

<b>Planning Committee Report LA01/2016/1037/F – 6 Largy Road, Limavady</b>	<b>23.08.2017</b>
<b>PLANNING COMMITTEE</b>	

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

**6 Largy Road, Limavady**

**LA01/2016/1037/F**

**23 August 2017**

<b><u>No:</u></b>	LA01/2016/1037/F	<b><u>Ward:</u></b>	Altahullion
<b><u>App Type:</u></b>	Full		
<b><u>Address:</u></b>	6 Largy Road, Limavady		
<b><u>Proposal:</u></b>	Retention of existing no. 2 agricultural buildings		
<b><u>Con Area:</u></b>	N/A	<b><u>Valid Date:</u></b>	23.08.2016
<b><u>Listed Building Grade:</u></b>	N/A		
<b><u>Agent:</u></b>	Carol Gourley (C.McIlvar Ltd), Unit 7, Derryloran Industrial Estate, Sandholes Road, Cookstown, BT80 9LU		
<b><u>Applicant:</u></b>	Gavin Blair		
<b><u>Objections:</u></b>	6	<b><u>Petitions of Objection:</u></b>	0
<b><u>Support:</u></b>	11	<b><u>Petitions of Support:</u></b>	0

Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)

## 1.1 RECOMMENDATION

- 1.2 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 & 8 and resolves to **REFUSE** planning permission for the reasons set out in Section 10.

## 2 SITE LOCATION & DESCRIPTION & CHARACTER OF AREA

- 2.1 The site is located in the countryside outside any defined settlement of the Northern Area Plan. It lies to the north west of the hamlet of Largy. The site is relatively flat. It can be viewed from the Drumrane Road, albeit the site is accessed off Largy Road.
- 2.2 This site as outlined in red on the submitted location plan comprises two fields, a two storey dwelling, outbuildings and yard. In response to a query a land registry search showed that the applicant only owned one field to the east (0.5 hectares) which tucks around the dwelling and outbuildings.

- 2.3 The dwelling is served by two vehicular accesses off Largy Rd, one to the south of the dwelling between the garden and the house and the second to the north accessing the garage. The applicant created a third access further north off Largy Road to serve the two buildings which are the subject of this application.

### **3 RELEVANT HISTORY**

- 3.1 No relevant history.

### **4 THE APPLICATION**

- 4.1 This application is retrospective. It seeks planning permission for the retention of two sheds which have been attached to the existing garage and outbuilding. The existing outbuilding hosts two biomass boilers and at the time of visiting all of the existing and proposed sheds were being used for drying and storing of woodchip. The development also includes a new access and area of concrete hard standing comprising 1,317 square metres which is situated to the north of the existing access. The two sheds subject of this application measure 19.3m in length and 13.5m in width with an overall height of 7.2m. They are accessed via two roller shutter doors on the northern elevation.
- 4.2 The applicant constructed the buildings in March 2015 and purchased 10 sheep in June 2016 and a further 5 sheep in March 2017. The applicant also advised that an additional 20 ewes would be purchased in May 2017. The applicant has provided evidence that the business was registered as a Category 1 Business in April 2017. The sheds are described in the application as agricultural sheds.
- 4.3 The floor plan submitted with the application depicts one shed being used for sheep pens/ drying shed and the second shed for drying wood chip for use in the biomass boilers. Both sheds are divided by a hot air duct which is fed by a hot air fan located in a separate lean to building attached on the south elevation. The two buildings are attached to the garage and older outbuildings

by a covered area. It is annotated to store dry chip and machinery.

## 5 PUBLICITY & CONSULTATIONS

### 5.1 External:

**Neighbours:** Six representations objecting to the proposal were received from neighbours and elected members including John Dallat MLA, George Robinson MLA and Alderman Norman Hillis.

### 5.2 The objections raised the following issues:

- The buildings are used to dry/store woodchip as opposed to livestock. It is an industrial unit as opposed to an agricultural unit.
- The sheds have an industrial appearance and are not considered necessary for agricultural purposes. They are out of character in the open countryside. There is insufficient landscaping to soften the appearance of the development.
- Noise from heavy vehicles delivering wood chip has a detrimental affect on neighbours to the north. Deliveries have taken place at night after 11pm. A telehandler is used to move the wood chip which causes noise and dust. The development also causes a low intensity humming sound which is also a nuisance.
- There is insufficient information to demonstrate that the noise emanating from the development does not constitute a serious environmental hazard. The acoustic report did not take account of neighbours at 118B Drumrane Rd.
- Sheep are not considered safe in a drying shed.
- The wood chip delivered comes for the family's timber business (Eglinton Timber). The biomass boilers and drying of wood chip should take place at the business or elsewhere on an industrial/commercial site and not in the countryside.
- The large area of hard standing has increased surface water run off which is flooding the neighbours field. The application fails to provide sufficient sustainable drainage to manage the level of rain water.
- Largy Road is a quiet country road used for walking and cycling, it is not capable of accommodating larger farm

vehicles and lorries. The road is narrow at this access point and adequate road safety cannot be achieved.

