided by way of condition within any planning approval, the proposal will not have an adverse effect on site integrity of any European site.
- 8.17 The revised site plan submitted 18th October 2019 has reduced the area to be developed to maintain a 10m land buffer between development/construction works and the Ballykelly River to take account of the comments from Shared Environmental Services.
- 8.18 Having considered the proposal against PPS2 with regards to the designated sites, protected species and habitats officials are satisfied that through the implementation of the mitigation the application will not have any significant ecological impacts and satisfies the requirements of PPS2.

Flood Risk

8.19 DFI Rivers were consulted on the proposal given the proximity to the watercourses adjacent the site. River Agency have identified that only part of the site falls within the 1 in 100 year fluvial floodplain and advised that no development should be permitted within the floodplain. The proposed development does not constitute one of the permissible exceptions as highlighted within Policy FLD1. The flood maps indicate that the fluvial flood zone is restricted to the rear extremities of the application site and as such a dwelling and garage could be accommodated outside of the identified floodplain. Rivers Agency have also identified that a 5m maintenance strip is required along the watercourse, which would reduce the amount of the site which could accommodate development. Given that it would be possible to accommodate a dwelling and garage outside of the identified flood zone the proposal would be acceptable in principle when considered against Policy FLD1 of PPS15.

Road Safety

8.20 Access to the application site will be via a new access onto Loughermore Rd. DFI Roads were consulted on the proposal and following the submission of revised plans have no objections subject to compliance with the stipulations as per the RS1 form attached to the consultation response. The proposal therefore complies with Policy AMP2 of PPS3.

