

Planning Committee Report LA01/2015/0188/F	23rd August 2017
PLANNING COMMITTEE –	

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

**Approximately 275m NW of 145
Pollysbrae Road, Limavady**

**LA01/2015/0188/F
Full Application**

23rd August 2017

<u>No:</u>	LA01/2015/0188/F	<u>Ward:</u>	ALTAHULLION
<u>App Type:</u>	Full Application		
<u>Address:</u>	Approximately 275m NW of 145 Pollysbrae Road, Limavady		
<u>Proposal:</u>	Proposed broiler poultry house (containing 33,500 birds) landscaping swale and ancillary site works at lands approximately 275 metres north west of 145 Pollys Brae Road Limavady Co. Derry.		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	15 May 2015
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	5050 Architecture 3A Keldon Court 17 Linenhall Street, Limavady		
<u>Applicant:</u>	Mr Malcom Maxwell		
<u>Objections:</u>	2	<u>Petitions of Objection:</u>	0
<u>Support:</u>	0	<u>Petitions of Support:</u>	0

Drawings and additional information are available to view on the Planning Portal- www.planningni.gov.uk

1 RECOMMENDATION

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

2 SITE LOCATION & DESCRIPTION & CHARACTER OF AREA

2.1 The application site is located to the west of Pollysbrae Road, within the rural area. The site includes an existing poultry house, an associated area of hardstanding and the adjacent agricultural fields. An agricultural lane and hedging adjoin the south boundary. Hedging defines the remaining boundaries of the site.

2.2 The site is on elevated ground with the land continuing to rise to the west where Altahullion windfarm dominates the wider landscape.

3 RELEVANT HISTORY

None

4 THE APPLICATION

- 4.1 The application proposes to erect 1 no. poultry unit for up to 33,500 birds. The poultry unit measures 79.0m in length and 22.0m wide, with a ridge height of 4.8m. The unit is mechanically ventilated with fans along the ridge. There is also an ancillary building proposed, as well as meal bins/silos.

5 PUBLICITY & CONSULTATIONS

External:

- 5.1 **Neighbours:** Two objections have been received from the email address.

The first representation stated that the Planning Authority cannot rely on Statutory Consultees responses as they have not taken into the EU Directives. To demonstrate the point the author queries the amount of poultry waste generated per year, how it will be disposed of and whether the applicant has a Waste Management Licence and whether the disposal complies with the EU Nitrates Directive regarding the disposal of sludge and over which river catchment. The representation goes on to ask if the NH₃ levels of ammonia were taken over a prolonged period taking into account production cycles and maximum periods of emissions during house cleaning and spreading and asked the reliability of the predicted values given. Author also asked why NIEA did not take into account toxic pollutant emissions such as Methane CH₄ and Nitrous Oxide N₂O and questions hydrological link to European site. Finally the author questioned why an Environmental Statement was not requested.

The later representation raised concern with the quality of the responses from consultees and requests the suspension of all planning applications for intensive agricultural development pending an independent investigation.

Internal:

- 5.2 **Transport NI:** No objection subject to conditions.

Environmental Health: refer to NIEA as permit required.

Shared Environmental Service: No objection subject to condition.

NIEA: No objection subject to condition.

DARDNI: Have confirmed farm business ID and that applicant claims single farm payments.

NI Water: No objection.

Rivers Agency: No objection.

Loughs Agency: 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

Northern Area Plan 2016

Strategic Planning Policy Statement

PPS 3 Access, Movement and Parking

PPS21 Sustainable Development in the Countryside

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to: the submission of an Environmental Statement; the principle of the development; visual integration and impact on character; impact on natural or built heritage; impact on neighbouring residential properties and other matters.

Environmental Statement

- 8.2 The Planning Authority is obliged under Regulation 10 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 to determine whether the planning application should be accompanied with an Environmental Statement. The proposed development falls within category 17A of Schedule 1 of the 2015 Regs therefore officials concluded that the application needed to be accompanied by an Environmental Statement.
- 8.3 An Environmental Statement was submitted in December 2016 which included sections to aid the assessment of noise, air quality, odours, ecology, water environment, transport, socio-economic impact, litter control and nitrates management. The Environmental Statement was advertised, neighbours were notified and consultatees were reconsulted on the content of the Environmental Statement. The Environmental Statement informed the assessment of the application.

