



Title of Report:	Planning Committee Report – LA01/2021/0777/0
Committee Report Submitted To:	Planning Committee
Date of Meeting:	26th November 2025
For Decision or For Information	For Decision – Referred Application by Ald Mark Fielding

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

Legal Considerations	
Input of Legal Services Required	NO
Legal Opinion Obtained	NO

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:

<u>No:</u>	LA01/2021/0777/O	<u>Ward:</u>	Greysteel
<u>App Type:</u>	Outline		
<u>Address:</u>	Land immediately adjacent to 124B Dunlade Road, Greysteel		
<u>Proposal:</u>	Proposals relate to outline permission for a new detached bungalow adjacent to 2 no. existing dwellings under the ownership of the applicant. Access will be provided via existing private lane under the ownership of the applicant.		
<u>Con Area:</u>	N/A	<u>Valid Date:</u>	24.06.2021
<u>Listed Building Grade:</u>	N/A		
Agent:	MiL Architectural Limited, 12 Capri House, Beaufort Park, London		
Applicant:	Cecelia Cairns, 10 Upperlane Road, Eglinton		
Objections:	5	Petitions of Objection:	0
Support:	0	Petitions of Support:	0

EXECUTIVE SUMMARY

- Outline planning permission is sought for new dwelling under Planning Policy Statement 21: Sustainable Development in the Countryside.
- The site is located outside of any settlement development limits as identified in the Northern Area Plan (NAP) 2016 and is not subject to any specific environmental designations.
- The proposal is not located at an existing cluster as the existing group of buildings are not associated with a focal point or located at a crossroads and development at this location would adversely impact on residential amenity. The proposal is therefore contrary to Policy CTY 2a.
- The proposed site is not a gap within an otherwise substantial and continuously built-up frontage – a line of 3 or more buildings along a road frontage without accompanying development to the rear. The proposal is therefore contrary to Policy CTY8 and CTY14.
- DfI Roads, Environmental Health, NI Water and NIEA were consulted in relation to the application. DfI Roads originally recommended refusal for the application, however on receipt of amended visibility splays and signing of Certificate C, DfI Roads no longer object to the proposal.
- Six (6) representations have been received from two addresses - one (1) neutral and five (5) objections from two (2) addresses.
- The application is recommended for refusal.
- Reasons for Referral by elected member are attached as an annex to this report.

Drawings and additional information are available to view on the Planning Portal- <https://planningregister.planningssystemni.gov.uk>

1 RECOMMENDATION

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

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is located at land adjacent to 124b Dunlade Road and the red line encompasses two dwellings and vacant outbuildings of varying quality, and a portion of land stretching to the NW towards Dunlade Road.
- 2.2 The site rises towards the south-east from Dunlade Road and is currently bound by vegetation to the rear (south-western) boundary, and remaining boundaries are undefined. The proposed siting is on the portion of land to the NW of no. 124b. The surrounding area is characterised by bungalows and storey and half dwellings accessed from the lane off Dunlade Road, and two-storey semi-detached dwellings along Dunlade Road.
- 2.3 The application site is located outside of any settlement development limits as identified in The Northern Area Plan (NAP) 2016 and is not subject to any specific environmental designations.

3 RELEVANT HISTORY

- 3.1 There is no relevant recent planning history at the application site.

Surrounding area:

- 3.2 Proposal: Site for dwelling and detached garage
Application Number: B/2014/0248/O – Adj to 124 Dunlade Road
Decision: Permission Granted
Decision Date: 18th April 2016
- 3.3 Proposal: Proposed single storey detached dwelling and detached single storey garage.

Application Number: LA01/2017/1213/RM – Adj to 124 Dunlade Road
Decision: Permission Granted
Decision Date: 28th March 2019

4 THE APPLICATION

- 4.1 This is an outline application for a site for a new detached bungalow.

5 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: Six neighbours were notified. Six letters of representation have been received. One neutral and five objections, from two addresses.

5.2 Internal

NI Water: Refusal

DFI Roads: No objection

Environmental Health: No objection

NIEA: No objection

Shared Environmental Services: 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 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 both 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

- 7.1 The application has been assessed against the following planning policy and guidance:
- [Regional Development Strategy \(RDS\) 2035.](#)
 - [Northern Area Plan \(NAP\) 2016](#)
 - [Strategic Planning Policy Statement \(SPPS\) 2015](#)
 - [PPS 21: Sustainable Development in the Countryside.](#)
 - [PPS3: Access, Movement and Parking](#)
- 7.2 Supplementary Planning Guidance
- Building on Tradition: A Sustainable Design guide for Northern Ireland.

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the principle of development, Integration and Rural Character, Access, Other Matters, HRA.

