

Planning Committee Report Item E	24th February 2016
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	Shane Mathers
Cost: (If applicable)	N/a

ITEM E

**Approx. 65m N of 6 Boveedy
Road Kilrea BT51 5XT.**

**LA01/2015/0111/O
Outline Planning**

24th February 2016

App No: LA01/2015/0111/O **Ward:** Kilrea
App Type: Outline Planning
Address: Approx. 65m N of 6 Boveedy Road Kilrea BT51 5XT.
Proposal: Proposed farm site for dwelling and garage.
Con Area: N/A **Valid Date:** 27th April 2015
Listed Building Grade: N/A **Target Date:**

Applicant: Robert McKinney, 90 Blackrock Road, Kilrea.

Agent: D M Kearney Design, 2a Coleraine Road, Maghera, BT46 5BN

Objections: 0 **Petitions of Objection:** 0

Support: 0 **Petitions of Support:** 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 resolves to **REFUSE** planning permission for the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located approximately 30m east of Boveedy Road. The proposal comprises agricultural land which rises from the Boveedy Road towards the northern boundary. The site is cut out of the centre of an agricultural field. There is a mature boundary defining the eastern boundary; a semi-mature hedge defines the roadside boundary, while the northern and southern boundaries are undefined on the ground.
- 2.2 The area is open landscape, essentially rural in character, characterised by single storey dwellings with critical views from

the Boveedy Road. There are two existing accesses to the south and another access to the north (on the same side of the road). The site is inter-visible with four other dwellings in the vicinity and the dwelling under construction to the south.

- 2.3 The site is located within the rural area as defined in the Northern Area Plan 2016.

3 RELEVANT HISTORY

C/2009/0033/F Retention of agricultural access and laneway to prevent large agricultural vehicles parking, turning on the narrow public road, 240m East of 3 Boveedy Road Kilrea.
Approved 19.04.2011

C/2012/0431/O Proposed Farm Site for Dwelling. Adjacent to No.6 Boveedy Road, Kilrea, Coleraine, BT51 5XT.
Refused 12.03.2014

4 THE APPLICATION

- 4.1 Planning permission is sought for a dwelling and garage.

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours:** There are no objections to the proposal.

Internal

- 5.2 **Transport NI:** Has stated that the new access will require the removal of approximately 90 metres of hedge and revisions to the submission are required.

DARD: Has confirmed that the farm business has not been established for at least 6 years and that the applicant has not claimed Single Farm Payments (SFP), Less Favoured Area Compensatory Allowance (LFACA), or Agri-Environment Schemes (AES) in the last 6 years.

NIEA: Has no objection to the proposal.

NI Water: Has no objection to the proposal.

Environmental Health: Has no objection to the proposal.

MATERIAL CONSIDERATIONS

- 6.1 Article 45 of the Planning Act (Northern Ireland) 2011 states that, “where an application is made for planning permission, the council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations.”
- 6.2 The development plan is:
 - Northern Area Plan 2016
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 3 (PPS3) Access Movement and Parking

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

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to: the planning history; the principle of a dwelling in the countryside; ribbon development; visual integration and rural character and; traffic and access matters.

Planning Policy

- 8.2 The site is located within the rural area of the Northern Area Plan.
- 8.3 The principle of this development proposed must be considered having regard to the PPS policy documents specified above and the supplementary guidance.

Planning History

- 8.4 A similar application was submitted to the DoE in 2012, C/2012/0431/O, and considered under the same policy context. This was refused. A refusal reason relating to an active and established farm was not included. Although there has been no substantial change in policy since that time, DoE has since provided clarification on the test of an active and established farm. This has been further clarified in the SPPS where “agricultural activity” is as defined by Article 4 of the European Council Regulations (EC) No. 1307/2013. This Article broadly defines agricultural activity on the basis of the subject farmer actually using or maintaining the land for agricultural purposes. Following this advice the proposal fails to meet the active and established test as outlined in the first bullet point of Paragraph 8.6.

Principle of a dwelling in the countryside

- 8.5 Policy CTY1 states that there is a range of types of development which are considered to be acceptable in principle in the countryside. It states that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is a farm dwelling, in accordance with Policy CTY10. It goes on to state that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement.

8.6 The applicant has applied for a dwelling on a farm. As such, the proposal must be assessed against Policy CTY10. Policy CTY10 sets out three criteria which proposals for farm dwellings must satisfy.

