

Title of Report:	Planning Committee Report – LA01/2023/1214/O
Committee Report Submitted To:	Planning Committee
Date of Meeting:	26th March 2025
For Decision or For Information	For Decision – Referred Application by Alderman Knight-McQuillan
To be discussed In Committee YES/NO	NO

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

Estimated Timescale for Completion	
Date to be Completed	

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

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

No: LA01/2023/1214/O **Ward:** Macosquin

App Type: Outline

Address: East of 22 & 24 Cashel Road, Macosquin, Coleraine

Proposal: Proposed site for dwelling

Con Area: N/A **Valid Date:** 30.11.2023

Listed Building Grade: N/A

Agent: Fleming McKernan Associates, 1 Upper Abbey Street, Coleraine, BT52 1BF

Applicant: Cheryl Blair, 32 Burnally, Limavady, BT49 9DP

Objections: 1 **Petitions of Objection:** 0

Support: 0 **Petitions of Support:** 0

EXECUTIVE SUMMARY

- Outline planning permission is sought for a new dwelling and garage at lands East of 22 & 24 Cashel Road, Macosquin, Coleraine.
- The proposal is contrary to Planning Policy Statement 21, Sustainable Development in the Countryside, Policy CTY 1, CTY 2a in that the cluster is not associated with a focal point or sited at a crossroads, the site is not bound by development on at least two sides, is not absorbed into the cluster.
- The proposal will result in suburban style build up and ribbon development which will erode rural character contrary to Paragraph 6.70 of the SPPS and Policies CTY 8 and CTY 14 criteria (b + d)
- As there are no overriding reasons why the development is essential and could not be located in a settlement the proposal is contrary to Paragraph 6.73 of the SPPS and Policy CTY1 of PPS21.
- Refusal is recommended.

Drawings and additional information are available to view on the Planning Portal-

<https://planningregister.planningsystemni.gov.uk/simple-search>

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 sections 7 and 8 and resolves to **REFUSE** outline planning permission subject to the reasons set out in section 10.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located on lands East of 22 & 24 Cashel Road, Macosquin, Coleraine.
- 2.2 This site is situated in a field accessed from Killeague Road and to the south of Macosquin. The field is accessed via a gate. The proposed lane follows the north boundary of the field to the site which is to the west of the Killeague Road. The site is bounded by hedges with occasional trees to the north and west boundaries being otherwise open to the wider field to the south and east. The field is relatively flat, with a hedge lined watercourse beyond the site to the south east. The west boundary is to a pair of semi detached dwellings with the north boundary to a field.
- 2.3 The site is located within the rural area outside any settlement development limit as defined in the Northern Area Plan 2016. There are two roadside dwellings further to the north and more to the west of the site at Cashel Road. There is a bungalow on the opposite side of the road to the proposed access.

3 RELEVANT HISTORY

- 3.1 There is no planning history of planning applications on the application site.

4 THE APPLICATION

- 4.1 This is an outline application for a new dwelling at lands east of 22 and 24 Cashel Road, Macosquin, Coleraine. The application has been submitted as a new dwelling in a cluster.

5 PUBLICITY & CONSULTATIONS

5.1 External

One letter of objection was received on this application.

5.2 Internal

NI Water: No objections.

NIEA WMU: No objections.

DFI Roads: No objections.

Environmental Health: No objections.

Health and Safety Executive NI: No objections.

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:
- The Northern Area Plan 2016 (NAP)
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times

as a new local plan strategy is adopted, councils will apply specified retained operational policies.

- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

The Strategic Planning Policy Statement (SPPS)

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

Planning Policy Statement 21 – Sustainable Development in the Countryside

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

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of development, visual integration/impact on rural character, access, sewage disposal and Habitats Regulation Assessment.

Principle of development

- 8.2 The proposal must be considered having regard to the NAP 2016, SPPS, and PPS policy documents specified above.
- 8.3 Planning Policy Statement 21 – Sustainable development in the Countryside, Policy CTY 1 notes there are a 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, this includes new dwellings in existing Clusters in accordance with CTY 2a.