Principle of Development

- 8.2 Policy CTY1 of PPS21 sets out 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. 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, or it is otherwise allocated for development in a development plan.

Policy CTY 2a: New Dwellings in Existing Clusters

8.3 Policy CTY 2a advises 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.

8.4 The proposed site is within a group of buildings which appear as a visual entity on the landscape, including 10 dwellings which are outside of a farm . A number of buildings and a dwelling (N0. 134) to the south of the site are associated with a farm and are excluded from the assessment, however there are sufficient remaining buildings within the group to ensure the proposal meets the first two requirements of CTY2a.

8.5 The third criteria of Policy CTY2a requires that the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads. The agent highlighted a water pumping station and public house which sit some 370m and 470m respectively from the site, neither of which are physically or visually associated with the application site and surrounding group of buildings. It is noted that the public house has been vacant for a number of years, and the water pumping station is not visible from the road, other than the palisade fencing along its roadside

boundary. The agent has also highlighted the windmills on the hills to the south of the application site. Likewise, the windfarm is not physically or visually associated with the group of buildings and are not considered a focal point.

- 8.6 In support of the application the agent provided a selection of planning applications and appeals which granted planning permission for proposals where the proposals did not meet with this requirement of the Policy. However, Planning Appeals 2021/A0119 (Appendix 1) and 2024/A0021 (Appendix 2) identify that while all the criteria in CTY2a are to be met, the first three criteria give an indication of the intended meaning of a cluster, and in these cases, the lack of established focal point or crossroads was a critical factor in the determination of the appeals which were subsequently dismissed. These appeal decisions post-date the applications and appeals referenced by the agent and represent the settled position of the Planning Department and Appeals Commission on this matter.
- 8.7 The application site and surrounding buildings are not located at or associated with a focal point such as social/community buildings or facilities and is not located at a crossroads and consequently the proposal fails the third criteria of the policy.
- 8.8 The application site is bounded on three sides with development and would not visually intrude into the open countryside. Impact on amenity would be assessed more thoroughly at reserved matters stage however; there is sufficient distance between the application site and surroundings so as not to impact negatively on residential amenity. Notwithstanding, criterion 3 of Policy CTY2a has not been satisfied and the proposal therefore fails.

Policy CTY8: Ribbon Development

- 8.9 Policy CTY 8 advises that planning permission will be refused which creates or adds to a ribbon of development, however an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage. A substantial and built-up frontage is defined as a line of 3 or more buildings along a road frontage without accompanying development to the rear.

- 8.10 The red line of the application begins at Dunlade Road and encompasses the lane, grass verge to the NW of the proposed dwelling location, as well as nos. 124B and 124 to the SE of the proposed dwelling location, and the lane to the front of both dwellings.
- 8.11 Nos. 124B, 124, 124C and 124A to the SE of the site all front onto the laneway however, there is no development to the northern end of the application site which fronts onto the laneway. No. 126 fronts onto Dunlade Road. Due to the application site extending to the public road No. 126 does not have frontage onto the laneway and consequently cannot form part of a substantial and continuously built-up frontage along the laneway for the purposes of infilling. Consequently, the application site does not represent a gap site within a built-up frontage and is therefore contrary to Paragraph 6.73 of the SPPS and Policy CTY8.
- 8.12 Additionally, as there is no gap at the application site the proposal would extend the linear pattern of development along the laneway adding to the existing ribbon of development, thereby contrary to CTY8 of PPS21.
- 8.13 As the proposal fails to comply with Policies CTY2a and CTY8 and as no other overriding reasons as to why this development is essential in this rural location and could not be located within a settlement the proposal is also contrary to Paragraph 6.73 of the SPPS and Policy CTY1 of PPS21.

Integration and Rural Character

- 8.14 Policy CTY13 of PPS21 states planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. A new building will be unacceptable where:
- a) it is a prominent feature in the landscape; or
 - b) 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
 - c) it relies primarily on the use of new landscaping for integration; or
 - d) ancillary works do not integrate with their surroundings; or
 - e) the design of the building is inappropriate for the site and its locality; or

- f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
- g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

8.15 Given the topography, existing development and boundary treatment, a modest sized dwelling at the proposed site would not be considered a prominent feature in the landscape, and a suitable degree of enclosure is available at the site. New planting would be welcomed however the integration of development would not solely be dependent on additional planting. The design as shown in the indicative plans is respectful of the topography and adjacent dwellings. While the proposed site would respect Policy CTY13, it remains to fail CTY1, CTY2a and CTY8, and the principle of development is unacceptable.

8.16 Policy CTY14 of PPS21 states 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:

- (a) it is unduly prominent in the landscape; or
- (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or
- (c) it does not respect the traditional pattern of settlement exhibited in that area; or
- (d) it creates or adds to a ribbon of development (see Policy CTY 8); or
- (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

8.17 As set out at paragraph 8.12 above, a new dwelling would extend development along the laneway in a linear manner adding to ribbon development, and therefore also contrary to CTY14, criteria (d).

