

**PLANNING COMMITTEE MEETING HELD  
WEDNESDAY 22 MARCH 2023**

**Table of Key Adoptions**

<b>No.</b>	<b>Item</b>	<b>Summary of Decisions</b>
1.	Apologies	<b>Councillor Dallat O-Driscoll</b>
2.	Declarations of Interest	<b>Alderman Baird and Councillor Storey</b>
3.	Minutes of Planning Committee meeting held Wednesday 22 February 2022	<b>Confirmed as a correct record</b>
4.	Order of Items and Confirmation of Registered Speakers	<b>Received</b>
(i)	LA01/2021/1173/F - (Council Interest & Objection) Land opposite no's 2 & 2A and at Laurel Park Coleraine	<b>Application deferred for a Site Visit</b>
5.	Schedule of Applications	
5.1	LA01/2022/0127/O - Lands at Market Street and Parkview to the north of Jubilee Court and south of Gault Park, Ballymoney	<b>Approved</b>
5.2	LA01/20220175/F - Lands opposite and adjacent to Glenullin GAA ,9 Curraghmore Road, Garvagh	<b>Approved</b>
5.3	LA01/2022/0872/F - 8 Cliff Terrace, Castlerock	<b>Deferred for a Site Visit</b>
5.4	LA01/2022/0873/LBC - 8 Cliff Terrace, Castlerock	<b>Deferred for a Site Visit</b>
5.5	LA01/2022/1135/F - Site At 80a Curragh Road, Dungiven	<b>Disagree and Approved; Delegate Conditions and Informatives</b>
5.6	LA01/2021/1554/O - Adjacent to and immediately south of 13 Newline Road, Limavady	<b>Refused</b>
5.7	LA01/2022/0135/F - 19 Church Street Ballymoney	<b>Disagree and Approved;</b>

		<b>Delegate Conditions and Informatives</b>
<b>5.8</b>	LA01/2021/1451/O - Land adjacent and to East of Stewarts Tyres and Auto Centre 25 Islandtasserty Road Portrush	<b>Disagree and Approved; Delegate Conditions and Informatives</b>
<b>5.9</b>	LA01/2021/1545/MDA - 1 Moneyvart Cottage, Layde Road, Cushendall	<b>Deferred pending receipt of further information for Planning Committee consideration</b>
<b>6.</b>	Correspondence	
<b>6.1</b>	Council's response to FODC re: DpS Adoption Consultation	<b>Noted</b>
<b>6.2</b>	Correspondence from PAC re: DC&S DC LDP Independent Examination	<b>Noted</b>
<b>6.3</b>	Correspondence from Donegal Co Council re: publication of variation no2 to the County Donegal Development Plan 2018-2024	<b>Noted</b>
<b>6.4</b>	NIAO – Planning Fraud Risk Guide	<b>Noted</b>
<b>6.5</b>	Correspondence from DfC (HED) re: publication of conservation principles guidance	<b>Noted</b>
<b>6.6</b>	Dfl – LDP – Practice Note 11 – Receipt of Independent Examination report and adoption of a development plan document	<b>Noted</b>
<b>6.7</b>	Dfl Response re: New Planning Portal	<b>Noted</b>
<b>6.8</b>	Dfl Letter to Councils - Planning Fees	<b>Noted</b>
<b>7.</b>	Reports	
<b>7.1</b>	Cross Boundary Application – NIE – Overhead powerline from Cloughmills to Cushendall	<b>Option (B) - Discharge the planning functions to Mid and East Antrim Borough Council and allow the applicant/agent to submit one application for the entire scheme to be processed and considered by Mid and East Antrim Borough Council. This is subject to agreement by Mid</b>

		<b><i>and East Antrim Borough Council.</i></b>
	<b><i>'In Committee' (Item 8, 8.1, 8.2)</i></b>	
<b>8.</b>	Confidential Items	
<b>8.1</b>	Update on Legal Issues	<b><i>Noted</i></b>
<b>8.2</b>	Finance Period 1-10 – Update 2022/23	<b><i>Noted</i></b>
<b>9.</b>	Any Other Relevant Business (in accordance with Standing Order 12 (o))	<b><i>Nil</i></b>

**MINUTES OF THE PROCEEDINGS OF THE MEETING OF THE PLANNING  
COMMITTEE HELD IN THE COUNCIL CHAMBER, CIVIC HEADQUARTERS  
AND VIA VIDEO CONFERENCE  
ON WEDNESDAY 22 MARCH 2023 AT 10.30AM**

**Chair:** Councillor McMullan (C)

**Committee Members Present:** Alderman Duddy (C), McKeown (R), S McKillop (R)  
Councillors Anderson (C), Hunter (R), McGurk (R), MA  
McKillop (R), Nicholl (R), Peacock (R), Scott (C), Storey  
(C)

**Officers Present:** D Dickson, Head of Planning (C)  
S Mathers, Development Management and Enforcement  
Manager (R)  
S Mulhern, Development Plan Manager (R)  
R Beringer, Senior Planning Officer (R)  
E Hudson, Senior Planning Officer (R)  
J McMath, Senior Planning Officer (R)  
S O'Neill, Senior Planning Officer (R)  
S Duggan, Civic Support & Committee & Member  
Services Officer (R)  
J Keen, Committee & Member Services Officer (R)  
I Owens, Committee & Member Services Officer (C)

**In Attendance:** A Lennox, ICT Officer (C)  
C Ballentine, ICT Officer (C)

Press 1 no. (R), 1 no. (C)  
Public 8 no. (R), 3 no. (C)

**Key: R = Remote C = Chamber**

**Registered Speakers**

<b>Application No</b>	<b>Name</b>
LA01/2022/0127/O	Chris Bryson
LA01/2022/0872/F	Kieran Burns James Martin Ben Corr
LA01/2021/1554/O	Paul Garvey
LA01/2022/0135/F	Murray Bell
LA01/2021/1451/O	Mark Smyth Ryan Stewart

The Head of Planning undertook a roll call of Committee Members in attendance.

The Chair read extracts in relation to the Remote Meetings Protocol and reminded the Planning Committee of their obligations under the Local Government Code of Conduct.

### 1. **APOLOGIES**

An apology was received for Councillor Dallat O'Driscoll.

### 2. **DECLARATIONS OF INTEREST**

Councillor Storey declared an interest in LA01/2022/0135/F, 19 Church Street Ballymoney. Having declared an interest Councillor Storey left the Chamber during consideration of this Item and did not vote.

Alderman Baird declared an interest in LA01/2021/1451/O, Land adjacent and to East of Stewarts Tyres and Auto Centre 25 Islandtasserty Road Portrush. Having declared an interest Alderman Baird left the Chamber during consideration of this Item and did not vote.

### 3. **MINUTES OF PLANNING COMMITTEE MEETING HELD WEDNESDAY 22 FEBRUARY 2023**

Copy, previously circulated.

Proposed by Councillor Scott  
Seconded by Councillor Storey

- that the Minutes of the Planning Committee meeting held Wednesday 22 February 2023 are signed as a correct record.

The Chair put the motion to the Committee to vote.  
12 Members voted For, 0 Members voted Against, 0 Member Abstained.  
The Chair declared the motion carried.

**RESOLVED** - that the Minutes of the Planning Committee meeting held Wednesday 22 February 2023 are signed as a correct record.

#### 4. ORDER OF ITEMS AND CONFIRMATION OF REGISTERED SPEAKERS

##### (i) LA01/2021/1173/F – LAND OPPOSITE NOS 2 & 2A AT LAUREL PARK, COLERAINE

Report, previously circulated.