8.4 Policy CTY 2a notes 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 such as a social / community building/facility, 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.

8.5 The Cluster to the west of the proposed site lies outside of a farm and consists of four or more buildings of which at least three are dwellings. This includes dwellings at no. 22, 24, 20A Cashel Road, with approx. 20 detached and semi detached dwellings on the Cashel and Killeague Road. The proposal is considered to comply with the first criteria.

8.6 Given the number of buildings in the area and their close proximity to each other, the cluster is considered to appear as a visual entity in the local landscape and meets the second criteria.

8.7 The cluster is not located at a crossroads and there is no community building/ facility at this location. The road junction of Cashel Road and Killeague Road to the north of the site is not a Crossroads. The car garage at McKeary Motors and the camper van sales at Causeway Campers are commercial businesses and are not a community building/ facility which provide a focal point. This assessment is consistent with the Planning Appeals Commission's consideration of businesses forming focal points within Appeal 2024/A0021 (Appendix 2) in which it was determined that

“a focal point should be a focus for community interaction and that a specialist business is not such a focal point, regardless of the number of people it may employ. The businesses referred to by the appellant would potentially attract tourists or customers from a wide area, but I have been given no evidence that they are a focus for the community itself”

The application fails to meet the third criteria.

- 8.8 The site is not bound by development on at least two sides. Only the western boundary is bound by development. There is a field to the north of the site. To the south and east is the remainder of the field in which the site is situated. The bungalow (No. 8) on the opposite side of the Killeague Road from the proposed access does not bound the site. The application fails to meet the fourth criteria.
- 8.9 The site boundary is approximately 45 metres to the south of the semi detached dwellings to the north at 5 and 7 Killeague Road, separated by a sizeable agricultural field. The bungalow on the opposite side of the road at 8 Killeague Road is over 60 metres from the boundary of the proposed site, excluding the access and proposed laneway. The dwellings at 22 and 24 Cashel Road are approximately 65 metres from the boundary of the proposed site. Visually the site is not absorbed or closely associated with the existing buildings in the locality.
- 8.10 As the site is not bounded on at least two sides by development and given the separation distances between the site and surrounding development the site is not absorbed into the grouping through rounding off or consolidation. A dwelling on the site would alter the character and visually intrude into the open countryside. The application fails to meet the fifth criteria.
- 8.11 Building on Tradition, A Sustainable Design Guide for the Northern Ireland Countryside provides a context for integrating development within existing clusters. The proposed site aligns with the examples of sites that do not meet the criteria for a dwelling in a cluster of policy CTY 2a as shown in the plan examples on page 68 and 69 of Building on Tradition. In common with this current site the examples shown as not likely to comply with CTY2a are typically on the edge of groups of buildings without the enclosing effect of development bounding two sides of the site.

- 8.12 A proposed dwelling at this location would have no detrimental impact on residential amenity. Any potential overlooking concerns etc. could be mitigated through good design, which would be subject to review at reserved matters stage. The application meets the sixth criteria.
- 8.13 The site is contrary to policy CTY 2a and the SPPS in that it is not within a cluster being distinctly separated from other buildings by large distances and the public road. There is no sense of enclosure provided by development on two sides. Furthermore, the site visually intrudes into the open countryside. The group of buildings to the north and west of the site may not be considered to have the attributes of a cluster as per criteria three of CTY 2a such as a focal point community building or at a crossroads.