Principle of development

- 8.4 The application site is located in the rural area as defined by the Northern Area Plan 2016.
- 8.5 The SPPS states that sustainable development shall be permitted having regard to the development plan and all other material considerations unless the proposed development will

cause demonstrable harm to interests of acknowledged importance.

- 8.6 Paragraph 6.73 provides a context for agriculture and forestry development: provision should be made for development on an active and established (for a minimum 6 years) agricultural holding or forestry enterprise where the proposal is necessary for the efficient operation of the holding or enterprise. New buildings must be sited beside existing farm or forestry buildings on the holding or enterprise.
- 8.7 Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of the types of development is agricultural and forestry development in accordance with Policy CTY 12.
- 8.8 Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural and forestry holding where it is demonstrated that:
- a) It is necessary for the efficient use of the agricultural holding.**
- 8.9 DARD have confirmed that the farm business ID number has been active and established for the required period and that the business claims a single farm payment.
- b) It is appropriate to the location in terms of character and scale.**
- 8.10 The proposed shed is located adjacent to an existing poultry house and 200m north west of the main farm grouping. The poultry unit is 4.8m in height to the ridge, 22.0m wide and 79.0m in length. An ancillary building is proposed to the edge of the apron and the two feed bins are set adjacent to the existing poultry house.
- 8.11 The proposed building is of similar proportions and design to the existing shed and is read within the context of the existing buildings and other agricultural buildings which punctuate the landscape. As such, the proposal satisfies the policy in this regard.

c) It visually integrates into the local landscape and additional landscaping is provided as necessary.

8.12 The site is elevated relative to Pollysbrae Road with the land continuing to rise to the west. The site is not immediately visible from the public road with public views limited to sections of Pollysbrae Road to the north east. Views from this aspect are afforded a backdrop by the rising topography. The existing poultry house is absorbed into the landscape, with the dark green cladding blending in with the fields, hedgerows and agricultural buildings which characterise the area. The wider landscape is then dominated by the Altahullion windfarm.

8.13 The ancillary building is small in scale and is considered acceptable and will integrate with the existing grouping.

d) It will not have an adverse impact on the natural or built heritage.

8.14 When considered in the context of the existing poultry houses the current proposal takes the number of birds that the installation can facilitate above the threshold defined in Section 17 of Schedule 1 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015. As such the application was accompanied by an Environmental Statement.

8.15 Shared Environmental Service have undertaken a Habitats Regulations Assessment. The assessment concluded the potential impact of this proposal on Special Protection Areas, Special Areas of Conservation 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 of any European site.

8.16 Having considered the Environmental Statement NIEA are satisfied that the proposal would not have an adverse impact on natural heritage features, subject to conditions and informatives. Loughs Agency who are the statutory body charged with the conservation, protection and development of inland fisheries are satisfied that potential impacts can be mitigated with conditions and informatives.

e) It will not result in a detrimental impact on the amenity of residential dwellings outside the holding.

8.17 NIEA - Industrial Pollution and Radiochemical Inspectorate (IPRI) is the competent authority for the investigation of any noise or odour complaint for an application of this type and size. Following consideration of an Air Quality Impact Assessment IPRI have stated that the demonstrated impacts of emissions of odour, dust and ammonia on sensitive receptors (i.e third party dwellings) are likely to be acceptable.

Proposed buildings

8.18 In the case where new buildings are proposed, CTY 12 requires: that existing buildings be used; the design and material are sympathetic, and; they are sited beside existing farm or forestry buildings. Having regard to the specific nature of the development, there are no suitable existing buildings at this location and the buildings need to be a particular size and shape. The design and materials of the building are sympathetic to the locality and is located to cluster with the existing farm buildings. The poultry house is of a simple design and buildings of this style are characteristic of the rural area.

The proposal meets all of the above criteria and therefore complies with Policy CTY 12.

Visual Integration and Impact on Character

8.19 Policy CTY 13 allows for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

As mentioned above under point c) the proposal will visually integrate into the surrounding landscape and is an appropriate design.

8.20 Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Given the new poultry shed will sit to the rear of the existing farm it will not cause a detrimental change to the rural character of this area.