Proposed by Councillor Storey  
Seconded by Councillor Scott

- That application be deferred for a site visit given the number of concerns and objections raised to see the issues on site.

The Chair put the motion to the Committee to vote.  
12 Members voted For, 0 Members voted Against, 0 Members Abstained.  
The Chair declared the motion carried.

**RESOLVED** - That application be deferred for a site visit given the number of concerns and objections raised to see the issues on site.

At the request of an Elected Member the Head of Planning confirmed that the site visit would not take place until after the local election in May.

#### 5. SCHEDULE OF APPLICATIONS

- \* Alderman Baird joined the meeting in the Chamber at 10.40 am during presentation of Item 5.1

##### 5.1 LA01/2022/0127/O - LANDS AT MARKET STREET AND PARKVIEW TO THE NORTH OF JUBILEE COURT AND SOUTH OF GAULT PARK, BALLYMONEY

Report and Addendum, previously circulated, was presented by the Development Management and Enforcement Manager.

**Reason for Referral:** Major Application

**App Type:** Outline

**Proposal:** Masterplan for residential development

##### **Recommendation**

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

##### **Addendum Recommendation**

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

The Development Management and Enforcement Manager presented via powerpoint as follows:

- This proposal is an outline application for housing on a 3.4ha site in the inner suburbs of Ballymoney. While comprehensive details are not required as this is not a full planning application, the Concept Plan and Design and Access Statement provide indicative details of the scheme. These show the proposal to include in addition to housing, two areas of open space, development roads and landscaping.
- As this is a major application, it was preceded by a PAN accompanied by a community consultation report and a Design and Access Statement.
- In terms of the Northern Area Plan 2016, the site is within the settlement development limit of Ballymoney and is mostly zoned for housing- Zoning BYH 30. The principle of housing is acceptable. The proposal complies with the key site requirement regarding density at 26 units per hectare, providing a yield of 64 units.

Main Issues:

- Context & Character - The proposed density and layout shown on the concept is reflective of the established suburban character in the area. The proposal provides an active frontage to the section of the development next Market Street.
- Landscaping - The concept shows new tree planting proposed along the development roads, within the public open space areas and along the Market Street frontage.
- Open Space - The concept shows the open space areas extending to 10% of the site area, meeting policy requirements. An equipped children's play area is not required given that the number of units is less than 100. Dwelling plots could provide adequate private amenity space to the required standard.
- Access & Parking - The site is to be accessed from a single access to Market Street. This is acceptable to DfI Roads. The Design and Access Statement states that the final scheme shall incorporate a mix of in curtilage and shared communal spaces.
- Relation with other Properties - The concept plan shows that an acceptable relationship can be achieved with neighbouring properties at the site boundaries adjacent Gault Park and Park View. While details shall be considered at reserved matters stage, conditions are proposed through the addendum to limit the future potential for unacceptable impacts.
- Social Housing - As the site proposes more than 25 units, Policy HOU2 of the Northern Area Plan 2016 requires 20% of the units to be for social housing, subject to a need identified by NIHE. However, in this instance social housing is to be provided through the sister application to the immediate south, approved in November last year, for 48 dwellings. NIHE is content with this approach.
- Sewage Connection - Given limited capacity in the foul drainage system, the developer engaged with NI Water. This resulted in a downstream

engineering solution being identified. Connection to the foul sewer is acceptable to NI Water subject to conditions.

- Representations - The issue raised in the objection is considered in the report.
- Conclusion - The proposal is considered acceptable and the recommendation is to approve.

No questions were put to the Development Management and Enforcement Manager.

The Chair invited C Bryson to speak in support of the application.

C Bryson said he wished to endorse the recommendation to approve and was available to answer questions from Elected Members.

The Chair invited questions from Elected Members for the speaker.

At the request of an Elected Member, C Bryson said that he had worked with Northern Ireland Water to reach a local solution, which included offsetting to create room for discharge.

Proposed by Councillor Hunter  
Seconded by Alderman S McKillop

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

The Chair put the motion to the Committee to vote.

12 Members voted For, 0 Members voted Against, 1 Member Abstained.

The Chair declared the motion carried and application approved.

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

An Elected Member attending remotely raised the issue of use of the MS Teams chat facility in advance of voting and an Elected Member in the Chamber suggested that all Elected Members be in attendance in person.

An Elected Member stated that Council's will be considering the attendance mode of Committee Meetings after the local election in May.

- \* **Councillor Storey left the Chamber at 10.45 am during consideration of this item**

## **5.2 LA01/20220175/F - LANDS OPPOSITE AND QADJACENT TO GLENULLIN GAA, 9 CURRAGHMORE ROAD, GARVAGH**



Report, Addendum and Erratum, previously circulated, was presented by the Development Management and Enforcement Manager.

**Reason for Referral:** Major Application

**App Type:** Full

**Proposal:** Proposed grass playing field with floodlighting and associated dugouts and fencing. Single storey pavilion providing changing facilities and amenities, car parking and access works.

### **Recommendation**

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

### **Addendum Recommendation**

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

### **Erratum Recommendation**

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

The Development Management and Enforcement Manager presented via Powerpoint as follows:-

- Proposal comprises the key elements of a new playing field, new pavilion building with other ancillary development including fencing and floodlighting.
- The proposal seeks to expand the range of facilities approved at the east side of Curraghmore Road in 2011. These in turn, extend the range of facilities existing to the west side of Curraghmore Road.
- In terms of the Northern Area Plan 2016, the site is located in the open countryside just beyond the settlement development limit of Glenullin. The Northern Area Plan does not contain specific policies on sports facility development, rather directing to regional policies specifically PPS 8 Open Space, Sport and Outdoor Recreation.
- This is a major planning application so it was preceded by a PAN. The application was accompanied by the submission of a community consultation report. In addition, as a major application, it was accompanied by a Design and Access Statement.
- Principle of Development - The planning history is of particular relevance here with the 2011 approval establishing the principle of

development. This approval comprised a grass playing field and a 3G playing field- to date only the latter has been constructed. Policy OS 3 referring to outdoor recreation in the countryside is the lead policy in assessment of this proposal- the detail of which is set out in the report.

- Access/Parking - A new access lane is to be provided to Curraghmore Road which includes a bridge over the Brockaghboy River. DfI Roads are content with the access arrangements. The proposal includes the provision of a car park layout for 209 car parking spaces and 4 coach spaces.
- Amenity - The nearest residential property to the proposed playing field is No. 20 Glen Road which is located approximately 139m away to the east of the site accessed from a lane from Glen Road. To assess the impact on amenity, a lighting report was submitted and found acceptable subject to limiting the hours of operation to 9pm and with the floodlighting to be turned off from 10pm. This is to be regulated by condition.
- Visual Amenity - The main elements of the proposal in visual terms are the pitch itself, the pavilion building, the ball stop fences which are considerable structures measuring 16m high by 30m in length and the floodlights which are approximately 18 metres high. However, given the existing development, the low levels and limited critical views, the additional development would not appear out of character with the surrounding locality. Therefore, the proposal is considered acceptable in terms of visual amenity.
- Flood Risk and Watercourse - The only part of the site located within the floodplain is the bridge and a section of the access road. The level of these is above the predicted flood levels. Policy FLD1 of PPS 15 allows an exception for sports field related development in floodplains. A flood risk assessment has been provided and DfI Rivers are content. DAERA Inland Fisheries are content with the access road and pedestrian bridges providing they are of clear span type design. This is to be regulated by condition.
- Conclusion - Proposal is considered acceptable and the recommendation is to approve.