Visual integration/impact on rural character

- 8.14 The application site has established natural boundaries to the northern and western boundaries comprising a mix of hedgerow and trees. Critical views of the site are primarily along the Killeague Road when travelling in both directions. When approaching the site from the south, the site is afforded the backdrop of the mature boundaries and built development to the west and north west of the site. When viewed from this approach a modest sized dwelling would not appear as a prominent or unduly conspicuous feature in the landscape.
- 8.15 On approach from the North West views of the site come into view when passing Nos. 5 and 7. From here, given the line of sight, the application site is not afforded the same degree of enclosure from the western boundary or adjacent built development. From here a dwelling or inappropriate scale and siting would result in a dwelling appearing as an isolate feature and failing to blend with the natural surroundings. Notwithstanding the principle of development being unacceptable, a dwelling on the site would be required to be appropriately sited and restricted in scale, with additional landscaping along the new and existing boundaries to allow for satisfactory integration.
- 8.16 When viewed from the Killeague Road on both approaches, the proposed dwelling would be read/intervisible with the immediately adjacent built development referenced at Paragraph 8.5 which, would further add to the suburban character of the area adding to suburban style build-up contrary to Policy CTY14, criteria (b).

8.17 Paragraph 5.33 of PPS21 advises that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked. When viewed on both approaches, especially the northern approach, the application site would appear visually linked to the dwellings at Nos. 5 and 7. Development of the application site would extend development in a linear form to the south of the dwellings at Nos. 5 and 7 Killeague Road, resulting in the formation of ribbon development and is consequently contrary to Policies CTY and CTY 14, criteria (d) of PPS21.

Access

- 8.18 PPS 3, Policy AMP 2, Access to Public Roads notes planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.
- 8.19 The application proposes access via the construction of a new access onto Killeague Road. DFI Roads were consulted and raised no objections. The proposal is considered to comply with Policy AMP 2 of PPS 3.

Sewerage Disposal

- 8.20 Policy CTY 16 of PPS 21 – Development relying on non-mains sewerage, applies; Planning permission will only be granted for development relying on non-mains sewerage, where the applicant can demonstrate that this will not create or add to a pollution problem.
- 8.21 The applicant proposes to discharge to a septic tank. Environmental Health and Water Management Unit have been consulted and are content therefore the proposal complies with CTY 16 of PPS 21.

Habitats Regulation Assessment

- 8.22 The potential impact this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland)

1995 (as amended). The Proposal would not be likely to have a significant effect on the Features, conservation objectives or status of any of these sites.

Representation

8.23 The proposal has received a representation by email on the 27th October 2024, from the owner occupiers of 22 Cashel Road. The Objectors property is one of the semi detached properties which abuts the boundary of the site to the west. The representation raises the following concerns,

- Potential impact of development to rear on drainage into the objector's property.
- Issues aligned with previous approved dwelling to north, including overlooking loss of amenity and rural aspect.
- A new dwelling would change the character as this is considered a countryside location which the objectors advise is *being turned into a housing development*.

8.24 The objector points out that the proposed development would impact on the rural character of the area. The proposed site breaks into a rural field and does not meet the policy criteria of PPS 21, or the guidance of Building on Tradition, A Sustainable Design Guide for the Northern Ireland Countryside which are designed to prevent development which does not fit within a cluster or a small gap. As outlined at paragraph 8.12 a new dwelling on the site of appropriate scale and, with appropriate boundary treatment, should not result in an unacceptable impact on residential amenity. As this is an outline application, details in relation to the necessary drainage infrastructure has not been provided. It is the responsibility of the developer to ensure that suitable infrastructure is provided to deal with drainage without unacceptable impact of adjacent properties. These matters can be assessed at reserved matters stage.

9 Conclusion

The application site fails to meet with the principle planning policies in that the cluster is not associated with a focal point or located at a crossroads, the site is not bound by development on at least two

sides, is not absorbed into the cluster and does not round off or consolidate. The proposal would result in suburban style build up and result in ribbon development which will erode rural character. There are no overriding reasons why the development is essential and could not be located in a settlement. The proposal is subsequently contrary to Paragraphs 6.70, and 6.73, of the SPPS and Policies CTY1, CTY2a, CTY8, and CTY14 of PPS21. Refusal is recommended

10 Reasons for Refusal

- 1) The proposal is contrary to SPPS Para 6.73 and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
- 2) The proposal is contrary to Paragraphs 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 2a of Planning Policy Statement 21, New dwellings in existing clusters, in that the cluster is not associated with a focal point or located at a cross roads; is not bounded on at least 2 sides with other development in the cluster; does not result in the rounding off or consolidation of the cluster and would visually intrude into the open countryside.
- 3) This proposal is contrary to paragraph 6.70 in the Strategic Planning Policy Statement and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that if a dwelling were to be approved it would create a ribbon of development and would be detrimental to the rural character of the area by causing a suburban style build up of development when viewed with existing buildings.
- 4) The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement paragraph 6.73 and Policy CTY 8 of Planning Policy Statement 21, in that the proposal would result in the creation of ribbon of development along Killeague Rd.