- *Criterion (a) requires the farm business to be currently active and established for at least 6 years.*

The farm is just over 1 hectare and is not active and established for the required period. The policy requires the applicant to provide the farm's DARD business number along with other evidence to prove active farming over the required period. DARD has confirmed that the farm business has not been active and established for at least 6 years (a change in stance relative to C/2012/0431/O). In the previous application DARD had advised that the farm business was established for more than 6 years but did not claim subsidies. Clarification since sought from DARD states that this information, insofar as it related to the business being established for more than 6 years, was incorrect and was provided in error. The P1 form says the business was allocated in 2012. DARD has confirmed that the applicant has not claimed SFP, LFACA or AES in the last 6 years. Furthermore, no relevant evidence has been provided to demonstrate an "active" farm business (as defined by Article 4 of the European Council Regulations (EC) No. 1307/2013) as required by the SPPS. The proposal fails to meet this test.

8.7 When previously presented to the Planning Committee, a representative on behalf of the applicant argued that appeal decision 2014/A0133 is relevant to this application. In this case the Commissioner states that Policy CTY 10 of PPS 21 requires that an applicant only has to prove that the farm is active and established, not that he has been actively farming it. Furthermore, in this case the Commissioner takes the view that the letting out of the subject land in conacre to another farmer who cuts silage and who keeps animals on the land substantiates "agricultural activity". The appeal decision is dated 30 April 2015.

8.8 The relevance of this appeal to the subject application is limited. Firstly, in the appeal, DARD had confirmed that the farm business was active and established for at least six years. This is not the case in the subject application. Secondly, in the

appeal, the view taken by the Commissioner on what constitutes agricultural activity does not accord with the definition provided by the SPPS. The definition of active farming provided by the SPPS is different from that given in Policy CTY 10 of PPS 21. The SPPS was published on 28 September 2015, postdating the appeal.

- *Criterion (b) requires that no dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of the application; this provision applying after 25 November 2008.*

No dwellings have been sold off since November 2008. The proposal meets this policy test.

- *Criterion (c) requires that the new buildings are visually linked or sited to cluster with an established group of buildings on the farm and, where practicable, access should be obtained from an existing lane*

The new building is not visually linked / sited to cluster with an established group of buildings on the farm. Although development has started at No. 6 Boveedy Road, this does not constitute an established group of buildings. There are no other buildings associated with the farm. The access to the dwelling is not obtained from an existing lane. No exceptional reason has been provided to justify a departure from policy.

- 8.9 The SPPS accepts provision should be made for a dwelling house on an active and established farm business to accommodate those engaged in the farm business or other rural dwellers. However, this is on the basis the farm business is currently active and has been established for a minimum of 6 years; no dwellings or development opportunities shall have been sold off or transferred from the farm holding within 10 years of the date of the application; and, the proposed dwelling must be visually linked or sited to cluster with an established group of buildings on the farm holding. This proposal is also unacceptable when considered against the SPPS.

Ribbon Development

- 8.10 CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development as ribbon development is detrimental to the character, appearance and amenity of the countryside.
- 8.11 A dwelling is located to the north of the site, opposite 3 Boveedy Road and a dwelling is under construction to the south of the site. Approval of the current proposal would create ribbon development along Boveedy Road and may lead to the creation of three further infill sites. This proposal is therefore contrary to this policy test as this building would create ribbon development. The SPPS supports this policy by stating that planning permission will be refused for a building which creates or adds to a ribbon of development.

Visual integration and rural character

- 8.12 Policy CTY1 states that all proposals must be sited and designed to integrate sympathetically with their surroundings. Policy CTY 13 states that a new building will be unacceptable where it is a prominent feature in the landscape, where the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or it relies primarily on the use of new landscaping for integration; ancillary works, which includes accesses do not integrate with their surroundings. In the case of a proposed dwelling on a farm, if the proposal is not visually linked or sited to cluster with an established group of buildings on a farm, it is also contrary to Policy CTY 13.
- 8.13 The site is unacceptable in terms of integration and could not accommodate a dwelling given the nature of the rising land, and only benefits from one defined boundary. As the proposal fails to visually link or cluster with existing farm dwellings or buildings as set out in paragraph 8.6, and fails all of the policy tests in the previous paragraph (8.9), the proposal is contrary to policy CTY 13 and will not integrate into the countryside.

- 8.14 CTY 14 states that a new building will be unacceptable where it is unduly prominent in the landscape, it would create or adds to a ribbon of development under CTY 8, or the impact of ancillary works would damage rural character. There will be four accesses within a 180 metre stretch on the eastern side of the Boveedy Road, the removal of 90 metres of vegetation creates a building that will be unduly prominent in the landscape and the proposal is contrary to policy CTY 8 as set out in Paragraph 8.7. As this proposal fails all of these policy tests, it is contrary to policy CTY 14 and will have a detrimental impact on rural character.
- 8.15 Appeal decisions have had a varied interpretation on whether policies CTY 13 and 14 apply to dwellings on farms where the site is located adjacent a group of buildings of the farm. However, postdating such appeal decisions is that in all circumstances, the SPPS requires proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings, and to not have an adverse impact on the rural character of the area.