No questions were put to the Senior Planning Officer.

There were no speakers on this application.

- **Councillor Storey re-joined the meeting in the Chamber at 11.00 am and did not vote**

Proposed by Councillor MA McKillop  
Seconded by Councillor Nicholl

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

The Chair put the motion to the Committee to vote.

11 Members voted For, 0 Members voted Against, 2 Member Abstained.

The Chair declared the motion carried.

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

### 5.3 LA01/2022/0872/F - 8 CLIFF TERRACE, CASTLEROCK

Report, previously circulated, was presented by Senior Planning Officer, R Berringer.

**Reason for Referral:** Objection

**App Type:** Full

**Proposal:** Retention of as constructed garden room for domestic purposes (ancillary to existing dwelling)

#### **Recommendation**

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

The Senior Planning Officer presented via powerpoint as follows:-

- LA01/2022/0872/F is a full application for the retention of as constructed garden room for domestic purposes (ancillary to existing dwelling) at 8 Cliff Terrace, Castlerock.
- (Slide) The site as outlined in red, is located at No. 8 Cliff Terrace, more commonly known as the Twelve Apostles, in Castlerock. The site is located within the settlement development limit for Castlerock and lies within the Binevenagh AONB. The dwelling is B1 listed and a Listed Building Consent Application accompanies this full application.
- The site comprises a mid-terrace property and rear garden area, which is accessed from a shared access lane to the rear. The garden room, already constructed, is sited within this rear garden area.
- This application for the retention of the as constructed garden room is for domestic purposes and will provide internal accommodation comprising storage, home office and wc/shower room.
- There are 11 objections to the proposal raising issues in relation to noise, parking, finishes, design, appearance, precedence, privacy and listed buildings.

- A previous full and listed building consent application for the installation of a standalone garden room outbuilding in the rear garden was approved in May 2021.
- (Slide) View along the rear of the shared access lane with the position of the application site identified.
- (Slide) Rear elevation of No. 8 Cliff Terrace.
- (Slide) View of application site and garden room from No. 8.
- The proposal is small in scale and is a reduction in the size of the garden room previously approved on the site. While the design now includes a barrel style roof in place of the previously approved pitched roof, the design remains acceptable and HED - Historic Buildings have no objection. The materials and finishes are similar to those previously approved and HED - Historic Buildings have no objection to these. The proposal is sought for domestic purposes and the scale and nature of accommodation provided is considered ancillary to the use of the main dwelling.
- The proposed scale, design and materials are considered acceptable and will not detract from the appearance and character of the surrounding area. The proposal will not unacceptably impact the privacy or amenity of neighbouring properties. Consultation was carried out with HED – Historic Buildings who advised they were content with the proposal. The proposal complies with the Policy requirements of Policy BH8 and BH 11 of PPS 6, Policy EXT 1 of APPS 7 and Policy NH 6 of PPS 2.
- A condition restricting the use of the proposal for purposes ancillary to the residential use of the dwelling known as 8 Cliff Terrace is recommended.
- Representations are covered in detail within the Planning Committee report.
- Approval is recommended.

No questions were put to the Senior Planning Officer.

The Chair invited B Corr to speak in objection to the application.

B Corr said the original application was for a garden room but what was built was something different and now referred to as a 'Shepherd's Hut'. The structure now includes a kitchen, bedroom, bathroom and outside jacuzzi and decking. The applicant wrote to Planning, in which he referred to the structure of a 'Shepherd's Hut' and not a 'Garden Room' which the original planning application was for.

B Corr stated planning permission had been refused on at least five occasions for similar structures elsewhere and queried why this was being recommended for approval. Although assurances had been given it is for family use only, residents in the area believe it will be used for Airbnb. Retrospective planning approval for this structure would put planning procedures and policies in

disarray and for this reason stated he did not agree with the recommendation of approval.

The Chair invited questions from Elected Members for the speaker.

At the request of an Elected Member, B Corr confirmed that all eleven properties in Cliff Terrace have gone through the planning process where they have been subject to extensions.

\* **Councillor Storey left the Chamber at 11.15 am**

At the request of an Elected Member, B Corr said there was vehicular access and general parking at the front of Cliff Terrace.

The Chair invited K Burns to speak in support of the application.

Agent, K Burns said there had been a significant reduction in the size of the structure than previously applied for, there is no overlooking or impact on amenity. The applicant wishes to use the structure for home working, the structure is supplementary to the main dwelling, is not self-contained and could not function independently of the main dwelling. K Burns stated there was robust justification for the recommendation to approve.

The Chair invited J Martin to speak in support of the application.

J Martin stated the property purchased in 2007 as a holiday base and to accommodate visiting family. The structure has significantly improved the rear of the property as cited by neighbours and a number of residents in Cliff Terrace have extensions to the rear. J Martin stated they had written to objectors advising the use of the structure was for a spouse and to co-run the business and have a place of work during school holidays, there was no intention to rent the property out. J Martin advised the objectors did not respond to the correspondence, the matter was upsetting and believed planning permission should be granted.

\* **Councillor Storey re-joined the meeting in the Chamber at 11.20 am.**

The Chair invited questions from Elected Members to speakers.

At the request of an Elected Member, J Martin confirmed there was no bathroom in the original application but currently there was one in this structure.

At the request of Elected Members, Senior Planning Officer, R Beringer confirmed the structure was ancillary to residential use of the property and the site visit by the case office was viewed external only but confirmed plans submitted showed a large room with wc/shower room separate.

\* **Alderman Boyle joined the meeting in the Chamber at 11.30 am**

Proposed by Alderman Duddy  
Seconded by Councillor Anderson

-That a site visit be scheduled given the conflicting reports of internal design of the structure.

The Chair put the motion to the Committee to vote.  
8 Members voted For, 0 Members voted Against, 4 Members Abstained.  
The Chair declared the motion carried.

**RESOLVED** – That a site visit be scheduled given the conflicting reports of internal design of the structure.

#### **5.4 LA01/2022/0873/LBC - 8 CLIFF TERRACE, CASTLEROCK**

Report, received previously circulated, was presented by Senior Planning Officer R Berringer.

**Reason for Referral:** Referral

**App Type:** Full Planning

**Proposal:** Retention of as constructed garden room for domestic purposes (ancillary to existing dwelling)

#### **Recommendation**

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 **GRANT CONSENT** subject to the conditions set out in section 10.

The Head of Planning advised that this application was linked to the previous LA01/2022/0872/F and the Chair invited a proposal.

Proposed by Alderman Baird  
Seconded by Alderman Duddy

-That a site visit be scheduled given the conflicting reports of internal design of the structure.

The Chair put the motion to the Committee to vote.  
9 Members voted For, 0 Members voted Against, 4 Members Abstained.  
The Chair declared the motion carried and application approved.

**RESOLVED** - That a site visit be scheduled given the conflicting reports of internal design of the structure.

#### **5.5 LA01/ LA01/2022/1135/F - SITE AT 80A CURRAGH ROAD, DUNGIVEN**

Report, addendums, site visits and supporting information, previously circulated, was presented by the Senior Planning Officer J McMath

**Reason for Referral:** Referral  
**App Type:** Full  
**Proposal:** Proposed Replacement Dwelling

### **Recommendation**

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

### **Addendum Update**

The planning committee report refers to 3 planning appeals at paragraph 8.11 and 8.12 which include PAC 2013/A0047, PAC 2013/0074 and PAC 2018/A0172. The appeal decisions are provided in the following pages as the PAC website is currently unavailable.