Appendix 1

Referral Request

From: Michelle Knight-McQuillan

Sent: 08 November 2024 00:52

To: Planning <Planning@causewaycoastandglens.gov.uk>

Subject: LA01/2023/1214/O

Dear planners,

Ref: LA/2023/1214/O

Please find attached the relevant request for referral of the above contentious planning application, to be referred to the planning committee.

Please do let me know if there is any issue with this request, in good time, so as to be rectified before the Monday deadline.

Please confirm receipt of this email.

Thank you in advance



Annex 1

Template for Requesting Referral of a Contentious Delegated Decision to Issue' List Planning Application to Planning Committee for Determination

The Protocol for the Operation of the Planning Committee provides for an Elected Member to request a planning application listed on the weekly list of 'contentious delegated decisions ready' to be referred to Planning Committee for determination. This request must be received by the Planning Department no later than 10am on the Monday following the issuing of the contentious list and submitted via email to planning@causewaycoastandglens.gov.uk.

Planning Reference	LA01/ 2023/1214/0
Elected Member Name	Michelle Knight - McQuillan
Contact Details	Tel: 07793544264 Email: MICHELLE.KNIGHT-MCQUILLAN@CAUSEWAYCOASTANDGLENSS-ORG
Refusal Reason 1:	<p>The proposal is development within a cluster in line with Policy CTY2a of PPS21.</p> <ol style="list-style-type: none"> Cluster is outside farm and has 4 or more dwellings in the grouping This is a visual entity in its own right completely divorced from Macosquin and on a different road The focal point is the garage - the policy is not prescriptive in terms of what a focal building is. The garage is clearly a place of employment, and a significant assembly / meeting point for people from even outside the immediate area. A suitable level of enclosure can be retained and augmented as development exists on two sides The set-back consolidates the grouping and ensures that a satisfactory level of integration is provided Design and orientation of the building will ensure residential amenity is fully protected.

Appendix 2



Appeal Decision

4th Floor
92 Ann Street
BELFAST
BT1 3HH
T: 028 9024 4710
E: info@pacni.gov.uk

Appeal Reference:	2024/A0021
Appeal by:	Mr Kieran Duffy
Appeal against:	The refusal of outline planning permission
Proposed Development:	Dwelling house with detached garage at an existing cluster of development
Location:	Immediately adjacent to 141 & 151 Muldonagh Road, Claudy
Planning Authority:	Causeway Coast and Glens Borough Council
Application Reference:	LA01/2021/1502/O
Procedure:	Written representations and accompanied site visit on 23 rd September 2024
Decision by:	Commissioner Gareth Kerr, dated 10 th October 2024

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the proposal would be acceptable in principle in the countryside and whether it would add to a ribbon of development.
3. The Planning Act (Northern Ireland) 2011 states that regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Northern Area Plan 2016 (NAP) operates as the local development plan (LDP) for this area as the Council has not yet adopted a Plan Strategy. In the NAP, the site is located in the open countryside and is not subject to any specific policy or designations. The plan states that a development limit has been designated for the village of Foreglen, approximately 500m east of the site, to restrict further elongation of the village. As the NAP does not contain any provisions for residential development in the countryside, I therefore turn to other material considerations.
4. The Strategic Planning Policy Statement for Northern Ireland (SPPS) sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for their council area. It also retains certain existing Planning Policy Statements including Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21). Where the SPPS is silent or less prescriptive on a particular planning policy matter than retained policies, this should not be judged to lessen the weight to be afforded to the retained policy. Paragraph 6.73 of the SPPS makes provision for a new dwelling at an existing cluster of development which lies

outside a farm provided it appears as a visual entity in the landscape; and is associated with a focal point; and the development 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.

