

<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2019/0849/F</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>27<sup>th</sup> October 2021</b>
<b>For Decision or For Information</b>	<b>For Decision</b>

<b>Linkage to Council Strategy (2021-25)</b>	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Senior Planning Officer

<b>Budgetary Considerations</b>	
Cost of Proposal	Nil
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:

Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

<b><u>No:</u></b> LA01/2019/0849/F	<b><u>Ward:</u></b> Greysteel
<b><u>App Type:</u></b> Full Planning	
<b><u>Address:</u></b> Lands 125m South West of No. 132 Clooney Road Eglinton	
<b><u>Proposal:</u></b> Retention of existing farm shop for Longfield Farm, ancillary storage of farm produce and car parking.	
<b><u>Con Area:</u></b> n/a	<b><u>Valid Date:</u></b> 05.08.2019
<b><u>Listed Building Grade:</u></b> n/a	
<b>Agent:</b> MKA Planning LTD, 32 Clooney Terrace, Waterside, Derry, BT47 6AR	
<b>Applicant:</b> Mr Alan Hunter, Longfield Farm , 132 Clooney Road, Eglinton	
<b>Objections:</b> 0	<b>Petitions of Objection:</b> 0
<b>Support:</b> 1	<b>Petitions of Support:</b> 0

## **Executive Summary**

- The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations.
- There is no overriding reason why this development is essential in this rural location and could not be located in a settlement.
- The proposal fails to comply with policy as it is not located inside an existing building and is not satisfactorily integrated with an existing group of buildings.
- The proposal is a prominent feature in the landscape, the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the proposal to integrate into the landscape and therefore results in a detrimental change to the rural character of the countryside.
- No objections have been received. One support representation has been received.
- The proposal is contrary to the relevant planning policies including the Northern Area Plan, SPPS and PPS 21.
- The application is recommended for refusal.

**Drawings and additional information are available to view on the Planning Portal - <https://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 for the reasons set out in section 10.

## **2 Site Location and description**

2.1 The site is a circular shaped plot of land measuring 0.064 hectares in a rural area. The topography of the site is flat. The site is 18 metres from the Clooney Road a protected route. The site is accessed from an existing lane, the access point off the lane to Clooney Road is finished in tarmac, there is a DFI Roads give way sign on the lane and road markings at the access to Clooney Road. There is a parking and turning area on site. The proposed farm shop is on site and is operational, it is located on a concrete base and is a small rectangular metal container / structure measuring 6.1 metres by 3.1 metres and is 2 metres high. The container / structure is split into 2 areas, one for the kiosk sales and the other for storage. Eggs and potatoes were being sold at the time of the site inspection.

2.2 The site boundaries are defined by a 1 metre high post and wire fence. Immediately north of the site is an area fenced off with chicken wire. There is no vegetation within the site boundaries. There are no watercourses in the vicinity of the site. The closest watercourse appears to be 286 metres to the west with the closest SAC / ASSI 1.03 Km to the north.

2.3 The immediate area is characterised by a mixture of agricultural farm land and some detached residential properties, within the wider area there is Longfield Industrial Estate to the west and Derry City Airport a short distance to the north west. The site is located outside any settlement limit as shown in the NAP 2016.

## **3 RELEVANT HISTORY**

3.1 LA01/2018/1303/LDE - Lands 130m south west of No 132 Clooney Road, Eglinton - Material change of use of land from agricultural land to use of land as a farm shop for Longfield Farm, ancilliary storage of farm produce and car parking - Refuse to Certify - 28th January 2019

3.2 The LDE was refused as it had not been demonstrated that the works are Lawful in accordance with Section 169 of the Planning Act (NI) 2011. The LDE was appealed and the appeal was dismissed on 23<sup>rd</sup> July 2019.

## **4 THE APPLICATION**

4.1 This application seeks permission for “Retention of existing farm shop for Longfield Farm, ancillary storage of farm produce and car parking.”

## **5 PUBLICITY & CONSULTATIONS**

### **5.1 External**

No neighbours were identified for notification within the terms of the legislation. The application was advertised on 21<sup>st</sup> August 2019.

### **5.2 Internal**

Environmental Health: No objection to the proposal.

DFI Roads: No objection to the proposal.

DAERA - Confirm active and established farming.

## **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 development 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

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 RELEVANT POLICIES & GUIDANCE**

Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS) 2015

Planning Policy Statement 3 (PPS 3) Access, Movement and Parking

Planning Policy Statement 21 (PPS 21) Sustainable Development in the Countryside

## **8 CONSIDERATIONS & ASSESSMENT**

8.1 The main consideration in the determination of this application relate to the Principle of Development, Integration and Rural Character, Access, Movement and Parking, Habitat Regulation Assessment and Representations.

