

Title of Report:	Planning Committee Report – LA01/2021/0642/O
Committee Report Submitted To:	Planning Committee
Date of Meeting:	27th April 2022
For Decision or For Information	For Decision

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Development Management and Enforcement Manager

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

Screening Requirements	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:

No: LA01/2021/0642/O **Ward: Kilrea**

App Type: Outline

Address: North of 127 Moneydig Road, Kilrea

Proposal: Proposed replacement dwelling for private use

Con Area: N/A **Valid Date: 24.05.2021**

Listed Building Grade: N/A

Agent: Fleming Mc Kernan Associates

Applicant: Liam Kennedy

Objections: 0 Petitions of Objection: 0

Support: 0 Petitions of Support: 0

EXECUTIVE SUMMARY

- Outline planning permission is sought for a replacement dwelling
- The site is not located within any settlement development limit as defined in the Northern Area Plan 2016 and is not subject to any specific designations.
- The principle of development is considered unacceptable having regard to Policy CTY 3 as it is not evident that the building exhibits the essential characteristics of a dwelling. Further to this all external walls are not substantially intact.
- DFI Roads, NI Water and DAERA (Water Management Unit), Environmental Health and DFI Rivers were consulted on the application and raise no objection.
- 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- <http://epicpublic.planningni.gov.uk/publicaccess/>

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 reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located within the rural area as identified within the Northern Area Plan (NAP) 2016. The site is located north of No. 127 Moneydig Road, Kilrea.
- 2.2 The site comprises a large triangular shaped site hosting a stone building and mature vegetation. The topography of the site is uneven underfoot hosting dips and mounds. All boundaries of the site are bounded and defined by mature vegetation between 4-10metres in height. A small river runs along the southern boundary of the site. The site is fairly overgrown, as is the stone building itself.

3 RELEVANT HISTORY

No Relevant History

4 THE APPLICATION

- 4.1 Outline planning permission is sought for a replacement dwelling

5 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: There are no objections to the application.

5.2 Internal

Environmental Health Department: No objection

NI Water: No objection

DFI Roads: No objection

DAERA Water Management Unit: No objection

DFI Rivers: No objection

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 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 21: Sustainable Development in the Countryside

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

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relates to: Access, the Principle of Development; Design; Integration and Impact on Rural Character.

Access

- 8.2 Planning Policy Statement 3 relates to vehicular and pedestrian access, transport assessment, and the protection of transport routes, and parking. 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:
- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
 - b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

- 8.3 DFI Roads were consulted on the proposal and responded with no concerns.

Principle of Development

- 8.4 The principle of development must be considered having regard to the SPPS and PPS policy documents.
- 8.5 The policies outlined in paragraph 6.73 of the SPPS and Policy CTY 1 of PPS 21 state that there are a range of types of development which are considered acceptable in principle in the countryside. Other types of development 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. The application was submitted as a replacement dwelling and therefore falls to be assessed against Policy CTY 3.

Policy CTY3

- 8.6 Policy CTY 3 states planning permission will be granted where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum, all external structural walls are substantially intact. For the purpose of this policy it is stated that all references to 'dwellings' will include buildings previously used

as dwellings. 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. All replacement cases are also required to meet five identified criteria including that the design of the replacement dwelling should be of a high quality appropriate to its rural setting and have regard to local distinctiveness.

- 8.7 It is noted the building to be replaced was rather overgrown on the site visit. The agent was contacted who cleared the site and submitted additional photographs and the case officer visited again. The building to be replaced takes the form of a single storey stone building. The building's roof appears to have fallen through some time ago, the evidence of this is some metal sheeting located within the building. The building's gable walls appear to have fallen, especially the northern wall where it has fallen to around ground height. The building was still overgrown however it was evident that the walls were not substantially intact. There was also no evidence that the case officer could see that the building exhibits the essential characteristics of a dwelling such as a chimney or a fireplace. The case officer contacted the agent in relation to this and asked them to provide additional information before 18th October 2021. Further photographs of the building were submitted via email on 19th October 2021. The photos show that some of the walls have fallen to the ground, whilst others have fallen to below window height. Some of the gables are still in place however it is considered in its current form that the external structural walls are not substantially intact to meet Policy CTY3.
- 8.8 It is noted that in emails received from the agent, that some stones from the building fell away when the dense vegetation was being removed – however even if the stones were in place the building still would not have been considered substantially intact.
- 8.9 PRONI historical maps provides historic Ordnance Survey maps from the year 1846. The map dated 1831-1846 shows the subject building in existence since that time. There are two buildings on the land. It's not possible to tell whether the building was used as a dwelling. It is considered the proposal fails this test of CTY3.