### **Addendum 2 Recommendation**

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.

### **Addendum 3 Recommendation**

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.

### **Addendum 4 Recommendation**

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.

The Senior Planning Officer presented via powerpoint as follows:-

- Application presented to committee in August, September and October with a recommendation to refuse as the proposal is contrary to policies CTY1, 3 and 6 of PPS21. The application was deferred in October to give the opportunity to change the description to reflect policy CTY6 and to give the applicant the opportunity to provide additional information regarding policy CTY6.
- This full application originally sought planning permission for a replacement dwelling at 80a Curragh Road, Dungiven. Since the deferral in October the description has been updated to propose a replacement dwelling including personal site-specific reasons for replacement under policy CTY6.
- Committee report is accompanied with 4 Addenda and a site visit note and further supporting information has been circulated to members.
- Verbal update provided regarding late information received yesterday and today.

To briefly recap the recommendation for refusal previously:

- Replacement dwellings fall to be determined under policy CTY3 and this application is contrary to policy because buildings of a temporary construction will not be eligible for replacement under policy CTY3. Secondly, it had not been demonstrated that a new bungalow is a necessary response to particular personal or domestic circumstances and that a genuine hardship would result. Thirdly, no overriding reasons have been forthcoming why this development is essential.
- The site is in the rural area countryside outside of any defined settlement limit or environmental designations as per the Northern Area Plan 2016.
- The red line extends east of the existing defined curtilage to include a small parcel of land to the east of no. 80a.
- No. 80a shares a curtilage and access with adjacent bungalow no. 80 to the immediate west of the site.
- (Slide) Photo shown of no 80 with the structure at no. 80a in the background, photo is taken from roadside.
- The replacement candidate is a detached, single storey prefabricated structure of temporary construction. It is yellow in colour with white PVC windows and white guttering. It has a low-pitched roof and is anchored onto a brick plinth. It is unclear whether the structure was brought to site in one or multiple pieces or erected on site. The walls, roof covering, pitch and general appearance are similar to temporary buildings. As the structure is of temporary construction it is not eligible for replacement under policy CTY3.
- The further information submitted listed the medical conditions of the applicant and stated a bungalow would greatly enhance the applicant's quality of life. The medical issues have been listed and it has been confirmed that the applicant's daughter who currently resides with her is her registered carer, the agent has advised that the applicant's sister is also a registered carer but no information on this has been forthcoming other than stating that she is of support to the applicant. No information has been provided as to the level of care provided. The information highlights the existing structure does not meet specific standards that may be required in the future and that it is restricted in size and is in need of repair. This information refers to the inadequacies of the existing temporary accommodation as opposed to explaining why care can only be provided at this specific location. While the medical circumstances of the applicant are not disputed the personal information along with the medical letter, do not demonstrate the need for certain physical apparatus or standards at present and does not demonstrate a level of care required by the applicant that is compelling and site-specific to merit the need for a dwelling in this location. The deterioration of the existing temporary structure is partly due to the temporary nature of the structure and does not merit a dwelling under policy CTY6. The site-specific reason for a dwelling in this location is the ownership of the land and the fact that the applicant currently resides there. It has not been demonstrated that a new dwelling is a necessary response to the particular circumstances and that a genuine hardship would result if a dwelling was refused as the structure could remain on site.



- The second part of the policy requires that there are no alternatives. There has been no consideration of any alternative solutions as required by policy. Alternative accommodation could be provided by alteration or extension of the existing dwelling at 80 Curragh Road given the support provided by the applicant's sister who resides at that address and because no 80 is contained within blue lands which indicate land outside the red line which are in the control of the applicant. Alternative solution could be accommodated within the development limit of Dungiven and there has been no demonstration as to why a dwelling within the settlement limit could not be acquired to provide the required standard of accommodation which would allow the applicant to continue to reside with and have the care of her daughter. The proposal is contrary to policy CTY6.
- The third point of policy CTY6 states that permission granted under this policy will be subject to an occupancy condition however this is not enacted as the proposal is contrary to policy CTY6.
- Precedent cases have been raised in the further information, all of which have been discussed in detail in committee report.
- The final issue raised in the further information is the relevance of the PAC decisions quoted within the committee report. The 2018 in particular, is comparable as the PAC structure is made of prefab sections on a platform. The platform does not appear as an integral part of the building. The appearance is similar to the candidate replacement subject of this application. The proposal is contrary to policy CTY3.
- In conclusion, buildings of a temporary construction are not eligible for replacement under policy CTY3. The applicant has made a case under policy CTY6 however the proposal does not comply with policy as the case is not compelling and site specific and a genuine hardship has not been identified and other alternatives exist which have not been fully considered.
- The proposal is contrary to policies CTY1, 3 and 6.
- Refusal is recommended.

The Chair invited questions from Elected Members for the Senior Planning Officer.

At the request of an Elected Member, the Senior Planning Officer advised that due to data protection, she was limited to what could be stated in relation to medical information received and confirmed the applicant currently resides at the address of the application with her daughter and receives help from another family member who lives next door.

#### **MOTION TO PROCEED 'IN COMMITTEE'**

Proposed by Councillor McGurk  
Seconded by Alderman Baird and

**RESOLVED** – that Council move *'In Committee'*.

\* **Press and Public were disconnected from the meeting at 11.45 am**

**Guests in attendance in the Chamber left at 11.45 am.**

***The information contained in the following item is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.***

In response to Elected Members questions, Senior Planning Officer provided a summary of medical needs and comments received from Doctor.

**MOTION TO PROCEED ‘IN PUBLIC’**

Proposed by Alderman Duddy  
Seconded by Alderman Baird and

**RESOLVED** – that Council move ‘*In Public*’.

\* **Press and public, in attendance were readmitted at 12 noon.**

Discussion ensued regarding enforcement and immunity. Senior Planning Officer was asked for the scenario, should planning applications that do not have planning permission but immune from enforcement benefit from permitted development for an extension. Senior Planning Officer stated the policy clearly states that buildings of a temporary nature are not suitable for replacement under the policy. She clarified the distance to Dungiven.

Alderman Duddy considered the hypothetical questioning unfair.

Proposed by Councillor McGurk  
Seconded by Councillor Nicholl

-That Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** full planning permission for the following reasons:-

- CTY1 – overriding reason being personal circumstances and family support network on site;
- Evidence of medical condition supported by family doctor;
- CTY1 can be met by looking at CTY3 and CTY6;
- PAC decisions not totally comparable as not an Area of Natural Beauty and may not have been immune;
- Looking at characteristics of this application and this would be an improvement to existing site given the length of time the existing structure has been there;
- This has been the primary residence of the applicant for at least 20 years with concrete foundations at current site;
- Applicant has met personal circumstances test, has a registered carer defined and medical information available explaining condition/s;
- Consideration should be given to the financial hardship of finding alternative accommodation in nearby settlement;

- Personal circumstances aspect has been met.

Alderman Duddy requested a Recorded Vote.

The Chair put the motion to the Committee to vote.

7 Members voted 6 For Members voted Against, 1 Member Abstained.

The Chair declared the motion carried and application approved.

**RESOLVED** - That Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** full planning permission.

Recorded Vote Table

For (7)	Alderman Baird, Boyle
	Councillors McGurk, MA McKillop, McMullan, Nicholl, Peacock
Against (6)	Alderman Duddy, S McKillop
	Councillors Anderson, Hunter, Scott, Storey
Abstain (1)	Alderman McKeown

**AGREED** – That Conditions and Informatives are delegated to Officers.

- \* **The Chair declared a lunch break at 12.30 pm for 45 minutes.**
- \* **The Meeting reconvened at 1.15 pm**

The Head of Planning undertook a roll call.