### **Principle of Development**

8.2 The policies outlined in paragraph 6.73 of the SPPS and policy CTY1 of PPS21 state that there are a range of types of development which are considered acceptable in principle in the countryside. Other types of development which will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.

8.3 The application was submitted for the retention of the existing farm shop for Longfield Farm, ancillary storage of farm produce and car parking and falls to be considered under paragraph 6.279 of the SPPS and policy CTY 11 of PPS 21.

8.4 Paragraph 6.279 of the SPPS is a material consideration and states that retailing will be directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted.

However, as a general exception to the overall policy approach some retail facilities which may be considered appropriate outside of settlement limits include farm shops, craft shops and shops serving tourist or recreational facilities. Such retail facilities should be required to be located within existing buildings. All policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment, and meet the requirements of policy elsewhere in the SPPS.

8.5 The proposal is a farm shop with ancillary storage and parking that is located in the countryside and uses a metal container / structure on a concrete base within a stoned area that was previously part of an agricultural field. The proposal is not located in an existing building and is sited 135 metres from the closest farm building so is contrary to paragraph 6.279 of the SPPS.

8.6 Paragraph 6.73 of the SPPS and Policy CTY 11 of PPS 21 Farm Diversification is a material consideration and states planning permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. The following criteria will apply:

8.7(a) the farm or forestry business is currently active and established;

DAERA have been consulted and they confirm that the farm business is currently active and established. The proposal complies with criteria a.

8.8 (b) in terms of character and scale it is appropriate to its location;

The proposal is a farm shop with ancillary storage and parking that is located in the countryside and uses a metal container / structure on a concrete base within a stoned area that was previously part of an agricultural field. The proposal is not located in an existing building and is sited 135 metres from the closest farm building so integration is not aided by any of the existing farm buildings. The proposal is sited 18 metres from Clooney Road in a flat level area of field and has no mature vegetation on any of its boundaries so is quite open to views from Clooney Road. The farm shop which is located in a container measuring 6.15 metres in length by 3.1 metres wide and is 2 metres in height **which** is not appropriate at this location. The design and height is not appropriate to this location as the site is open with no mature boundaries

with critical views from Clooney Road. The proposal is contrary to criteria b.

8.9 (c) it will not have an adverse impact on the natural or built heritage; and

There is no listed buildings nearby and no mature vegetation is being removed. The proposal complies with criteria c.

8.10 (d) it will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution. Environmental Health have been consulted and have no issues. The proposal will not have detrimental impacts on nearby dwellings including noise, smell or pollution. The proposal complies with criteria d.

8.11 Policy CTY11 states that proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings. Exceptionally, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they are essential for the maintenance of the existing farm enterprise, are clearly unsuitable for adaptation and re-use or cannot be adapted to meeting the requirements of other statutory agencies. Where a new building is justified it should be satisfactorily integrated with an existing group of buildings. The proposal is for the retention of a new structure, the proposal does not reuse or adapt an existing building. Therefore, as required by the exception to the policy, the applicant was asked on 20th November 2019 and 15th July 2020 why an existing building could not be used and to clarify the location of all buildings elsewhere on the farm. The applicant owns extensive lands including a cluster of buildings at Brisland Road as identified during the processing of application LA01/2017/1270/O. The agent on 28th July 2020 stated that other buildings were not suitable.

8.12 The applicant submitted further supporting information on 26<sup>th</sup> November 2019, 10<sup>th</sup> January 2020 and 28<sup>th</sup> July 2020 detailing how the existing buildings in the existing farm yard on Clooney Road are already fully utilised. The supporting information also states issues relating to bio-security, health and safety, farm security, mature vegetation, integration, floodplain and surface water flooding prevent the proposal from being located either to the south and west of the farm yard.

8.13 In relation to Bio-security the agent has stated that prior to the last Foot and Mouth Epidemic in NI in 2001 the applicant sold his potatoes on a seasonal basis from an existing shed in the farmyard. However, due to the Foot and Mouth Epidemic and the increased need for bio-security

measures on farms the applicant relocated to the current position. Bio-security measures require farmers coming into contact with people and their vehicles to active farm yards should follow a strict cleansing and disinfection regime. Bio-security measure prevents disease being introduced to animals by farm shop customers or indeed customers coming into contact with transferable disease from livestock. The agent states it would be entirely unreasonable or commercially practical to require farm shop customers to go through a strict bio-security protocol.