Traffic and access matters

- 8.16 The proposed access dissects the host agricultural land. This is significantly different to the C/2012/0431 application which utilised an existing access. An agricultural access (field gate) is now to be used for the proposed access. However, as there is no lane associated with this agricultural access, it requires upgrading to form a new access for residential purposes. A 1m wide verge is located at the point of access onto the public road.
- 8.17 The facilitation of this new access for the site will require the removal of approximately 90 metres of hedge. Furthermore a revised P1 form with the box ticked for 'Construction of a new access to a public road' and notice served on the interested party as a result of increasing the site boundaries to facilitate the visibility splays is required. A revised 1/2500 location plan showing the visibility splays (2.4 x 90) metres outlined in red would then need to be submitted. This would be readvertised and neighbours notified to allow for comment.

8.18 Transport NI has advised that it is preferable for the access to be via the existing farm entrance to the south, which was approved under Planning Ref: C/2009/0033 F and proposed in the refused C/2012/0431/O. However, this is outside the application site and would require a new application. This is a preferred means of access as it accords with policy by utilising an existing access, and would prevent the removal of a further 90 metres of vegetation in this rural location. The SPPS reinforces that access arrangements must be in accordance with the Department's published guidance.

9 CONCLUSION

9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan, and other material considerations, including the SPPS. It fails to meet the principle policy requirement of PPS 21 for a dwelling in the countryside, and fails in a number of other policy requirements. Significantly, if approved, the development would create a further three infill sites (which do not otherwise exist) and this will have a further significant adverse effect on rural character. Refusal is recommended.

10 REASONS FOR REFUSAL

10.1 Reasons:

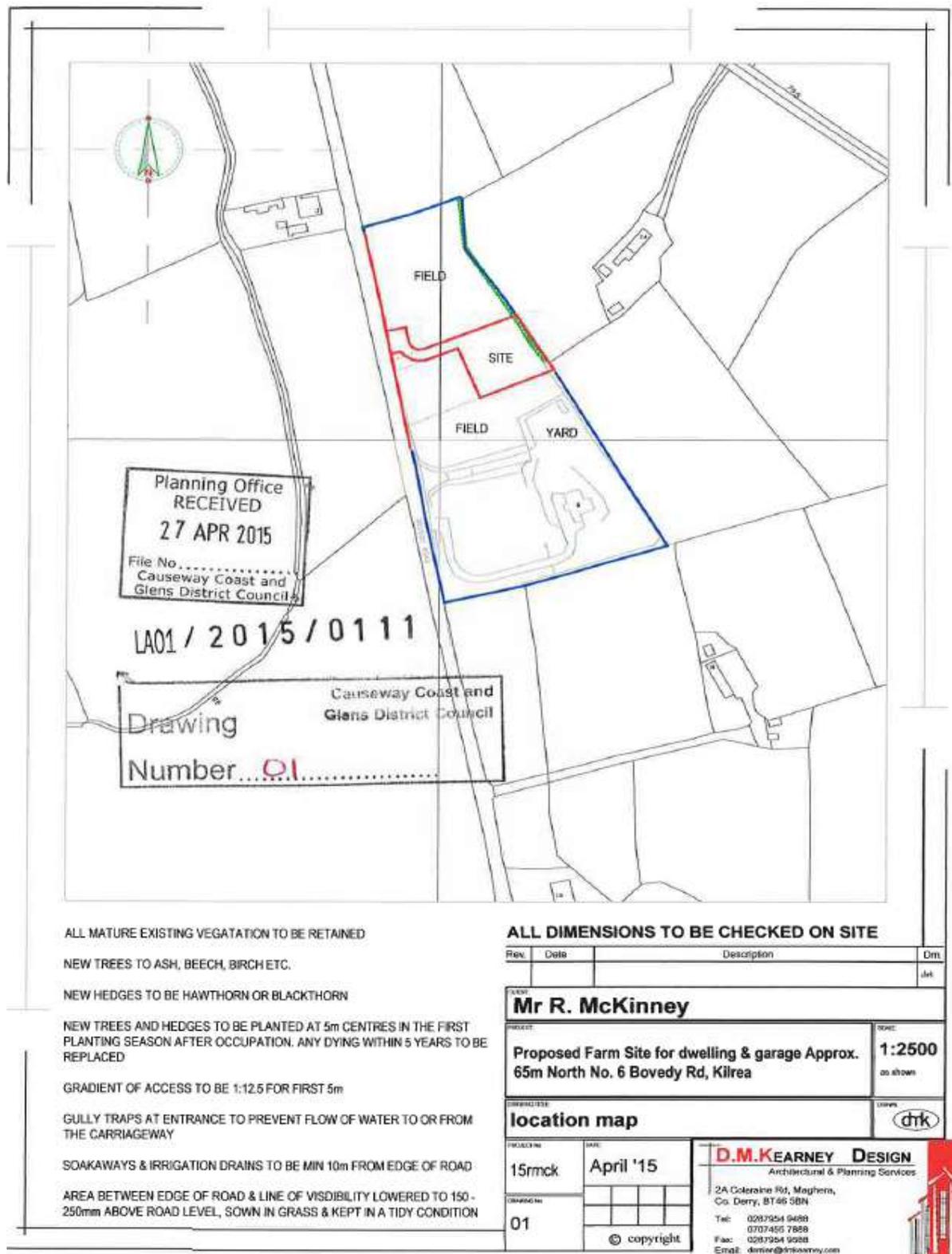
1. The proposal is contrary to Paragraph 6.73 of the SPPS and Policies CTY1 and CTY10 of Planning Policy Statement 21: Sustainable Development in the Countryside and does not merit being considered as an exceptional case, in that it has not been demonstrated that the farm business is currently active and has been established for at least six years; the proposed new building is not visually linked (or sited to cluster) with an established group of buildings on the farm; and access to the dwelling is not obtained from an existing lane.