Other matters

- 8.21 Policy NH1 of PPS 2 deals with European and Ramsar sites. As outlined above SES have completed the appropriate assessment in this regard and have concluded that the development would not have a significant effect on the features of any European site.
- 8.22 Policy AMP3 of PPS3 deals with access to public roads. Transport NI have been consulted and offered no objection subject to conditions.
- 8.23 As documented at paragraph 5.1 two email letters of objection were received.
- 8.24 The first email of objection raised specific questions and NIEA and SES were asked to comment specifically on the matters raised. NIEA considered the impacts of the proposal on designated sites and other natural heritage interests and has no concerns.
- 8.25 Regarding the specific questions about poultry waste (amount generated per year, disposal and whether the applicant has a Waste Management Licence and whether the disposal complies with the EU Nitrates Directive regarding the disposal of sludge and over which river catchment), NIEA highlighted that a Litter Utilisation Information was previously submitted in which it stated that the total litter produced annually is 881.4 tonnes for the site with the proposed birds producing 257.47 tonnes. It will be disposed of under Moy Park's updated Litter Utilisation Strategy as agreed with the NIEA.
- 8.26 Regarding ammonia levels NIEA refers to the Air Quality Impact Assessment previously submitted advised that the critical level of NO_x is not exceeded in the vicinity of the farm therefore there will be no significant direct effects resulting from gaseous emissions of nitrogen oxides. With regards emissions such as Methane CH₄, NIEA have advised that there is no direct chemical effect on animals or plants, any effects of CH₄ are secondary arising from climate change.
- 8.27 The author questioned why an Environmental Statement was not requested. An Environmental Statement was submitted and considered accordingly. This is dealt with at paragraph 8.2 and 8.3.

8.28 SES have considered the representation and concluded that the having considered the nature, scale and location of the project that it would not have a likely significant effect on the selection features, conservation objectives or status of any European Site.

8.29 The second representation raised concerns with the quality of the responses from consultees and requests the suspension of all planning applications for intensive agricultural development pending an independent investigation. In considering the points raised in the representation, the officials are satisfied that the statutory consultees used on these issues remain the competent authority. The accusations are not founded and are not substantiated. As such the issues raised by the objector are not material to the consideration of the current planning application.

9 CONCLUSION

9.1 The proposed development is considered acceptable in this location having regard to the area plan and other material considerations. The proposed development is an appropriate use in the countryside, it is sited adjacent to other existing farm buildings on an active and established farm. The proposal is acceptable in terms of its layout and appearance. All environmental information has been considered and all consultees have accepted the proposal subject to the attached conditions. The proposal is acceptable in terms of heritage interests, amenity, visual amenity and road safety. Approval is recommended.

10 CONDITIONS/ INFORMATIVES

10.1 Regulatory Conditions:

1. As required by Section 61 the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.
Reason: Time Limit.
2. The proposed landscaping shall be carried out in accordance with drawing No. 04A which was received 09-DEC-2016 and the

appropriate British Standard or other recognised codes of practice. The works shall be carried out prior to the occupation of any part of the development hereby approved.

Reason: To ensure the provision of a high standard of landscape.

3. A Construction Environmental Management Plan (CEMP), as identified in Chapter 10 of the Environmental Statement, must be submitted to the planning authority for approval at least 6 weeks prior to construction activities commencing onsite.

Reason: To ensure the proposed mitigation is delivered.

4. All storm water from the development site shall not be discharged to nearby watercourses unless first passed through pollution interception and flow attenuation measures. Storm water can carry pollutants into watercourses and high volume discharges can alter the prevailing hydrological regime, both of which can impact on fisheries interests.

Reason: To prevent pollution of watercourses.

5. Work methods and materials must not impinge upon any nearby watercourses. The use of cement/concrete on site will require careful management. While they are versatile building materials, they are also highly toxic to aquatic life and therefore must be kept out of all drains and watercourses.

Reason: To prevent pollution of watercourses.

6. The applicant must adhere to all mitigation and disposal methods for poultry litter generated by this proposal as detailed in Moy Park's updated Litter Utilisation Strategy as agreed with the Northern Ireland Environment Agency (NIEA) on 4th November 2015. Should this arrangement alter in future, a suitable alternative arrangement will be agreed with the NIEA.