- \* **Councillor Anderson did not rejoin the meeting.**

**5.6 LA01/LA01/2021/1554/O - ADJACENT TO AND IMMEDIATELY SOUTH OF 13 NEWLINE ROAD, LIMAVADY**

Report, previously circulated was presented by the Senior Planning Officer, S O'Neill

**Reason for Referral:** Referral

**App Type:** Full

**Proposal:** Site for proposed single storey retirement dwelling.

**Recommendation**

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.

The Senior Planning Officer presented via Powerpoint presentation:

- This is a referred application. A document was submitted on 21<sup>st</sup> March 2023 which shows photographs of developments that have been approved. This has been circulated to the Committee members. This is an outline application for a dwelling within a cluster in accordance with Policy CTY2a of PPS21 on land adjacent to and immediately south of 13 Newline Road, Limavady. The application was also assessed under Policy CTY 8. The application site is located within the rural area as identified within the Northern Area Plan 2016 (NAP).
- Within Policy CTY2A it is stated that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:
  - The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings
  - The cluster appears as a visual entity in the local landscape;
  - The cluster is associated with a focal point or is located at a cross-roads
  - The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
  - Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
  - Development would not adversely impact on residential amenity.
  - The group of development is located outside of a farm but only consists of three dwellings excluding ancillary buildings such as garages, outbuildings and open sided structures. The group of development therefore fails to meet with the definition of a cluster under Policy CTY2A which includes four or more buildings. As there is no cluster, the cluster therefore can't be viewed as a visual entity on the landscape. The site is also not associated with a focal point. PAC decisions 2017/A0035 and 2019/A0160 both state that the first three criteria of Policy CTY2A give an indication of its meaning and this highlights the importance of the criteria relating to a focal point. The proposed site does not provide a suitable degree of enclosure as it is only bound on one side by the dwelling at 13 Newline Road. The proposed dwelling also does not round off or consolidate the existing cluster as there is no existing cluster. The proposal would also visually intrude into the open countryside.
- The agent provided supporting information and provided a number of application references for clusters of development that have been reviewed. The references provided are not comparable as they were assessed under different policies and were not considered against the criteria in Policy CTY2A.

- The proposal also fails Policy CTY 8 as there is no development located to the south of the site and given this there is no gap between buildings. There is also no continuous built-up frontage along this laneway.
- The proposal also fails policy CTY14 in that approving a dwelling on this site would result in a suburban style build-up of development when viewed with existing buildings and would result in ribbon development. The proposal does not meet the exception under policy CTY8 as it is not a small gap site.
- (Slide) This shows an indicative block plan showing the proposed location of the dwelling to the rear of 13 Newline Road.
- (Slide) This is a view looking up the shared laneway toward the existing properties at 13, 15 and 17 Newline Road.
- (Slide) This is a view of the site when travelling west toward the site.
- (Slide) This is a view travelling east toward the site.
- (Slide) This is a view of the site which will be located behind the existing dwelling at 13 Newline Road and will involve the removal of some trees from the site.
- Refusal is recommended.

There were no questions put to the Senior Planning Officer.

The Chair invited P Garvey, Agent to speak in support of the application.

P Garvey advised the site lay outside the development limits.

A crossroads was created by 4 private laneways and there was no requirement for this road to be adopted. There were four dwellings in principle (13 is a 2 storey dwelling, 15 and 17 are single storey dwellings and the fourth property for which planning permission has foundations in place is a 1 ½ storey dwelling, and the property will be bounded on at least two sides.

The applicant currently lives in a property which is 3500ft<sup>2</sup> over 4 levels, and wishes to downsize and does not wish to leave the area, to build a single storey dwelling to retire. There is no vegetation loss, no adverse impact due to the backdrop, compliments the character of the existing buildings, does not extend into countryside as wholly within the curtilage of no.13 and slopes upwards to the south. P Garvey considered a precedent had been set of other approvals in the Council area and requested Council to approve as satisfies policy CTY2A as all the criteria has been met.

The Chair invited questions from Elected Members for speaker.

In response to questions from Elected Members, P Garvey explained the two boundaries were to the east on one side and with the approved fourth site, on the second boundary.

In response to an Elected Member, Senior Planning Officer, S O'Neill confirmed the application was bounded on one side and the grant of planning permission did not constitute a development; does not round off and consolidate; creates a ribbon of development on the laneway to the rear of no 13 Newline Road; and, results in a built-up of development.

Proposed by Alderman Duddy  
Seconded by Alderman Baird

-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.

The Chair put the motion to the Committee to vote.  
11 Members voted For, 0 Member voted Against, 0 Members Abstained.  
The Chair declared the motion carried and application approved.

**RESOLVED** - 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.

#### **5.7 LA01/2022/0135/F - 19 CHURCH STREET, BALLYMONEY**

Report and Erratum, previously circulated, presented by Senior Planning officer, E Hudson.

**Reason for Referral:** Referral

**App Type:** Full

**Proposal:** Extension to existing car sales compound (see Erratum Recommendation - 'Proposed Change of Use and Renovation of Existing Building to Mixed Use Scheme of Office Space, Retail & 4 No. Apartments and all associated site works')

#### **Recommendation**

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

#### **Erratum Update and Recommendation**

On Page 2 of the Committee Report the Proposal should be amended to read:

'Proposed Change of Use and Renovation of Existing Building to Mixed Use Scheme of Office Space, Retail & 4 No. Apartments and all associated site works.' The date valid should be amended to read; 03.02.2022.

### **Erratum Recommendation**

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.

The Senior Planning Officer presented via powerpoint presentation:

- (Slide) Planning Application LA01/2022/0135 is a full application for Change of Use and Renovation of an Existing Building at 19 Church Street, Ballymoney to Mixed Use Scheme of Office Space, Retail & 4 No. Apartments.
- (Slide) Site location plan. The application site is within the Settlement Development Limit of Ballymoney and within the town centre and conservation area boundary. The site comprises an existing, mid terrace, 3-storey building which extends across the entirety of the site.
- (Slide) Block plan
- (Slide) Floor plans of the lower ground and upper ground floor. The upper ground floor comprises a retail unit fronting onto Church Street and an office space to the back of the shop unit. The retail unit is accessed directly off Church Street and the office space and apartments above are accessed from the rear of the site which adjoins a public footpath and beyond this a public car park.
- (Slide) Floor plans of the 1<sup>st</sup> and 2<sup>nd</sup> floor which comprise 4no. 2 bed apartments – 2no. on each floor. All 4 apartments and the upper ground floor office spaces are accessed via an existing stair well which runs the entire width of the rear of the building.
- (Slide) View along Church Street showing the building within its context.
- (Slide) Another view of the building from Church Street. The building currently appears to be disused but does retain much of its traditional ground floor retail frontage.
- Slide (Photo of rear) Photo of the rear of the site taken from the public car park which is located to the back of Church Street. The building has a large 4 storey hipped roof rear return which has been the subject of a number of alterations over some time. This rear projection encompasses the entire rear of the site.
- Turning to consideration of the proposed development. The site has a town centre location and as such these uses – office, retail and residential living over the shop are considered compatible in principle.
- In relation to relevant policy considerations the proposal has been assessed against the SPPS, PPS 7 and 12, Creating Places, DCAN 8. In considering these policies and the requirement to provide a quality residential environment the proposal does not provide any outside amenity space for the apartments and there was some concern in relation to overlooking and the size of the apartments. However, weight has been given to the town centre location, the re-use of an existing building in the Conservation Area, the proximity to public parks and the

benefits this would bring. However, satisfactory amenity and a quality residential environment serves many functions the basic of which would be suitable provision for waste management.