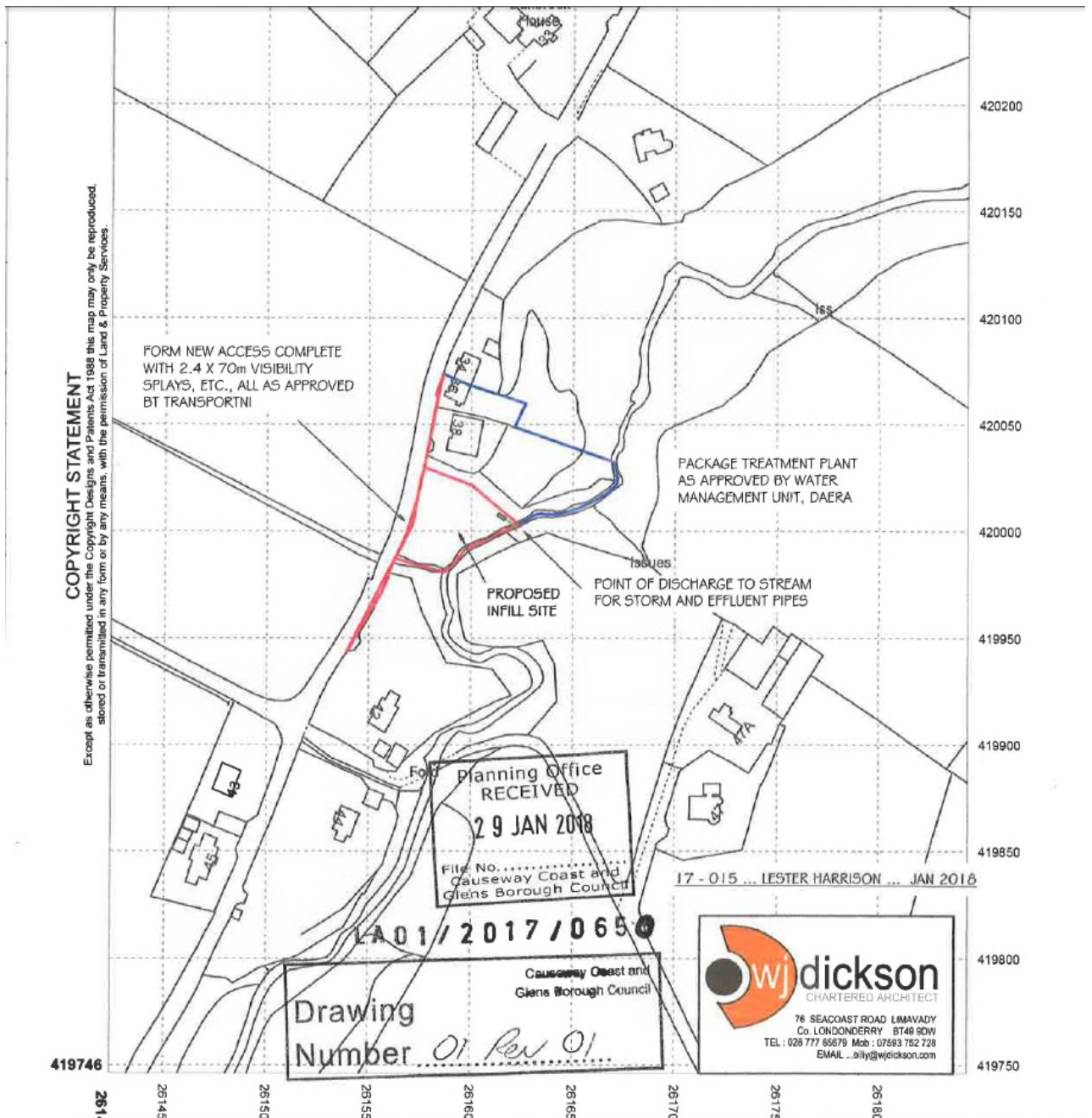
9.0 CONCLUSION

9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations. While the application may represent a gap site within a substantial and continuously built up frontage the application site is not considered to be acceptable for development given the extensive engineering works which would be required to provide retaining structures and raised levels platforms for the dwelling and parking area to the rear. The proposed works would result in an overly engineered site which would detract from the visual character of the area. The proposal is contrary to Paragraphs 6.70 and 6.73 of the SPPS and Policies CTY1, CTY8, 13 and 14 of PPS21, and as no overriding reasons have been forthcoming the proposal is contrary to Policy CTY1 of PPS21.