5. Policy CTY1 of PPS 21 states that there are a 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. The first of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a. 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.
6. Policy CTY2a states 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 such as a social / community building / facility, 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.
7. As the SPPS is less prescriptive than the retained policies regarding the provision of a dwelling within an existing cluster of buildings, the proposal must be assessed against Policy CTY2a of PPS 21 in accordance with the transitional arrangements set out in the SPPS.
8. The appeal site is a square plot of somewhat overgrown land with frontage onto the Muldonagh Road to the north east. The surrounding area is quite heavily developed, principally by a small housing development of 22 dwellings called Muldonagh Cottages to the west. There are also a number of one-off houses and rural businesses. A dwelling at No. 141 Muldonagh Road lies between Muldonagh Cottages and the appeal site and bounds its north western side. To the south west of the appeal site is No. 151 Muldonagh Road, a bungalow sited in the western corner of a large plot. It is accessed via an abandoned and stopped up section of the former Foreglen Road which now bypasses the area approximately 80 metres to the south. To the west of Muldonagh Cottages are three further dwellings on roadside plots and a timber frame manufacturing company to their rear. On the opposite side of Muldonagh Road are some larger properties including a dwelling at No. 196 and Muldonagh Country House guest house at No. 198A. To its rear is a kitchen manufacturing business. A new dwelling is under construction to the west of No. 196 and a further infill dwelling is approved to its west. There are four more single dwellings to the east of the point where the Muldonagh Road bisects the former Foreglen Road.

9. Policy CTY2a does not explicitly define what constitutes a cluster of development for the purposes of the policy, but the first three criteria give an indication of its intended meaning. It is not disputed that there is a significant group of buildings that appears as a visual entity in the local landscape, but the extent of the visual entity is disputed. The Council's first reason for refusal stated that the site is not within the visual entity and cannot be absorbed into the cluster and the cluster is not associated with a focal point or located at a cross-roads. However, at the site visit, the Council representative accepted that the appeal site does lie within a visual entity of development comprising Muldonagh Cottages, the dwellings to the east and west of the Cottages and Nos. 196, 198A and the new dwelling to the northern side of Muldonagh Road.
10. The parties disagreed as to whether the four dwellings on the eastern section of the old Foreglen Road comprised part of the same visual entity. The Council considered these dwellings to be a separate group of buildings set back on a different minor road. These dwellings are quite well screened by existing trees when viewed from the Muldonagh Road and there is a significant visual gap between the buildings at the guest house and No. 258a Foreglen Road. Despite this gap in built development, their curtilages are adjacent to one another and given there is some visual linkage between them and the development further west on Muldonagh Road, I consider them to be part of the same visual entity. Even if these four dwellings were not considered to be part of the visual entity, there is a group of more than four buildings to the west of the junction which appears as a visual entity in the local landscape and the Council now accepts that development on the appeal site could be absorbed into this group.
11. The key remaining issue in order to establish whether there is a 'cluster' as envisaged by the policy is whether it is associated with a focal point such as a social / community building / facility, or is located at a cross-roads. The appellant argued that the proposal met both of these propositions. Satisfying one of the two would be sufficient to comply with this criterion.
12. Firstly, the appellant argued that the overall size of the cluster comprising some 34 dwellings, outbuildings, street lighting, mains sewers, public footpaths and several commercial enterprises, is in itself a very strong focal point in this rural locality. He further stated that there were four commercial businesses within the cluster which provided local employment: a timber frame joinery workshop, a kitchen manufacturing business, a holiday let within the curtilage of No. 196 Muldonagh Road and the Muldonagh Country House guest house which provides tourist accommodation. They pointed to a site at Ballyrashane Road, Coleraine, approved by the Council under the same policy (Ref: LA01/2016/0526/F, renewed under LA01/2021/1042/F) where it accepted that businesses offering local employment opportunities could be a focal point within a cluster. This application was itself a renewal of an application (C/2010/0683/F) determined by the Department of the Environment (DoE).
13. The Council did not accept that a rural housing estate could in itself be considered a focal point for the purposes of the policy. With regard to the commercial premises, the Council referred to appeal decision 2017/A0035 where the appellant argued that a kennels business was a focal point that provided local employment. However, the Commissioner found that *"this private business serves a specific market as it is used*