- The building comprises a communal bin store, with 5 individual bins, for the 4 apartments and the office unit and is located on the upper ground floor of the building.
- (Slide) This has been indicated as dry black bin waste only. As these bins are located on an upper floor they will be unable to be removed from the building for collection. Information submitted with the application proposes that the bin bags will be lifted from the bins brought down the stairwell at the rear of the building and deposited at a proposed external bin store which would be located at the corner of the car park. This is not considered to be a practical solution and would lead to amenity issues in terms of odour, health and safety, a fire hazard, concerns with removal of the bin bags both in relation to the close proximity of the office space as well as the building as a whole. Black bin wastes are not classified as solely dry waste. Based on the Council's own guidelines black bin waste can contain items such as sanitary products, nappies, used food trays and pet waste. All which can create odours, attract vermin especially as the bin bags would have to be lifted from these bins and brought down a flight of stairs and out to a proposed storage area. In terms of food waste and recyclables it is proposed that these will be accommodated through individual caddies within each apartment and office space which will be directly deposited in the external bin area.
- This proposed bin storage area is outside the red line boundary of the site and on land not within the applicant's control.
- Location of the proposed bin storage area which is currently the back of a public footpath which would be on DFI Roads ownership and would require planning permission in its own right.
- (Slide) – photo of proposed communal bin area.
- The proposal communal bin storage area has been indicated as council owned which the Council would have to manage. The agent submitted an email on 14<sup>th</sup> March from the Ballymoney Town Forum, which is a new group made up of a number of local businesses and elected members. This provided support to explore potential town centre recycling bins for town centre occupants. However, these measures are prospective and would rely on the Council on making bespoke waste management facilities to cater for this. We haven't received any confirmation that this has been agreed through any Council correspondence or committees. This proposed communal bin storage area could set a precedent for other council reliant waste management facilities within town centres in the borough.
- (Slide) Final photo showing the rear elevation of the site in the context of the rest of the rear properties along Church Street.
- In conclusion our recommendation is to refuse planning permission as the proposal is contrary to the SPPS, PPS 7 and 12, Creating Places



and DCAN 8 in that the development as proposed fails to provide a quality residential environment due to the inadequate provision of storage for waste and adverse impact on amenity.

The Chair invited questions from Elected Members to the Senior Planning Officer.

In response to Elected Member questions, Senior Planning Officer advised the issue was inadequate waste storage, as the proposal for storage was outside the ownership of the applicant and Building Control had informally advised it was unlikely to be acceptable for such an arrangement. The Senior Planning Officer confirmed that Environmental Health did not have any concerns.

The Head of Planning clarified the response from Environmental Services was in terms of odour, noise and amenity issues only and further clarified there was no external bin storage in existence at the proposed location.

Following questions from Elected Members, the Senior Planning Officer advised of the bin capacity and type of waste being handled within the building and reminded Elected Members that these were static and that waste had to be removed in bags. Senior Planning Officer advised that initial discussions with Building Control had suggested concerns regarding fire hazards given the close proximity of waste handling area to office accommodation and stairwell. An Elected Member spoke of the resilience of fire doors.

The Head of Planning referred to Policy HS1 that adequate storage to allow for separation of recyclable waste was required.

The Chair invited M Bell, agent, to speak in support of the application.

M Bell stated this was a proposal for a building which has been inactive for some years. Planning Department had been engaged with, to speed up the process as have the Town Forum, and Planning Officers had endorsed this type of accommodation in the town centre. The inadequate outdoor waste provision is not a valid reason to refuse. This application is essential to the vitality of the town and to make use of urban spaces. M Bell stated he did not see a reason for refusal as application LA01/21/1014 was previously approved. The application is a vital part of rebuilding Town Centre businesses and enhance vitality.

The Chair invited questions from Elected Members for the speaker.

In response to questions, M Bell confirmed there would be no changes to the front of Church Street, with some minor changes to the rear, in terms of ventilation and lighting and that the quality of the proposal would enhance the current site. M Bell said that a Management Company would maintain the entire property, including sorting and removal of waste, and would ensure that the building was healthy and clean for all users/owners. M Bell explained that the building was split level with 4 storeys to the rear and 3 to the front, thus the

waste storage was as designated and not on the ground floor. He advised that the building in a Conservation Area and Town centre is sandwiched between buildings and best to reduce intervention with the building; building control issues can be resolved through discussions. He referred to public waste recycling at bottom of Main Street.

At the request of an Elected Member, M Bell gave the dimensions of the living accommodation in square foot.

Proposed by Councillor Storey

Seconded by Alderman S McKillop

- That the Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** full planning permission for the following reasons:-
  - Deemed appropriate use in the town centre and compliant with Class A, B, and C of 2015 order as set out in the Planning Committee Report;
  - No issues with design or visual impact, good scheme and quality design;
  - Refuge can be managed by Management Company accordingly;
  - No objections from statutory consultees;
  - No major change to structure with frontage retained and no threat to listed buildings

The Chair put the motion to the Committee to vote.

9 Members voted For, 3 Members voted Against, 0 Member Abstained.

The Chair declared the motion carried and application approved.

**RESOLVED** – Committee has taken into consideration and disagrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** full planning permission.

**AGREED** – That Conditions and Informatives are delegated to Officers.

Alderman Baird queried the need for a Declaration of Interest given she had referred the next application to the Planning Committee.

The Head of Planning advised that as Alderman Baird had given her comments on the application for referral, she should carefully consider a Declaration of Interest.

\* **Alderman Baird left the meeting in the Chamber at 2.45 pm**

## 5.8 LA01/2021/1451/O - LAND ADJACENT AND TO EAST OF STEWARTS TYRES AND AUTO CENTRE, 25 ISLANDTASSERTY ROAD, PORTRUSH.

Report, previously circulated, was presented by the Senior Planning Officer, S O'Neill.

**Reason for Referral:** Referral

**App Type:** Outline

**Proposal:** Site for dwelling in accordance with CTY6 from PPS 21

### **Recommendation**

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

The Senior Planning Officer presented via powerpoint presentation:-

- This is a referred application. This is an outline application for a dwelling in accordance with Policy CTY 6 Personal Circumstances of PPS 21. The site is located at land adjacent and east of Stewarts Tyres and Auto Centre at 25 Islandtasserty Road Portrush. The application was also assessed under Policy CTY 7 of PPS 21. The application site is located within the rural area as identified within the Northern Area Plan 2016 (NAP).
- Policy CTY 6 states that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:
  - The applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and
  - There are no alternative solutions to meet the particular circumstances of the case,
- A supporting letter was submitted with the application and stated that the dwelling is needed in this location as it is adjacent to the applicants existing garage and workshop. A booklet of invoices for these vehicle breakdowns was also provided for the years 2021 and 2022. It was stated that the applicant attends vehicle breakdowns at various locations and has to drive from his current home in Bendooragh to the garage to get his recovery vehicle and then go and do his breakdowns recoveries. It was stated that these call outs are demanding and the travelling adds to the demand. It was also stated that he has no employees to help him.
- The submitted cover letter states that the applicant lives in Bendooragh which is approximately 10 miles from the application site. The commute would be 20 to 30 minutes.