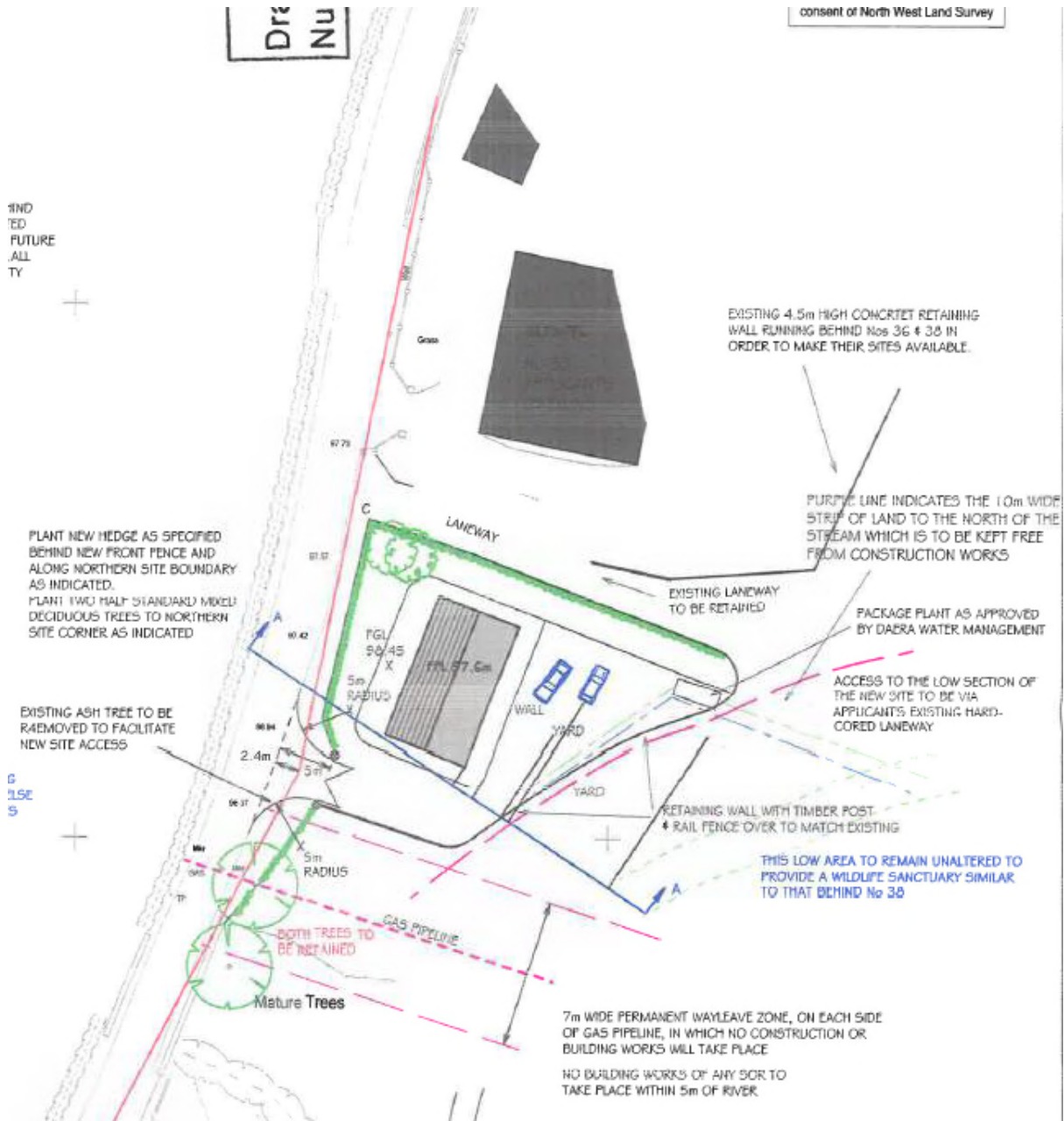
10 REFUSAL REASONS

1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Paragraph 6.73 of the SPPS and Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, fail to meet other planning and environmental requirements by reason of its failure to suitably integrate with its surroundings and failure to sympathetically blend with the landform, existing trees, buildings, slopes and other natural features.
3. The proposal is contrary to Paragraph 6.70 of the SPPS and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the ancillary works do not integrate with their surroundings and the proposed buildings would fail to sympathetically blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore the proposal would not visually integrate into the surrounding landscape.
4. The proposal is contrary to Paragraph 6.70 of the SPPS and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the impact of ancillary works would damage rural character and would therefore result in a detrimental change to the rural character of the countryside.