- The application has not changed substantially from when it was originally submitted and recommended for refusal as such the officer's opinion should not have changed.

5.3 Eleven representations in support of the application were submitted including letters from elected members Claire Sugden MLA, Councillor Russell Watton and Councillor Gordon Kennedy. The representations raised the following issues:

- Geoffrey Conn & Son (potato supplier), 44 Tully Road, Limavady has supported the application advising that the shed is used for conditioning seed potatoes in preparation for planting. The sheds are also used to dry off seed which has been treated with chemicals to prevent dry rot and other diseases. The sheds will also be used to dry freshly harvested potatoes during wet weather period. There is also an intention to use the shed to dry grain (wheat and barley) in the future which would then be delivered to large beef and pig breeding and fattening farm enterprises. It is a state of the art facility which will be an asset to many farmers.
- The access has made this section of road which was a blind corner much safer.
- There is a genuine agricultural need for this shed especially in the future as the applicant will be able to grow crops such as barley, wheat, oil seed rape and dry them on the same day of harvesting. It uses renewable energy which should be supported.
- The applicant will require the shed to lamb and tend to ewes when the drying floors are not in use.
- The movement of vehicles in and out of the yard is minimal and when walking past the site, there is no noise nuisance.
- The noise complaints from December 2015 have been rectified at a considerable cost and noise is no longer an issue,
- The shed supports the local economy as it was built using local labour, with locally sourced materials and all agricultural and veterinary requirements are sourced locally. The flock will also be sold locally.

#### 5.4 Internal:

**Transport NI:** Initially objected to the application because it failed to provide the necessary visibility splays. However upon receipt of drawing 02B date stamped 21.04.2017 TNI were further consulted and raised no objection subject to a number of conditions and informatives.

**Environmental Health:** Initially requested an acoustic report and on receipt raised concern with its adequacy.

**NI Water:** No objection.

**DAERA:** Advised the Farm Business ID has not be in existence for more than 6 years and Single Farm Payment has not been claimed in the last 6 years. It is understood that whilst the business is now Category 1, there has not been a valid claim paid to date. Any claims made in 2017 would not be validated or paid until October 2017.

## 6 MATERIAL CONSIDERATIONS

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local development plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The development plan is the Northern Area Plan 2016.
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.

- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

Northern Area Plan 2016

Strategic Planning Policy Statement

Planning Policy Statement 21 Sustainable Development in the Countryside

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

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main planning considerations for this application are: the Principle of development; Residential amenity; Road safety; Drainage and Other material considerations
- 8.2 The site is located within the rural area and falls outside any defined settlement of the Northern Area Plan 2016. This land is not within any environmental or conservation designations.
- 8.3 The Northern Area Plan does not have a specific policy regarding development in the countryside or agricultural development. Therefore the Strategic Planning Policy Statement (SPPS) and PPS 21- Sustainable Development in the countryside, will be the most relevant policies to assess the principle of the development.

### **Principle of development**

- 8.4 Paragraph 6.73 of the SPPS supports agriculture and forestry 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. Policy CTY 1- Development in the Countryside, of PPS21 echoes the SPPS. It sets out the overarching policy for development in the countryside by listing types of development

which in principle are considered to be acceptable. One of which includes agricultural development under Policy CTY12. CTY1 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. All other planning considerations will be considered later in this report.

- 8.5 Policy CTY12 - Agricultural and forestry development states that planning permission will be granted for development on an active and established agricultural or forestry holding (for a minimum 6 years) where it complies with the criteria set out (a-e discussed below).