- 8.10 In addition to the above, proposals for a replacement dwelling will only be permitted where a number of criteria are met. The first one is that the proposed replacement dwelling is sited within the established curtilage of the existing building, unless either the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. For the purposes of this policy 'curtilage' will mean the immediate, usually defined and enclosed area surrounding an existing or former dwelling house.
- 8.11 This is an outline application and there is no proposed siting for the proposed dwelling. As per Spatial NI, it is considered the existing curtilage is too restrictive and is located right next to the public road. Whilst there is no siting proposed it would be considered appropriate for the dwelling to be located outside of the existing curtilage provided it would comply with Policy CTY13 and CTY14.
- 8.12 The second criteria states that the overall size of the new dwelling should allow it to integrate into the surrounding area and it should not have a visual impact significantly greater than the existing. The building to be replaced is small single storey detached with very little appreciation from the Moneydig Road. The building is approximately 4-5metres in height. If a dwelling were to be approved it is considered a ridge height condition of 6 metres above finished floor level (of 0.45 metres) shall be added to any approval to ensure the proposed dwelling will not have a significantly greater impact than that of the existing dwelling. Whilst it is noted that 6metres is slightly larger than the existing building to be replaced, it is likely the proposed dwelling will be located further towards the centre of the site and will benefit from the mature vegetation that surrounds the site. Therefore, it is considered a dwelling on this site would integrate into the surrounding area and would not have a visual impact significantly greater than the existing building to be replaced.
- 8.13 Thirdly, the design of the replacement dwelling should be of high quality appropriate to its rural setting and have regard to local distinctiveness. Given this is an outline application no detailed design has been submitted therefore this will be assessed under any subsequent reserved matters application.

- 8.14 The fourth criteria states that all necessary services are available or can be provided without significant adverse impact on the environment. DFI Roads have been consulted, as have the Council's Environmental Health Section, both of which have responded with no objections. It can be considered that services are available, or can be provided without significantly impacting upon the environment.
- 8.15 Lastly, the criteria states that access to the public road will not prejudice public safety. Given that the proposal will use the existing access, and there have been no objections from DFI Roads, it is considered that the proposal will not prejudice public safety.
- 8.16 It is considered the proposal fails CTY3 in that it cannot be accepted the building exhibits the essential characteristics of a dwelling, nor are the external walls substantially intact.

Integration

- 8.17 Policy CTY13 of PPS21 states that a new building will be unacceptable where:
- (a) it is a prominent feature in the landscape; or
 - (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
 - (c) it relies primarily on the use of new landscaping for integration; or
 - (d) ancillary works do not integrate with their surroundings; or
 - (e) the design of the building is inappropriate for the site and its locality; or
 - (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
 - (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.
- 8.18 It is important to realise the determination of whether a new building integrates into the landscape is not a test of invisibility; rather it requires an assessment of the extent to which the development of the proposed site will blend in unobtrusively with

its immediate and wider surroundings when judged from critical views along stretches of the public road network.

- 8.19 The extensive existing mature trees and vegetation will act as a backdrop and aid screening to a dwelling on this site. If the dwelling were to be approved, it is considered necessary to condition the existing vegetation to be retained at a minimum height of 2 metres and 4 metres for trees to ensure appropriate screening to the site. It will also be appropriate that the applicant submits a detailed landscaping plan with the application for Reserved Matters.
- 8.20 It is considered that a dwelling on this site would not have a significantly greater visual impact than the dwelling currently existing on the site and will visually integrate into the surrounding landscape. Furthermore it is considered that an appropriately designed dwelling could be achieved to ensure that any dwelling would not have a detrimental change to, or further erode the rural character of the area
- 8.21 Overall, it is considered a dwelling on this site will visually integrate into the surrounding landscape, including the adjacent farm buildings; provided it is of an appropriate design, in order to comply with Policy CTY13 of PPS21.

Impact on Rural Character

- 8.22 Policy CTY14 of PPS21 states 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.
- 8.23 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. A new building will be unacceptable where:
- (a) it is unduly prominent in the landscape; or
 - (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
 - (c) it does not respect the traditional pattern of settlement exhibited in that area; or
 - (d) it creates or adds to a ribbon of development (see Policy CTY 8); or

(e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

8.24 There are a number of different ways in which new development in the countryside can impact detrimentally on rural character. One building by itself could have a significant effect on an area if it is poorly sited or designed and would be unduly prominent, particularly in more open and exposed landscapes.

8.25 As previously mentioned the existing mature trees and vegetation would act as a backdrop and aid screening to the proposed dwelling. The low ridge height condition of 6metres would ensure it is not a prominent feature in the landscape.

8.26 It is considered a dwelling would not be a prominent feature in the landscape and would not cause a detrimental change to, or further erode the rural character of an area in accordance with Policy CTY 14 of PPS 21.

Habitats Regulation Assessment

8.27 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 CONCLUSION

9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016, and other material considerations, including the SPPS. 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 personal and domestic circumstances.

9.2 The proposal fails to meet the principle policy requirements for a replacement dwelling as outlined in Policy CTY 3, as the building to be replaced does not exhibit the essential characteristics of a dwelling and the external structural walls are not substantially intact.

10 Refusal reasons

- 10.1 The proposal is contrary to SPPS Para 6.73 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.
- 10.2 The proposal is contrary to The Strategic Planning Policy Statement Paragraph 6.73 and Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building to be replaced does not exhibit the essential characteristics of a dwelling and the external structural walls are not substantially intact.

Site Location