Reason: To ensure that the poultry litter arising from this proposal will be utilised in a sustainable manner and in compliance with legislative requirements, therefore providing protection of the aquatic environment.

7. The proposed development must be to the design specified and stocked at a capacity no greater than that assumed in the report "*Air Quality Impact Assessment – Maxwell Poultry Farm Rp001 20150701*" dated 5th May 2015, i.e. 33,500 birds".

Reason: To mitigate potential adverse odour impacts on sensitive 3rd party receptors.

8. Subject to the above condition(s), the development insofar that it is carried out shall be carried out in accordance with the stamped approved Drawing(s) No: 02 A and the Department's DC 1 form bearing the date stamp 16th September 2015.

REASON: To ensure the development is carried out in accordance with the approved plans.

9. No development shall take place within the approved site until the vehicular access, including visibility splays and any forward sight distance, has been provided in accordance with Drawing No. 02A bearing the date stamp 16th September 2015. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

10. The access gradient to the dwelling hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary.

REASON: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

INFORMATIVES

1. The applicant should demonstrate best environmental practice when working close to watercourses. The potential for deleterious matter to enter a watercourse is of primary concern. Impacts on the aquatic environment such as a decrease in water quality can cause a significant impact upon various life history stages of fish species.
2. Loughs Agency request that the proposed poultry house must be constructed in accordance with the requirements of the Department of Agriculture, Environment and Rural Affairs.

3. The applicant should be aware that it is an offence under section 41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.
4. The applicant must refer and adhere to all the relevant precepts contained in Standing Advice Note No. 12 – Agricultural Developments.
The applicant must refer and adhere to all the relevant precepts contained in Standing Advice Note No.4 – Pollution Prevention Guidance.
Management Unit recommends the applicant refers and (where appropriate) adheres to the precepts contained in Standing Advice Note No. 5 – Sustainable Drainage Systems.
The applicant should refer and adhere to all the relevant precepts contained in Standing Advice Note No. 18 – Abstractions and Impoundments.
The applicant should refer and adhere to all the relevant precepts contained in Standing Advice Note No. 11 – Discharges to the Water Environment.
The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.
The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.
5. Public water supply within 20m of your proposal, the Developer is required to consult with NIW to determine how the proposed development can be served. Application to NIW is required to obtain approval to connect.
6. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

7. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
8. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.
9. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.
10. Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.
11. The applicant is advised to contact NIW Waterline on 03457 440088 or waterline@niwater.com, upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means. If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Waterline on 03458 770002.
12. Public water supply within 20m of your proposal, the Developer is required to consult with NIW to determine how the proposed development can be served. Application to NIW is required to obtain approval to connect. There is no foul sewage discharge

from this proposed development. Applicant proposes to discharge surface water to swale.

13. No connection should be made to the public sewer from 23rd May 2016, in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 (as amended Water and Sewerage Services Act (Northern Ireland) 2016), until the mandatory Sewer Adoption Agreement has been authorised by NIW.
14. Statutory water regulations are in force, which are designed to protect public water supplies against contamination, undue consumption and misuse. All internal plumbing installation must comply with the current Water Supply (Water Fittings) Regulations (Northern Ireland).
Applicants should contact NI Water's Water Fittings Regulations team via waterline@niwater.com if they have any queries.
15. The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment. The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.
16. The applicant must refer and adhere to all the relevant precepts contained in DOE Standing Advice Note No. 4 – Pollution Prevention Guidance (April 2015), No. 5 – Sustainable Drainage Systems (April 2015) and No. 12 – Agricultural Developments (April 2015). The applicant should also be reminded of their responsibilities under the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO) (Northern Ireland) 2003 and The Nitrates Action Programme (NAP) Regulations (Northern Ireland) 2014.
17. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any

structure or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection. Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605.

18. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

19. Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Regional Development's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the TransportNI Section Engineer whose address is County Hall, Castlerock Road, Coleraine, BT51 3HS. A monetary deposit will be required to cover works on the public road.

20. All construction plant and materials shall be stored within the curtilage of the site.

21. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.

LA01/2015/D188

Covering CA
Glens District
Drawing
Number **01A**