2. The proposal is contrary to Paragraph 6.73 of the SPPS and Policy CTY8 of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Boveedy Road and would create further development opportunities in the vicinity of the site.
3. The proposal is contrary to Paragraph 6.77 of the SPPS Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that the buildings would, if permitted, be unduly prominent in the landscape; would result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to the rural character of the countryside.
4. The proposal is contrary to Paragraph 6.77 of the SPPS Policy CTY13 of Planning Policy Statement 21: Sustainable Development in the Countryside, in that the proposed buildings will be a prominent feature in the landscape; the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape; the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on a farm and therefore would not visually integrate into the surrounding landscape.
5. The proposal is contrary to Paragraph 6.77 of the SPPS and Planning Policy Statement 3 (Revised): Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since visibility splays of 2.4 metres by 90 metres from the proposed access cannot be provided in accordance with the standards contained in the Department of the Environment's Development Control Advice Note 15 (2nd edition): Vehicular Access Standards.

ANNEX

Date Valid	27th April 2015
Date First Advertised	13th May 2015
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 3 Boveedy Road Boveedy Kilrea The Owner/Occupier, 4 Boveedy Road, Boveedy, Kilrea, Londonderry, BT51 5XT, The Owner/Occupier, 6 Boveedy Road Boveedy Kilrea The Owner/Occupier, 74 Blackrock Road Boveedy Kilrea	
Date of Last Neighbour Notification	12th May 2015
Date of EIA Determination	N/A

Site Location



ALL MATURE EXISTING VEGATATION TO BE RETAINED

NEW TREES TO ASH, BEECH, BIRCH ETC.

NEW HEDGES TO BE HAWTHORN OR BLACKTHORN

NEW TREES AND HEDGES TO BE PLANTED AT 5m CENTRES IN THE FIRST PLANTING SEASON AFTER OCCUPATION. ANY DYING WITHIN 5 YEARS TO BE REPLACED

GRADIENT OF ACCESS TO BE 1:12.5 FOR FIRST 5m

GULLY TRAPS AT ENTRANCE TO PREVENT FLOW OF WATER TO OR FROM THE CARRIAGEWAY

SOAKAWAYS & IRRIGATION DRAINS TO BE MIN 10m FROM EDGE OF ROAD

AREA BETWEEN EDGE OF ROAD & LINE OF VISIBILITY LOWERED TO 150 - 250mm ABOVE ROAD LEVEL, SOWN IN GRASS & KEPT IN A TIDY CONDITION

ALL DIMENSIONS TO BE CHECKED ON SITE

Rev.	Date	Description	Drn.
			dit

CLIENT
Mr R. McKinney

PROJECT
Proposed Farm Site for dwelling & garage Approx. 65m North No. 6 Bovedy Rd, Kilrea

SCALE
1:2500
as shown

DESCRIPTION
location map

LOGO

PROJECT NO.
15rmck

DATE
April '15

DRAWING NO.	01
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