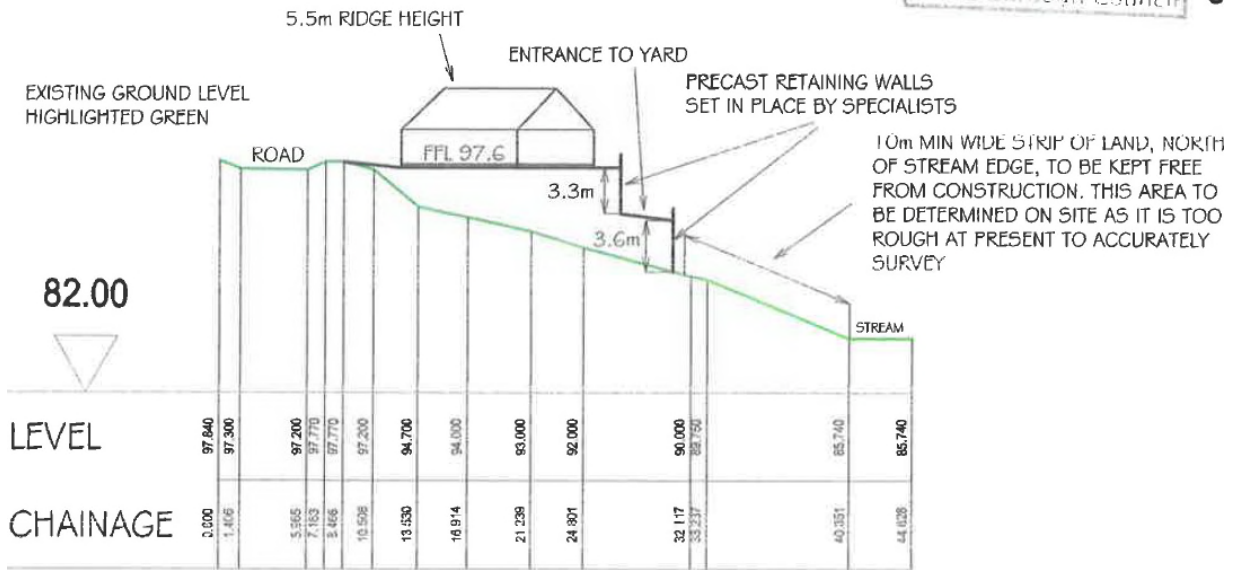
Site Location Map



Indicative Block Plan



Indicative Site Section



Addendum

LA01/2017/0650/O

1.0 Update

- 1.1 The planning application was initially presented to Planning Committee on 27 November 2019, and was deferred for a site visit by Committee Members. A site visit was carried out by Committee Members and Planning Officials on 16 December 2019 and the application was scheduled to be presented at Planning Committee on 18 December 2019. Prior to the Committee Meeting, revised plans were submitted, which raised further potential refusal reasons and required further consideration and consultation to be carried out. The application was subsequently withdrawn from the Agenda for the 18 December 2019 Committee Meeting.
- 1.2 Several revised plans have been submitted in the interim to address the issues raised by planning officials in respect of access, site works, health and safety and natural heritage. These submissions required consultation with the Gas Pipeline operator and DFI Roads, as well as neighbour notification and re-advertisement due to alterations to the red line for access purposes.
- 1.3 The applicant has submitted an indicative block plan, which indicates that all development can be kept outside of the required 7m wayleave for the gas pipeline, while a 10m buffer to the rear of the site shall be maintained free from development adjacent to the stream adjacent the rear boundary. Upon consultation on the most recent plans, DFI Roads and the Gas Pipeline operator have no objection.
- 1.4 The latest revised indicative block plan and site sections have reduced the finished floor level of the dwelling by 0.6m from when the proposal last came before Committee Members in 27 November 2019. These amendments seek to reduce the visual

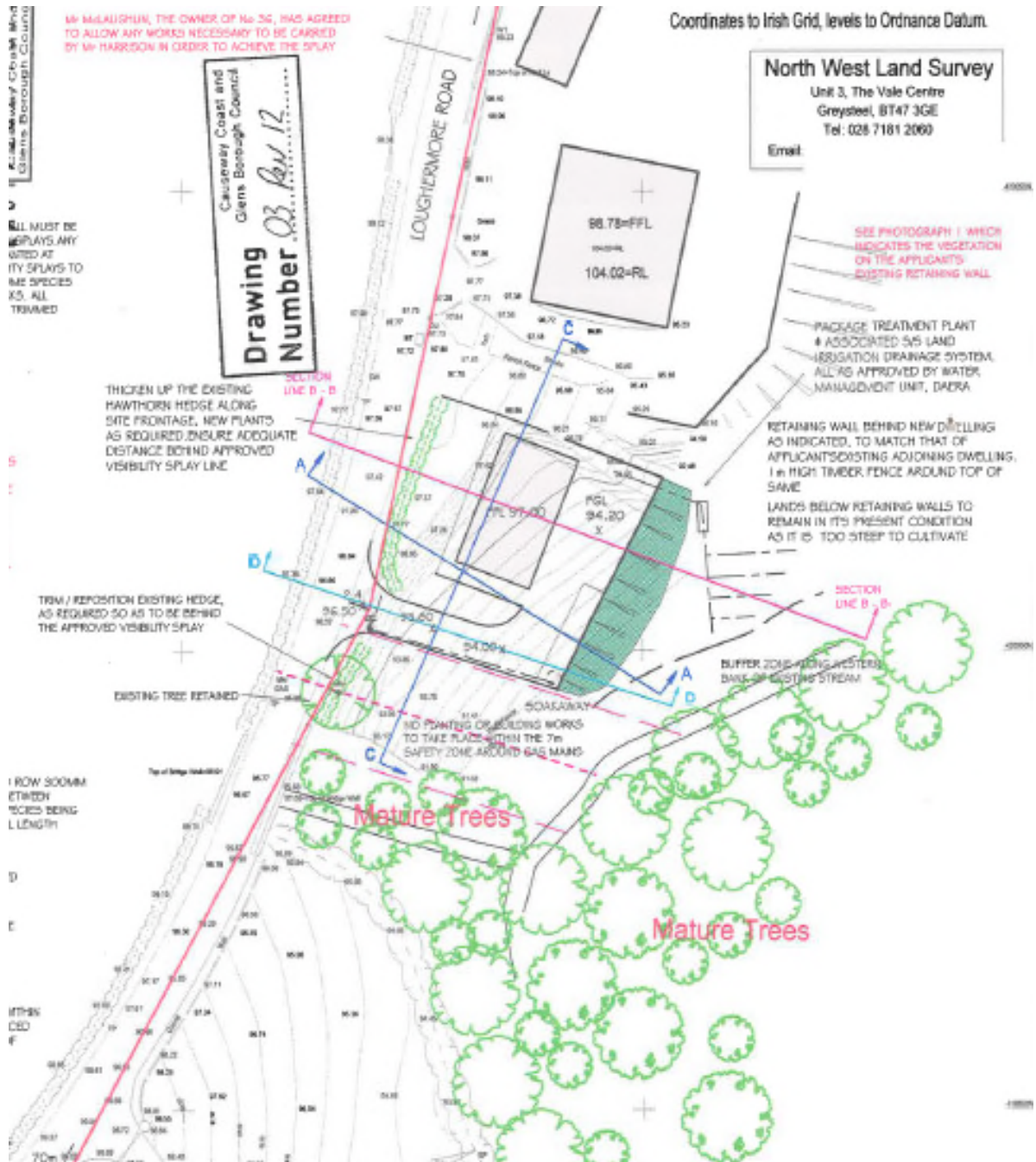
impact of the dwelling along the road frontage. The rear yard is still proposed to site approximately 2.8-3m below the finished floor level of the dwelling.