- Within paragraph 5.28 in the Justification and Amplification section it provides an example of a case where Policy CTY 6 can be used. It states that such cases will include instances where a young adult who requires continuing and high level care, but who could benefit from a greater degree of independent living. Within paragraph 5.29 of PPS 21 it also goes on to identify information that should be submitted under policy CTY 6 and has a focus on medical information and level of care. No information has been submitted in relation to this. The commuting back and forth from this workplace to attend call outs in this case is not considered to result in genuine hardship if planning permission was refused for a dwelling at this location. The proposal therefore fails criteria (a) of Policy CTY 6. There has been no evidence/information submitted in relation to criteria (b) relating to alternative solutions. The proposal therefore also fails criteria (b) of Policy CTY 6.
- The application was also assessed under Policy CTY 7. Planning permission will be granted for a dwelling house in connection with an established non-agricultural business enterprise where a site-specific need can be clearly demonstrated that makes it essential for one of the firm's employees to live at the site of their work.
- Within paragraph 5.30 it is stated that the presence of such a business in itself is not sufficient justification to grant permission. It goes onto state that applicants must provide sufficient information to show that there is a site specific need which makes it essential for an employee to live at the site of work. Paragraph 5.31 also states that a business which has been operating satisfactorily without residential accommodation will be expected to demonstrate why accommodation is now considered necessary in order to enable the enterprise to function properly. In this case it is considered that a 20 to 30 minute commute to a place of work is not considered a site specific need to permit a new dwelling under this Policy. It is considered that the existing business can function properly without the proposed dwelling and no information has been submitted as to why this is not the case.
- If this application was approved it would set a precedent for development of this nature in the countryside.
- (Slide) This is a view from the entrance of the existing business looking toward the site which is located at the far corner of the adjacent field.
- (Slide) This shows another view of the site from the existing business.
- (Slide) This shows the roadside vegetation which currently screens views of the site. Some of this vegetation may have to be removed to provide the required visibility splays.
- (Slide) This is a closer view of the site located in the left corner of the photo.
- Refusal is recommended.

An Elected Member sought clarification on the definition of policy CTY6 and whether criteria a and b or, either a or b was required to be met.

The Senior Planning Officer advised that under policy CTY6, criteria a and b were required to be met and in this case, was not met as the case was being made regarding the applicant travelling to and from a place of work and not related to a medical need or information.

The Head of Planning explained the policies CTY6 and 7 were about personal circumstances and a business need and not for the purposes of reducing distance to a place of work as this would open flood gates for other similar cases and was not the purpose of the policy.

At the request of and Elected Member the Senior Planning Officer said that there was invoice evidence dating 2021/22 but referred to slides which evidenced that it was a long established business which had the existing garage refurbished.

The Chair invited the Agent, M Smyth to speak in support of the application.

M Smyth said there was a single reason for refusal. The dwelling would be sited immediately adjacent to the business and there were no issues of amenity and integration and no objections. Granting permission would assist with the ongoing running of the business and allow for the out of hours recovery work to be located where the applicant resided when he needed to work in the small hours of the night. The applicants' brother co-works with him but is unable to operate the out of hours recovery work. The applicant is content to accommodate a site visit if desired.

The Chair invited the Applicant, R Stewart, to speak in support of the application.

R Stewart stated he provided a vital service of breakdown recovery, often during unsociable hours, have a young family and on numerous occasions have stayed over at the garage for convenience. Security would be enhanced if living adjacent to the business.

There were no questions from Elected Members put to the Agent or the Applicant.

Proposed by Councillor Storey  
Seconded by Alderman Duddy

- That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** full planning permission for the following reasons:-

- Weight given to policy CTY7 – site specific reasons for need of dwelling and house in close proximity;
- No other planning reasons why this application is unacceptable as it meets all other planning policy;
- Out of hours business management to take into account;

- Site specific need for type and nature of work undertaken has been demonstrated;
- Long established business

The Chair put the motion to the Committee to vote.

10 Members voted For, 1 Members voted Against, 0 Member Abstained.

The Chair declared the motion carried and application approved.

**RESOLVED** – That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** full planning permission.

**AGREED** – That Conditions and Informatives are delegated to Officers.

**Alderman Baird re-joined the meeting in the Chamber at 2.55 pm**

#### **5.9 LA01/2021/1545/MDA - 1 MONEYVART COTTAGE, LAYDE ROAD, CUSHENDALL**

Report, previously circulated, was presented by the Senior Planning Officer R Beringer.

**Reason for Referral:** Planning Agreement

**App Type:** Modification/Discharge of Planning Agreement

**Proposal:** Original application reference E/1999/0168/O dated 18/10/2001 and E/2004/0476/RM dated 25/05/2005. Planning Agreement restricting the use of property to holiday letting accommodation

#### **Recommendation**

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** the discharge of a planning agreement for the reasons set out in section 10.

The Senior Planning Officer presented via powerpoint presentation;

- LA01/2021/1545/MDA is an application seeking the removal of a Planning Agreement at No. 1 Moneyvart Cottage, Layde Road, Cushendall.
- This application is to discharge the planning agreement which was attached to a 1999 outline planning application for a site for 6 no self-catering holiday cottages.
- (Slide) The site is located within the countryside, outside of any settlement limit as defined in the Northern Area Plan 2016 and lies within the Antrim Coast and Glens AONB.

- No. 1 Moneyvart Cottage is identified in red and comprises an existing single storey cottage with roof space accommodation. No. 1 is attached to the neighbouring cottage to its rear, at right angles. The amenity space to No. 1 is positioned to the front of the Cottage and is enclosed by a timber board fence approx. 1m high.
- (Slide) Photograph showing No. 1 (with its amenity space to the front.)
- (Slide) Photograph of No. 1, with adjoining cottage to the rear attached at right angles. Steps in the foreground providing pedestrian access to the cottages located towards the rear of the site.
- (Slide) Photograph showing the adjacent side of the holiday cottage development.
- An Article 40 Agreement under The Planning (NI) Order 1991 made on the 11<sup>th</sup> October 2001 as part of the 1999 planning application, stated the self-contained accommodation units shall be used as holiday letting accommodation only. The existence of the Agreement formed a material consideration in the determination of the application by the former Department of the Environment. As the principle of development was only acceptable on the basis that it would provide holiday letting accommodation only, and not permanent residential accommodation, without the Planning Agreement, the application would have been refused.
- The cottage is one of 6 cottages which are arranged in two groups, all linked or attached at right angles in a compact, clachan style arrangement. This by its nature results in areas of communal amenity space and limited private amenity spaces, typical of developments which have been designed as holiday accommodation.
- With regards to the principle of development, the removal of the Planning Agreement would result in development which is considered unacceptable having regard to Policy CTY 1 in that it does not fall within the acceptable developments as specified in Policy CTY 1.
- As a result of the original design and layout of development as holiday accommodation, the proposal fails to provide adequate quality private amenity space to the appropriate standard required for a residential dwelling in accordance with the guidance contained in Creating Places. As such it is also contrary to para. 4.9 of the SPPS.
- The application is recommended for refusal.

There were no questions put to the Senior Planning Officer.

The Chair invited the applicant, J Morgan to speak in support of the application.

J Morgan said she had lived part-time in the property since 2008 and wished to live there permanently in the future. No 3 has removed this condition and set a precedent. J Morgan stated she was unaware of the agreement referred to when purchased and only aware when she received a letter 5 years later.