- 8.14 In relation to health and safety the applicants farm yard is an active farm yard and it is in constant use by agricultural vehicles, machinery and farm animals. The agents case is it would be prudent not to have customers coming into contact with heavy farm machinery or farm animals moving around the farm yard. The access to the farm yard is narrow, with high walls on either side and there is no footpath significantly increasing the dangers of customers coming into contact with a large farm vehicle or farm machinery.
- 8.15 In relation to farm security the applicant has valuable plant and machinery stored at the farm yard including quads, tractors, forklifts, telehandlers and trailers and the applicant would like the general public kept away from the farm yard to reduce the possibility of theft.
- 8.16 Supporting information also states the farm shop has operated at this location seasonally for 20 years, a Lawful Development Certificate was submitted but has been refused and refused at appeal. The applicant states the proposal is well integrated however as explained with paragraph 2.2 there is no mature vegetation on the boundaries of the site. The applicant states all produce is from Longfield Farm. Taking these factors and floodplain and surface water flooding into consideration, the applicant has justified not locating the farm shop within the buildings 135 metres to the north of the site, however the applicant has not justified the location of the proposal because other sites are available closer to the buildings which would integrate with an existing group of buildings but which would not affect bio-security, health and safety or farm security.
- 8.17 The floodplain is to the north of the cluster of farm buildings therefore will not prevent siting to the south, west or east of the farm buildings. There is some surface flooding on the lane and to the west of the proposal but this would not prevent the siting of the proposal if drainage is implemented. There is mature vegetation along the lane but this would not prevent the siting of the proposal either to the south of the cluster of sheds or to the west of the existing sheds. The issues raised by the

applicant demonstrate from the applicants position the unacceptability of having the farm shop in the farm yard or the existing farm buildings. The agent has not demonstrated any supporting evidence to justify not locating the proposal at the cluster of other buildings (Nos 57, 59, 59a and 61 Brisland Road - 4 dwellings) on the farm located on Brisland Road. The proposal does not comply with criteria b of CTY 11. Having considered CTY 11 and all supporting information submitted by the applicant, the proposal is contrary to policy CTY 11 of PPS 21 and paragraph 6.279 of the SPPS. The principle of development has not been established.

8.18 The proposal is contrary to policy CTY 11 of PPS 21 therefore the proposal is also contrary to 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.

### **Integration and rural character**

8.19 Paragraph 6.70 of the SPPS is a material consideration and states all development in the countryside must integrate into its setting, respect rural character, and be appropriately designed.

8.20 The proposal is prominent as the site is open with no mature boundaries, the site lacks enclosure, there is a transient critical view from the south and south west and the structure fails to integrate into the surrounding landscape. The proposed development plot cut out of an agricultural field for a farm shop and parking fails to respect the character of the area. The proposal fails to integrate into the surrounding landscape and would have a visual impact in this flat field only 18 metres from the Clooney Road. The proposal will be unduly prominent in the landscape and have a detrimental impact on rural character. The proposal is contrary to Paragraph 6.70 of the SPPS.

### **Access, Movement and Parking**

8.21 Policy AMP2 of PPS3 Access, Movement and Parking applies and states for access to public roads planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where;

- 8.22 Such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- 8.23 The proposal does not conflict with policy AMP3 Access to Protected Routes.
- 8.24 The applicant has submitted plans to demonstrate safe access to the public road.
- 8.25 DFI Roads have been consulted and on 27th August 2019 they confirmed they had no objection to the proposal. Clooney Road is a protected route however the site accesses onto the lane and DFI Roads consider the proposal to access the lane rather than the protected route. As DFI Roads are content the proposal complies with Policy AMP2 of PPS3 Access, Movement and Parking.

### **Habitats Regulation Assessment**

- 8.26 Habitats regulations assessment screening checklist – conservation (natural habitats, etc) (amendment) regulations (NI) 2015 : 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 (NI) 1995 (as amended). There is no foul sewage or effluent from the proposal. There is no watercourse in the vicinity of the proposal. The proposal would not be likely to have a significant effect on the features, conservation, objectives or status of any of these sites.

### **Representations**

- 8.27 There has been one support representation made on the file. The Ulster Farmers Union state the positioning of the farm shop is required due to bio-security, farm and public safety and farm security. These matters have been considered above in the assessment of policy CTY 11. All representations have been fully considered.

## **9 CONCLUSION**

- 9.1 The proposal is considered unacceptable at this location having regard to the Northern Area Plan 2016 and other material considerations , the

SPPS and Planning Policy Statements 3 and 21. Consultee responses and representations have been considered. As the proposal is contrary to the various planning policies it is considered unacceptable and refusal is recommended.

## **10 Refusal Reasons**

1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and 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 6.279 of the SPPS in that the proposed farm shop and ancillary storage area is not located inside an existing building and policy CTY 11 of PPS 21 in that the proposal is not located inside an existing building and is not satisfactorily integrated with an existing group of buildings.

3. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland, in that the proposal is a prominent feature in the landscape, the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the proposal to integrate into the landscape and therefore result in a detrimental change to the rural character of the countryside.