- 1.5 Even with the reduction in the finished floor level of the dwelling, there will still be extensive site works and retaining structures required to facilitate development of the site. Policy CTY13 and Building on Tradition promote appropriate design which includes respecting the natural contours of the site in order to avoid unnecessary or excessive site works. Additionally, Paragraph 5.64 of PPS 21 outlines that sites which rely on significant earth works, such as mounding or cut and fill for integration will be unacceptable. The proposed development does not respect the natural contours of the site but instead relies heavily on engineering works to accommodate a dwelling which otherwise would not be feasible on the site.
- 1.6 As the engineering works and dwelling would have an adverse visual impact they are contrary to Paragraph 6.70 of the SPPS and Policies CTY 13 and CTY14 of PPS21, and subsequently fails to meet the requirements of Policy CTY8. As the proposal fails to comply with Policy CTY8 and no over-riding reasons have been provided as to why the development is essential in this location, the proposal is also contrary to Policy CTY1. Therefore the previous refusal reasons apply.

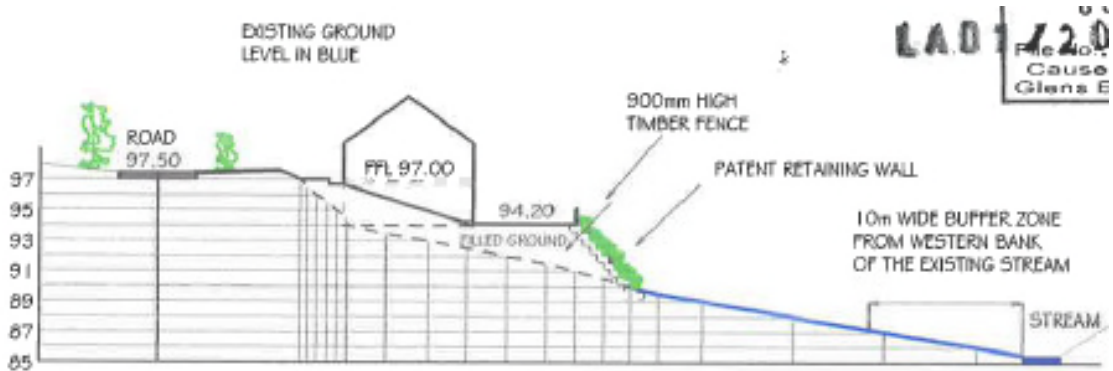
2.0 Recommendation

- 2.1 That the Committee note the contents of this Addendum and agree with the recommendation to Refuse the planning application as set out in Paragraph 9.1 of the Planning Committee Report.