#### Active and Established Test

- 8.6 The justification and amplification of CTY12, advises that “for the purposes of this policy the determining criteria for an active and established business will be that set out under Policy CTY 10”. CTY10 requires that the farm business be established for at least 6 years. Although this requirement is set out under the policy relating to dwellings on farms, it is clear from paragraph 5.56 that it also applies to agricultural development. This has been confirmed by numerous appeals including 2013/A0066.
- 8.7 The Department of Agriculture, Environment and Rural Affairs (DAERA) confirmed in their comments dated 16.05.2017 that the applicant’s farm business has not been in existence for more than 6 years. It is understood that although the business is now a category 1 and could be considered an active farm, it was only set up during the processing of the current application.
- 8.8 The previous owner Mr Alastair McCrea has made representation to the application and advised that he owned the dwelling and surrounding farmland (5.2 ha) which he used for sheep farming between 2001 - 2009.
- 8.9 The applicant purchased the dwelling with only two small fields (fields 3/C and 3/D) of land attached in 2011. The surrounding fields (fields 2, 4 and 5/A) did not form part of their ownership. The applicants did not establish the farm business until 2016.

Evidence was submitted which demonstrates Mr Thomas Moore, a neighbouring farm business had an active farm business over the last six years. However, that farming activity was under a different farm business number which does not relate to the applicant's holding and does not prove active farming on the applicant's holding for the required period.

- 8.10 The agent provided an email from the applicants solicitor (dated 26.07.2017) advising that the applicant is in the process of purchasing fields 2, 4 and 5/A which abut the application site to the west, south and east. These comprise 4.48 ha. These fields were previously farmed by Mr Thomas Moore. The applicant advised that fields 2, 4 and 5/A would be used for grazing sheep, sowing potatoes and barley. An application to transfer entitlements from those fields was approved and DAERA issued up to date farm maps June 2017. DAERA confirmed Single Farm Payments (SFP) were claimed by Mr Thomas Moore from 2008 – 2016 on these fields. This is of no relevance in meeting the 6 year test as the farming activity relates to a different farm business.
- 8.11 The up to date farm maps also include a field (field 1) on the Seacoast Road. No information is known regarding this piece of land.
- 8.12 DAERA has also confirmed that SFP has not been paid on fields 3/C and 3/D since 2008 which comprise the fields immediately abutting the dwelling to the west, north and east. These fields were the only land owned by the applicant at the point this application was submitted.
- 8.13 The applicant has demonstrated the farm business is active and there is an intention to farm in the future, both livestock (lambs) and drying of grain and potatoes. However the application has not demonstrated that an active farm business has operated on the holding for the required period of 6 years.
- 8.14 The agent has cited two appeals in letter dated 26.07.2017. The first (2012/A0128) allowed the retention of a building where the applicant was the owner of a farm holding for over six years and whilst the applicant did not farm the holding for the whole period, the commissioner considered the holding to be established for over six years as he let the land out in conacre. This appeal

differs from the current application because the applicant in this instance only established the holding in 2015 and set up the farm business in 2016. The holding which was established by the applicant in 2015 comprised two fields (fields 3/C and 3/D) which have not formed part of an active farm business in the last six years. The other fields (fields 2, 4 and 5/A) have formed part of a farm business.

- 8.15 The second appeal quoted by the agent is 2011/A0084 which permitted an agricultural building. The applicant in that instance had only recently acquired a farm business ID but could demonstrate that single farm payments were issued in respect of the fields comprising the application site for over six years. This can be demonstrated for fields 2, 4 and 5/A albeit under a separate ownership and separate farm business but not fields 3/C and 3/D which formed the original application site.
- 8.16 Assessment of the proposal under Policy CTY 12 (Criteria a-e in *italic*) is as follows:
- 8.17 *(a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;*  
The applicant has advised that the existing garage is currently at capacity as it is used to store garden equipment, pool table, two cars, a vintage tractor and two vintage cars. The other shed houses a woodchip feeder to fuel two biomass boilers which are located in the original outbuilding. As such the applicant advised there is no capacity to keep sheep in the existing buildings.
- 8.18 The scale of the buildings, hardstanding and access is incompatible with the scale of the farming operations. It is worth noting that the acoustic report submitted did not mention use of the buildings to accommodate sheep. The acoustic report simply advised the buildings would be used to dry/store wood chip. Given the scale of the farm, the Planning Authority considers it possible to have provided any necessary isolation facility/accommodation for sheep in a smaller building or by reusing the existing buildings as opposed to providing 260 square metres of additional floor space.
- 8.19 The proposal provides two drying sheds served by a hot air fan. The drying sheds are used to dry wood chip which is fed into two biomass boilers. The boilers heat both the applicant's dwelling

and the drying sheds. While the use of renewable energy is positive, it is not necessary for the efficient operations of a small scale farm with 15 sheep. The two biomass boilers are located in the existing sheds as such they do not form part of this application. The applicant has recently planted some willow trees and hopes to harvest the willow in the future. However, the application currently brings wood chip on site from another source to dry and burn, all of which could be done off site and are not necessary for efficient use of the holding. Notwithstanding the planting of willow, the proposed buildings, new access and 1,317 square metres of hard standing is not considered necessary for the purposes of agriculture on the current holding. Appeal decision 2014/A0136 advised that the assessment must be made on the current holding, irrespective of the appellant's plans to expand it. As such the applicant has failed to demonstrate that the two buildings, access and hard standing are necessary for the efficient use of the agricultural holding.