exclusively by dog and/or cat owners. While the third criterion of the policy is not specific or exhaustive in its definition of a focal point, the example given in the policy infers, in my judgment, that a focal point is an identifiable entity used by the community for gatherings or activities with social interactions. To this end, I would concur with the Council that a focal point could be a church, community hall or school building i.e. an entity that serves as a focus for much wider community involvement and social interaction than a specialised business carried out in a number of agricultural type buildings would." Taking its lead from this decision, the Council did not consider any of the four businesses around Muldonagh Cottages to constitute a focal point for the purposes of Policy CTY2a. With regard to the Council decision referred to by the appellant where a business was accepted as a focal point, the Council representative drew back from such an interpretation of the term and stated that the subsequent Commission decision 2017/A0035 clarified that a business should not be accepted as a focal point.

14. Although Policy CTY2a uses the words, "such as a social / community building / facility" (my emphasis), a term which is not exhaustive, in describing a focal point, I agree with the Council that a focal point should be a focus for community interaction and that a specialist business is not such a focal point, regardless of the number of people it may employ. The businesses referred to by the appellant would potentially attract tourists or customers from a wide area, but I have been given no evidence that they are a focus for the community itself. Neither would a large number of buildings grouped in a rural area necessarily indicate that a focal point is present. Whilst there are a large number of individual buildings associated with Muldonagh Cottages and it has infrastructure that would be found in a defined settlement, this, of itself, would not indicate that there is a focal point such as a social / community building / facility.
15. The appellant provided a letter from Foreglen Community Association which is based at No. 267 Foreglen Road stating that it provides services to both the residents of Foreglen village and Muldonagh Cottages. Whilst it would constitute a focal point for the purposes of the policy, its premises is located to the south of the Foreglen Road between the village and the Muldonagh Cottages group of buildings. The appellant's supporting statement indicates that it is a 5-minute walk from Muldonagh Cottages and I do not consider it to be associated with the visual entity where the appeal site is located.
16. I consider the DoE / Council approval where a business offering local employment was accepted as a focal point to be a poor decision. As the original approval of that site pre-dated the Council's time as planning authority, greater clarity has since been provided by the Commission and no additional examples have been cited to demonstrate a wide-ranging precedent, this one site would not outweigh the absence of a social or community building or facility in this appeal. I conclude that Muldonagh Cottages is not associated with a focal point as envisaged in the policy.
17. The parties disputed whether the group of buildings was located at a cross-roads. There is a junction approximately 60m south west of the appeal site where the Muldonagh Road crosses the old route of the Foreglen Road which is now further south. The Muldonagh Road has been extended south to meet the new road leaving what the appellant describes as a cross-roads. The eastern leg of the old road provides access to four dwellings and connects to the main Foreglen Road to the

south east. I was advised that it is still a public road. However, the western leg of the old road now serves as a private access to No. 151 Muldonagh Road and is stopped up at the southern corner of that property. The Council said that this part of the road was abandoned in 1982, so it is no longer a public road. Signage indicates that it is a private road leading to No. 151 and during my site visit, barriers were erected across it to prevent pets entering the Muldonagh Road. In light of this, the Council representative described the junction as a T-junction with a private access opposite. The appellant considered that it looked like a crossroads on the ground and should be treated as one.