Indicative Block Plan

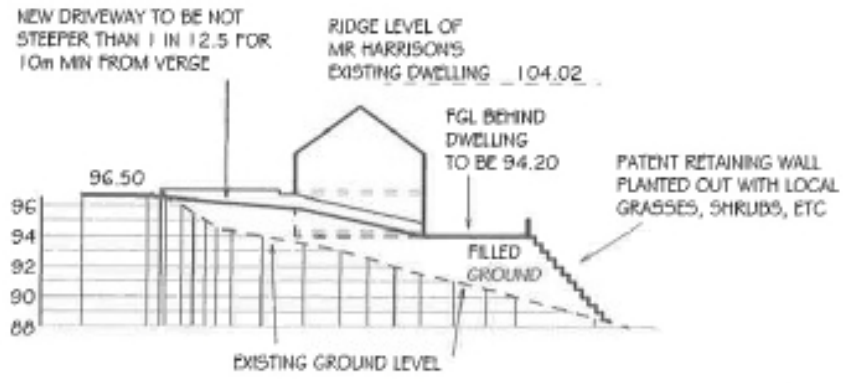


Indicative Site Sections



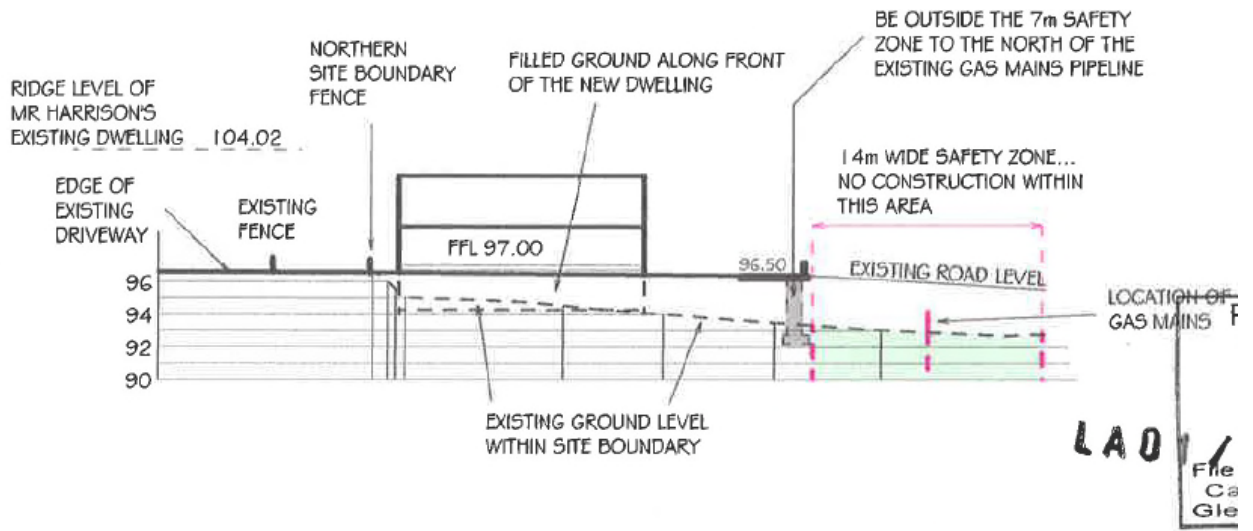
SECTION B - B THROUGH SITE & NEW DWELLING
 HORIZ 1:500 VERT 1:500

Causeway C
 Glens Boroug
Drawing Number 04 Rev 1



SECTION D - D ALONG PROPOSED ACCESS
 HORIZ 1:500 VERT 1:500

CLIENT: MR. LES
PROJECT: OUTLINE INFILL OF GARAGE LOUICHE PLANNIN
DWG TITLE: SITE CR
JOB No: 17 -



SECTION C - C ALONG PROPOSED SITE
 HORIZ 1:500 VERT 1:500



SITE VISIT REPORT: Monday 16 December 2019

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. **LA01/2017/0650/O** Between 38 & 42 Loughermore Road,
Dunbrock, Ballykelly BT49 9HY

App Type: Outline application

Proposal: Traditional rural dwelling (infill dwelling)

Present: Alderman Boyle, Councillors Hunter, Baird, Dallat O'Driscoll, Scott and Nicholl and officials Denise Dickson, Shane Mathers, Julie McMath and Martin McErlain

Comments:

Viewed site from within proposed site and from roadside. Officials explained background to application that site was considered a small gap within an otherwise substantially and continuously built up frontage given size of gap, planning history of adjacent site and intervening wayleave, watercourse and vegetation. Officials pointed out pipeline and watercourse. Given the topography of the site, the agent had submitted various indicative block plans indicating how the site would be developed. It is the nature of the infill/engineering works which are contrary to policies CTY8, 13 and 14. Officials showed Councillors plans including latest block plan and indicative site section. Officials acknowledged limited views from north and advised that views are short from south but under policy including building on tradition the extent of engineering / infill works are not acceptable. Councillors asked about planning history of adjacent dwelling and officials advised that planning history was prior to current policy and pointed differing level of infill. Officials added that as proposal was contrary to CTY8 and as there were no overriding reasons for the development it was contrary to CTY1.

16th Dec 2019 .

16/12/19 .