8.20 *(b) in terms of character and scale it is appropriate to its location;*  
The proposed sheds are more industrial in appearance than common agricultural buildings because of their height, design and the surrounding large area of hardstanding. The buildings are served with two industrial roller shutter doors to enable trucks to reverse and unload wood chip into the sheds. Both the buildings and the area of hard standing are out of character and proportion in this location.

8.21 *(c) it visually integrates into the local landscape and additional landscaping is provided as necessary;*  
The proposal is visible when travelling along both Drumrane Road and Largy Road. However by reason of the neighbouring properties to the west, the existing trees along the field boundary to the west and the existing dwelling and associated outbuilding the proposal is not prominent when travelling along Drumrane Road. With regards the views from Largy Road, the proposal is set back off the road and is viewed amongst the existing built form and the neighbouring property to the North West. As such it is not considered to detract from the surrounding landscape. The recently planted willow could provide screening. However, if it is planted for harvesting then the screening would only be temporary.

8.22 *(d) it will not have an adverse impact on the natural or built heritage; and*

The site does not fall within any local, national or European designated sites. Neither does it contain any existing built heritage nor would it impact on any local built heritage. There are no listed buildings within the vicinity of the site. As such it is not considered to have any adverse impact on the natural or built heritage.

8.23 *(e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution.*

Amenity will be considered in paragraphs 8.27 to 8.30.

8.24 Policy CTY12 sets out a requirement for new buildings. In this instance the application has failed to demonstrate the proposal is considered necessary for the efficient use of the agricultural holding (as discussed in paragraph 8.12 - 8.14) and the proposed design and materials are not considered to be sympathetic to the locality (as discussed in paragraph 8.15).

### **Residential Amenity**

8.25 The closest neighbours to this site include 124 Drumrane Road which is 23.5m northwest of the site and 118B which is 228m directly north of the site. The main amenity issue relates to noise. Notwithstanding the application description, the submitted noise report stated that the proposal generates noise from deliveries, use of a telehandler moving the wood chip and the ongoing noise from the hot air fan located in a lean to building attached to the southern elevation of the buildings.

8.26 Environmental Health (EH) received a complaint regarding the noise from this site and as a result requested a noise assessment in September 2016. Following receipt of the acoustic report rev. A dated 22 Sept 2016, EH raised several issues. Namely, the background measurements were taken when equipment was in operation rather than taking measures when equipment/plant was not in use. EH noted the lack of screening between the building and the residential property to the north (118B Drumrane Road) yet the deliveries, telehandler and roller shutter doors face northwards. EH advised that the frequency of deliveries stated in the report (every three months) contradicted the details given by

the complainant. EH advised the planning office to consider the use of conditions relating to the frequency of deliveries/vehicle movements.

8.27 The following observations regarding the acoustic report rev. A dated 22 Sept 2016 are noted:

- Background noise readings were taken when the fan was on and drying shed was in operation. Background readings should have been taken when everything was switched off.
- The telehandler was not in operation when any readings were taken. Therefore noise of telehandler/lorries or relocating woodchip was not measured.
- The monitoring was done at the applicant's property - not the nearest neighbouring properties.
- Noise maps show the noise is most prevalent to the north which is the location of the objector's property. The report does not take account of their property or noise which may travel if winds were in that direction.
- The report does not advise that any of the buildings would be used to accommodate sheep or other agricultural operations.

8.28 There has been insufficient information submitted to demonstrate the likely levels of noise from the operations and what impact they would have on nearby residents. Paragraph 2.3 of the SPPS advises that the planning system operates in the public interest. In making decisions planning authorities must assess whether proposals would unacceptably affect amenities that ought to be protected in the public interest. Such operations may be appropriate in this location but at present from the information submitted, it is unclear what impact the operations are likely to have on neighbours.