18. The appellant referred to appeal decision 2017/A0113 which related to a site near the point where an unadopted road crossed Gault's Road, Cushendall. The Commissioner stated, *"I agree that Policy CTY2a does not indicate that the term crossroads applies only in respect of adopted public roads"*. However, he went on to find that the cluster of development in question was located at least 70m from the "crossroads" rather than at it, so the proposal did not comply with this policy criterion. As the appeal was dismissed, any comments regarding unadopted roads were obiter. No approval was granted on the basis of an unadopted road and therefore the cited decision does not assist the appellant's case. I also note that as in the Gault's Road appeal, none of the buildings which form the cluster are located at the junction, but are scattered at some distance to its north, east and west.
19. Section 250 of the Planning Act (Northern Ireland) 2011 adopts the definition of a road set out in the Roads (Northern Ireland) Order 1993. Article 2 thereof states "road" means a public road, that is to say a road which is maintainable by the Department. Article 68 of the Roads Order states that the Department may by order provide for — (a) the abandonment of any road; or (b) the stopping-up of any road. On the coming into operation of an order for the abandonment of a road — (a) the road shall cease to be maintainable by the Department; and (b) any public right of way over the road shall be extinguished.
20. It is not disputed that the western leg of the former Foreglen Road was abandoned over 40 years ago. Accordingly, it is no longer a public road, maintainable by the Department. As both a matter of law (in light of the definitions set out above) and as a matter of fact (since it now operates as a private driveway to a single dwelling), it is not a road, so it cannot form part of a cross-roads for the purpose of the policy. I concur with the Council that the junction relied upon by the appellant as a "cross-roads" is in fact a T-junction with a private access opposite. As the group of buildings which appears as a visual entity in the local landscape is not associated with a focal point or located at a cross-roads, the grouping does not satisfy the third criterion and does not constitute a cluster within the meaning of Policy CTY2a.
21. Policy CTY8 of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Policy CTY14 of PPS 21 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. A new building will be unacceptable where any of five criteria are offended including (d) it creates or adds to a ribbon of development (cross-referenced with Policy CTY8). Paragraph 5.33 of PPS 21 states that a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. Buildings sited back, staggered or at angles and with gaps between them can

still represent ribbon development, if they have a common frontage, or they are visually linked.

22. Eight of the dwellings in the Muldonagh Cottages development have frontage onto the Muldonagh Road. In addition, road frontage dwellings at Nos. 131, 133, 135 and 141 Muldonagh Road share a common frontage with the development at Muldonagh Cottages to comprise an existing ribbon of development that stretches for around 300 metres along the southern side of Muldonagh Road. The erection of a dwelling on the appeal site adjacent to No. 141 would further extend this existing ribbon of development which would further erode the rural character of the area.
23. The appellant argued that the proposal would not present as ribbon development because there is development behind the appeal site at No. 151 and behind the road frontage dwellings at Muldonagh Cottages. This argument appears to draw on the separate definition of a substantial and built up frontage within the headnote of Policy CTY8 for the purpose of determining an infill opportunity, which is not relevant to the current appeal. There is an existing ribbon of development in the terms set out in paragraph 5.33 of the policy (quoted above) and the proposal would add to it. It is therefore contrary to Policy CTY8 and Policy CTY14 (d) and the Council has sustained its second reason for refusal.
24. The appellant argued that he is a native resident of the Muldonagh Townland and is now semi-retired. He wishes to erect a dwelling on the appeal site for his retirement in order to be close to his family support network who also reside in the immediate area. According to the planning application form, the appellant lives in the Foreglen area approximately 2km from the appeal site. No information was provided regarding where his support network is located, the type of support that he would require, or why this could not be provided at his current residence. There is no evidence of a compelling and site-specific need for a dwelling on the appeal site and his desire to erect a dwelling there would not override the policy objections to the proposal set out above. I find the proposal to be unacceptable in principle under Policy CTY1. Accordingly, the Council has sustained its first reason for refusal.
25. As both of the Council's reasons for refusal have been sustained and are determining, the appeal must fail.

This decision is based on drawings 01 – Site Location Map at scale 1:2500, 02 – Visibility Survey at scale 1:500, and 03 – Concept Site Plan at scale 1:500, which were received by the Council on 9th December 2021.

COMMISSIONER GARETH KERR