Almost all properties are in permanent use and the agreement was not registered in the statutory land register at the time of purchasing the property. J Morgan stated she had been living part-time in Cushendall for 15 years, surprised and disappointed by the determination. J Morgan stated it was unreasonable to be made to comply with an agreement that she was not aware of at the time of purchase. J Morgan said she was happy to provide copies of correspondence received for Elected Members consideration.

Proposed by Alderman Duddy  
Seconded by Councillor McMullan

-That the application be deferred, pending receipt of further information for Elected Members consideration

The Chair put the motion to the Committee to vote.  
12 Members voted For, 0 Members voted Against, 0 Member Abstained.  
The Chair declared the motion carried and application approved.

**RESOLVED** - To recommend that the application be deferred pending receipt of further information for Elected Members consideration.

## **6. CORRESPONDENCE**

### **6.1 Council's response to FODC re: DpS Adoption Consultation**

Correspondence, previously circulated was presented by the Development Plan Manager who advised that the correspondence was for information.

Committee NOTED the report.

### **6.2 Correspondence from PAC re: DC&S DC LDP Independent Examination**

Correspondence, previously circulated was presented by the Development Plan Manager who advised that the correspondence was for information.

Committee NOTED the report.

### **6.3 Correspondence from Donegal Co Council re: publication of variation no2 to the County Donegal Development Plan 2018-2024**

Correspondence, previously circulated was presented by the Development Plan Manager who advised that the correspondence



was for information.

Committee NOTED the report.

#### **6.4 NIAO – Planning Fraud Risk Guide**

Correspondence, previously circulated was presented by the Head of Planning.

The Head of Planning advised Elected Members that the Planning Fraud Risk Guide incorporated mitigating controls to reduce risk and was for implementation.

At the request of an Elected Member the Head of Planning advised that this was not a consultative document for response by Elected Members or other stakeholders and an Action plan will be brought before Committee for implementation.

Committee NOTED the report.

#### **6.5 Correspondence from DfC (HED) re: publication of Conservation Principles guidance.**

Correspondence, previously circulated was presented by the Development Plan Manager who advised that the correspondence was for information.

Committee NOTED the report.

#### **6.6 DfI – LDP – Practice Note 11 – Receipt of Independent Examination report and adoption of a development plan document.**

Correspondence, previously circulated was presented by the Development Plan Manager who advised that the correspondence was for information.

Committee NOTED the report.

#### **6.7 DfI Response re: New Planning Portal**

Correspondence, previously circulated, was presented by the Head of Planning.

Elected Members raised issues arising from the Planning Portal and the Head of Planning advised that the Action Plan was currently being finalised and included detail of issues raised. The Head of Planning advised that final Action would be brought back to the Planning Committee for information.

The Head of Planning reminded Elected Members that she would be providing training on the portal when this meeting concluded using the same Joining Link.

Committee NOTED the report.

## **6.8 Dfl Letter to Councils - Planning Fees**

Addendum Item of Correspondence, previously circulated, was presented by the Head of Planning who advised that the Legislation was for information.

Some Elected Members were not in favour of an increase in fees and felt that fees should be commensurate with deliverability.

**RESOLVED** – That Planning Committee note the correspondence report.

## **7. REPORTS**

Report, previously circulated, was presented by the Head of Planning.

### **Background**

A planning application has been received by both Mid and East Antrim Borough Council and Causeway Coast and Glens Borough Council by NIE for an 11kv overhead line from Cloughmills to Cushendall. The majority of the total proposed development lies within Mid and East Antrim Borough Council (see attached map, previously circulated).

### **Details**

Under Articles 7 and 9 of the Local Government Act (NI) 2014, councils can discharge their functions jointly or a council may arrange for its functions to be discharged by another council.

Prior to validation of the application clarification is required as to whether NIE needs to submit two planning applications (one to each council area) and splitting the application fee of £868 or whether NIE can submit one application to one council who will deal with the entire development.

The site lies within both the Causeway Coast and Glens Borough Council Area and the Mid and East Antrim Borough Council area. Within Causeway Coast and Glens Borough Council area the site is located within the Antrim Coast and Glens Area of Outstanding Beauty.

There are three options from which to choose a course of action.

- (a) *Advise applicant/agent to submit two applications, one to Causeway Coast and Glens Borough Council for the extension and one to Mid and East Antrim Borough Council. This option will allow both Council Areas to retain control of their respective areas.*
  
- (b) *Discharge the planning functions to Mid and East Antrim Borough Council and allow the applicant/agent to submit one application for the entire scheme to be processed and considered by Mid and East Antrim Borough Council. This is subject to agreement by Mid and East Antrim Borough Council.*

This option will allow Mid and East Antrim Borough Council to process the entire scheme. Causeway Coast and Glens Borough Council will be consulted on the determination of the application.

- (c) *Retain the planning function and take responsibility for the planning functions for the Mid and East Antrim Borough Council part of the site and allow the applicant to submit one application for the entire scheme and process and consider the entire scheme. This is subject to agreement by Mid and East Antrim Borough Council.*

This option will allow Causeway Coast and Glens Borough Council to process the entire scheme for the overhead line. This will require consultation with Mid and East Antrim Borough Council on the determination of the application.

### **Recommendation**

**IT IS RECOMMENDED** that Members note the content of the report and agree on one of the options referred to at 2.1 above and for the Head of Planning to respond to Mid and East Antrim Borough Council.

Proposed by Councillor McMullan  
Seconded by Councillor Storey

*-That Planning Committee approve Option (B) - Discharge the planning functions to Mid and East Antrim Borough Council and allow the applicant/agent to submit one application for the entire scheme to be processed and considered by Mid and East Antrim Borough Council. This is subject to agreement by Mid and East Antrim Borough Council.*

The Chair put the motion to the Committee to vote.  
11 Members voted For, 0 Members voted Against, 0 Member Abstained.  
The Chair declared the motion carried and application approved.

**RESOLVED** – Approve Option (B) - Discharge the planning functions to Mid and East Antrim Borough Council and allow the applicant/agent to submit one application for the entire scheme to be processed and considered by Mid and East Antrim Borough Council. This is subject to agreement by Mid and East Antrim Borough Council.

### **MOTION TO PROCEED ‘IN COMMITTEE’**

Proposed by Alderman Duddy  
Seconded by Alderman Baird

**AGREED** – that Planning Committee move ‘*In Committee*’.

***The information contained in the following items is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.***

## **9. CONFIDENTIAL ITEMS**

### **9.1 Update on Legal Issues**

The Head of Planning provided an update on legal matters ongoing in relation to appeals to the Court of Appeal and a Judicial Review in the High Court with dates set for March and April 2023.

Committee NOTED the update.

### **9.2 Finance Period 1 – 10 - Update 2022/23**

#### **Background**

This Report is to provide Members with an update on the financial position of the Planning Department as of end Period 10 of the 2022/23 business year.

The Head of Planning provided commentary on the report, previously circulated referring to the favourable variance which was due to increased income and property certificates.

#### **Recommendation:**

**IT IS RECOMMENDED** that the Committee notes the update provided on the Planning budget as of end of Period 10 of 2022/23 financial year.

Committee NOTED the report.

**10. ANY OTHER RELEVANT BUSINESS (IN ACCORDANCE WITH STANDING ORDER 12 (O))**

There were no matters of Any Other relevant Business notified.

**MOTION TO PROCEED '*IN PUBLIC*'**

Proposed by Alderman Duddy  
Seconded by Councillor Scott

**AGREED** – that Planning Committee move '*In Public*'.

This being all the business the Chair thanked everyone for being in attendance, invited those who wished to undertake training session on Planning Portal to remain.

The meeting concluded at 3:25 pm

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Chair