As the proposal fails to comply with CTY1 and CTY12 of PPS21 and the SPPS further acoustic information was not requested. The proposal is therefore contrary to paragraph 4.11 of the SPPS in that it has not been demonstrated that the proposed development would not harm the living conditions of nearby residents by reason of noise.

### **Road Safety**

8.29 The proposal includes the creation of a new access. Questions Q 21-25 on the P1 form were not completed therefore the level of

traffic to and from the site is unknown. Transport NI were consulted on this application and initially raised objection. However on receipt of amended plans (drawing 02B date stamped 21.04.2017) TNI were further consulted and raised no objection subject to a number of conditions and informatives. The amended plans show the required visibility splays can be achieved through partial removal of existing hedge on the corner of field on the southern side of Largy Road. This field is not currently owned by the applicant.

- 8.30 Notwithstanding this, the Council can condition the provision of visibility splays within 3 months of the application being decided if approval was forthcoming.

### **Drainage**

- 8.31 The proposal includes the creation of 1,317 square metres of hard standing forming the new access and area to the north east of the buildings. The P1 form submitted does not detail where surface water will be drained. The applicant has advised that they intend to install a 'french drain' but no details have been provided to establish where it would be installed and how it would adequately manage surface water.
- 8.32 Policy FLD3 - Development and surface water (pluvial) flood risk outside flood plains of PPS15: Planning and Flood Risk sets out thresholds of development which must be accompanied by drainage assessments. It advises that a drainage assessment will be required for development that involves new buildings and / or hard surfacing exceeding 1000 square metres in area. This application has not included a drainage assessment as such there is no assurance that adequate measures will be put in place to effectively mitigate the flood risk to the proposed development and from the development elsewhere. For the reasons outlined above a drainage assessment was not requested. The proposal is therefore contrary to paragraph 6.114 of the SPPS and PPS15.

### **Other material considerations**

#### Renewable energy

- 8.33 Paragraph 6.218 of the SPPS aims to facilitate the siting of renewable energy generating facilities in appropriate locations within the built and natural environments in order to achieve

Northern Ireland's renewable energy target and to realise the benefits of renewable energy without compromising other environmental assets of acknowledged importance.

- 8.34 Similarly Policy RE1- Renewable Energy Development of PPS18: Renewable Energy supports development that generates energy from renewable resources provided it will not result in an unacceptable adverse impact on: (a) public safety, human health, or residential amenity; (b) visual amenity and landscape character; (c) biodiversity, nature conservation or built heritage interests; (d) local natural resources, such as air quality or water quality; and (e) public access to the countryside.
- 8.35 While there is a general support to use renewable sources to generate energy, the scale of the works at this site is not commensurate to the amount of energy needed to heat the applicants dwelling and the scale of the farming operations. Furthermore it would result in unacceptable adverse impacts on residential amenity and potential drainage problems. As such the concerns relating to this development outweigh any benefit of creating renewable energy.

#### Farm diversification

- 8.36 The planning statement submitted by the agent argues that the sheds are used in connection with the applicants farming activities and as such should be considered as farm diversification under Policy CTY11 - farm diversification. Firstly, the buildings were constructed, access created and hardstanding laid before the applicant owned any livestock and undertook any farming. Secondly, given the scale of farming (15 sheep) taking place and the recent creation of the business it cannot be reasonably argued that the proposal is farm diversification.

## **9 CONCLUSION**

- 9.1 The existing agricultural holding has not been active and established for six years and the application has not demonstrated the proposal is necessary for the efficient use of the holding. The proposal is not considered appropriate in this location due to its scale. It has not included sufficient details regarding drainage of surface water to ensure safe disposal. Furthermore it has not demonstrated no harm would be caused to

residents living in close proximity to the site by reason of noise. Refusal is recommended.

## **10 Refusal Reasons**

- 10.1 The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement and Policy CTY 12 of Planning Policy Statement 21 (PPS 21. Sustainable Development in the Countryside) in that: - the existing agricultural holding has not been active and established for six years; it has not been demonstrated that it is necessary for the efficient functioning of the agricultural holding and, it is not appropriate to its location due to its design and scale.
- 10.2 The proposal is contrary to paragraph 6.114 of the Strategic Planning Policy Statement and Policy FLD3 of Planning Policy Statement 15 (PPS15 Planning and Flood Risk) in that insufficient information has been submitted to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.
- 10.3 This proposal is contrary to paragraph 4.11 of the Strategic Planning Policy Statement in that it has not been demonstrated that the proposed development would not harm the living conditions of the residents to the north and northwest by reason of noise generated from the development.