# Site Location Map



# Erratum

## LA01/2019/0849/F

### 1.0 Update

1.1 Refusal reason 2 currently states;

Reason 2 : The proposal is contrary to Paragraph 6.279 of the SPPS in that the proposed farm shop and ancillary storage area is not located inside an existing building and policy CTY 11 of PPS 21 in that the proposal is not located inside an existing building and is not satisfactorily integrated with an existing group of buildings.

This should state;

Reason 2 : The proposal is contrary to Policy CTY 11 of PPS 21 Sustainable Development in the Countryside in that it is not satisfactorily integrated with an existing group of buildings.

### 2.0 Recommendation

2.1 That the Committee note the contents of this Erratum and agree with the recommendation to refuse the application in accordance with Paragraph 1.1 of the Planning Committee report.

# Addendum

## LA01/2019/0849/F

### 1.0 Update

1.1 Further information was received on 20<sup>th</sup> September 2021 which included a supporting letter from the agent and letters of support from the Ulster Farmers Union and 6 customers. The additional information was uploaded onto the portal on 21/09/21 and circulated to members. The points raised in the submission can be summarised as follows

- (a) That the committee report stated that the farm shop could be located to the South, West or East of the farm buildings, however this is impractical for the following reasons,
  - (i) The farm lane floods which would be perilous to visitors.
  - (ii) To locate to the south would be within the private garden of the dwelling
  - (iii) To locate to the east would require extending the lane and siting beside free range chickens
  - (iv) To locate to the west would be in an area of surface water flooding.
  - (v) The agent stated that it would be impossible to police customers/children coming into contact with animals causing biosecurity concerns. It is unreasonable and commercially impractical to expect visitors to go through strict cleansing protocol.
  - (vi) There are Health and Safety issues with machinery and animals in the working yard.
  - (vii) For security reasons the applicant wishes to keep customers away from farm yard and home.
- (b) The building integrates.
- (c) The farm shop has operated seasonally for 20years.

1.2 A letter of support was received from the Ulster Farmers Union who state that the shop serves the local community, it epitomises “Buy Local – Support Local”, benefits the local economy, reduces food miles and CO2 emissions and has extensive opening hours.

- 1.3 6 letters of support were received from customers who raised, good quality produce, easy access with parking, low carbon footprint, Covid friendly, can see chickens and produce adjacent to shop.

## **2.0 Assessment**

- 2.1 Officials refer members to the Committee Report, in particular paragraphs 8.12 to 8.20 which considers in detail the matters raised such as Bio-security, health and safety, farm security, flood plain and surface water.
- 2.2 Officials would advise that the SPPS (at paragraph 6.279) provides for an exception to the overall policy approach to retailing and town centres, for retail facilities outside of settlement limits to include farm shops. The SPPS adds that such retail facilities should be required to be located within existing buildings. Policy CTY11 of PPS21 states that proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings and goes on to add that exceptionally, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they are essential for the maintenance of the existing farm enterprise, are clearly unsuitable for adaptation and re-use or cannot be adapted to meeting the requirements of other statutory agencies. The SPPS adds that where a new building is justified it should be satisfactorily integrated with an existing group of buildings. In paragraph 8.16 of the Committee report, Officials clearly state that the applicant has justified not locating the farm shop within the buildings in the farm yard however the applicant has not justified the proposed location of the proposal because other sites are available closer to the buildings which would integrate with an existing group of buildings but would not affect Bio-security, H&S, farm security or residential amenity or be affected by flooding and surface water.
- 2.3 The flood plain as shown on the Strategic flood Maps is located to the north of the existing farm yard. The land to the west, east and south of the farm yard is not affected by flooding and no demonstrable evidence as to why such lands could not accommodate the farm shop has been forthcoming.

- 2.4 The surface water flooding takes place on the lane and to the west of the site but could be addressed with appropriate drainage measures.
- 2.5 Integration is dealt with in paragraphs 8.19 to 8.20 of the Committee Report. In addition, the recently published PAN on development in the countryside which re-emphasises the fundamental aspects of strategic planning policy states that all forms of development in the countryside must integrate into their setting and ensure that there is no adverse impact on rural character. The proposal is prominent and the site is open with no mature boundaries, it lacks enclosure and fails to respect the character of the area. An alternative site positioned to integrate with existing buildings and mature vegetation could overcome the integration inadequacies of this site.
- 2.6 The issues raised in the letters of representation in support of the development could still be provided / achieved from an alternative location to visually integrate with the farm yard which would not be unduly prominent.

### **3.0 Recommendation**

- 3.1 That the Committee note the contents of this Addendum and agree with the recommendation to refuse the application in accordance with Paragraph 1.1 of the Planning Committee report.