8.18 Additionally, the proposed dwelling would, when read with existing development in the location, further add to the built-up character of the area and would further erode the rural character through contributing to suburban style build-up, contrary to CTY14, criteria (b).

Access

- 8.19 Planning Policy Statement 3 relates to vehicular and pedestrian access, transport assessment, and the protection of transport routes, and parking. Policy AMP2 states: 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.
- 8.20 The application site is accessed from a lane which serves a number of dwellings, and parallel to this lane is another, recently constructed lane, which adjoins the original lane approx. 13m from the junction with Dunlade Road, which is not associated with this application or applicant. Dfl Roads originally recommended refusal as the required splays of 2.4m x 110m were not achievable. The agent was given the opportunity to demonstrate that the splays of 2.4m x 80m could be achieved, as this was what Dfl Roads requested on B/2014/0248/O and LA01/2017/1213/RM, which was proposed to use the same lane.
- 8.21 Visibility splays were amended to 2.4m x 80m and notice was served on the relevant parties, and Certificate C was signed. Further consultation with Dfl Roads concluded in the refusal recommendation being removed, and Dfl Roads now offer no objection to the proposal. The proposal will not prejudice the safety or convenience of road users along Dunlade Road. The proposal now complies with Policy AMP2.

Other Matters (Representations)

- 8.22 To date six representations have been received from two addresses in relation to the proposal, with main concerns being raised referring to road safety, increased use of the lane, an additional lane on the site, land ownership, impact on amenity and surface water.
- 8.23 Prior to Dfl Roads confirming no objection to the amended plans, road safety concerns were substantial to the proposal, however since these have now been addressed and Dfl Roads have returned

a positive consultation response, it is considered that any road safety concerns will not be exacerbated as a result of the proposal. The additional lane built adjacent to the site is not part of this planning application and is not in connection with the applicant, and any concerns relating to this would be a civil matter.

- 8.24 Certificate C has been signed and notice has been served on neighbouring landowners as identified by the agent. Any query raised in relation to land ownership is also a civil matter.
- 8.25 A concern relating to the siting of a dwelling cannot be fully assessed at this outline stage, however should this application be approved the impact on amenity would be addressed at RM stage, ensuring the retention of boundary vegetation. The indicative site plan shows the proposed dwelling to sit some 38m from the rear wall of no. 126 which is a sufficient distance, and appropriate design and landscaping scheme could further reduce impacts on amenity.
- 8.26 There are no instances of fluvial or surface water flooding on NI Flood Maps and the stream has been piped underground. Any existing surface water on neighbouring sites are as a result of existing infrastructure on the site and should also be raised as a civil matter.

Habitats Regulation Assessment

- 8.27 Shared Environmental Services were informally consulted as there is a covered watercourse within the site which eventually leads to Lough Foyle SPA/RAMSAR. The response received on 18th January 2022 concludes that given the distance from the European Site there is no risk of habitat loss, fragmentation or disturbance, and that no formal consultation with SES is required in this instance.
- 8.28 The potential impact of 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.

9 CONCLUSION

- 9.1 The application site fails to meet with the principle planning policies as the application site is not located at an existing cluster as the existing group of buildings are not associated with a focal point or located at a crossroads and does not represent a gap within a substantial and continuously built-up frontage. The proposal does not meet with any of the permissive circumstances for development in the countryside, and no over-riding reasons have been provided as to why development is necessary at this location. The application proposal will result in the addition to ribbon development along the existing laneway. 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. Refusal Reasons

1. The proposal is contrary to Paragraph 6.73 of the SPPS and Policy CTY 1 of PPS 21: Sustainable Development in the Countryside in that there are no overriding reasons why the development is essential in this location and could not be located within a settlement.
2. The proposal is contrary to Paragraph 6.73 of the SPPS and Policy CTY 2a of PPS 21: Sustainable Development in the Countryside in that the site is not located at an existing cluster as the existing group of buildings are not associated with a focal point or located at a crossroads.
3. The proposal is contrary to Paragraph 6.73 of the SPPS and Policy CTY8 of PPS 21: Sustainable Development in the Countryside in that the site is not a gap within a substantial and continuously built-up frontage, and would add to a ribbon of development.
4. The proposal is contrary to the Paragraph 6.70 of the SPPS and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would, if permitted, be detrimental to the rural character of the area as it would result in the addition to ribbon development along the existing laneway and would further add to suburban style build-up of development when viewed with existing buildings.

Site Location Plan

ACEmap® Multi-Copy

Printed: 27/07/2020 Customer Ref:

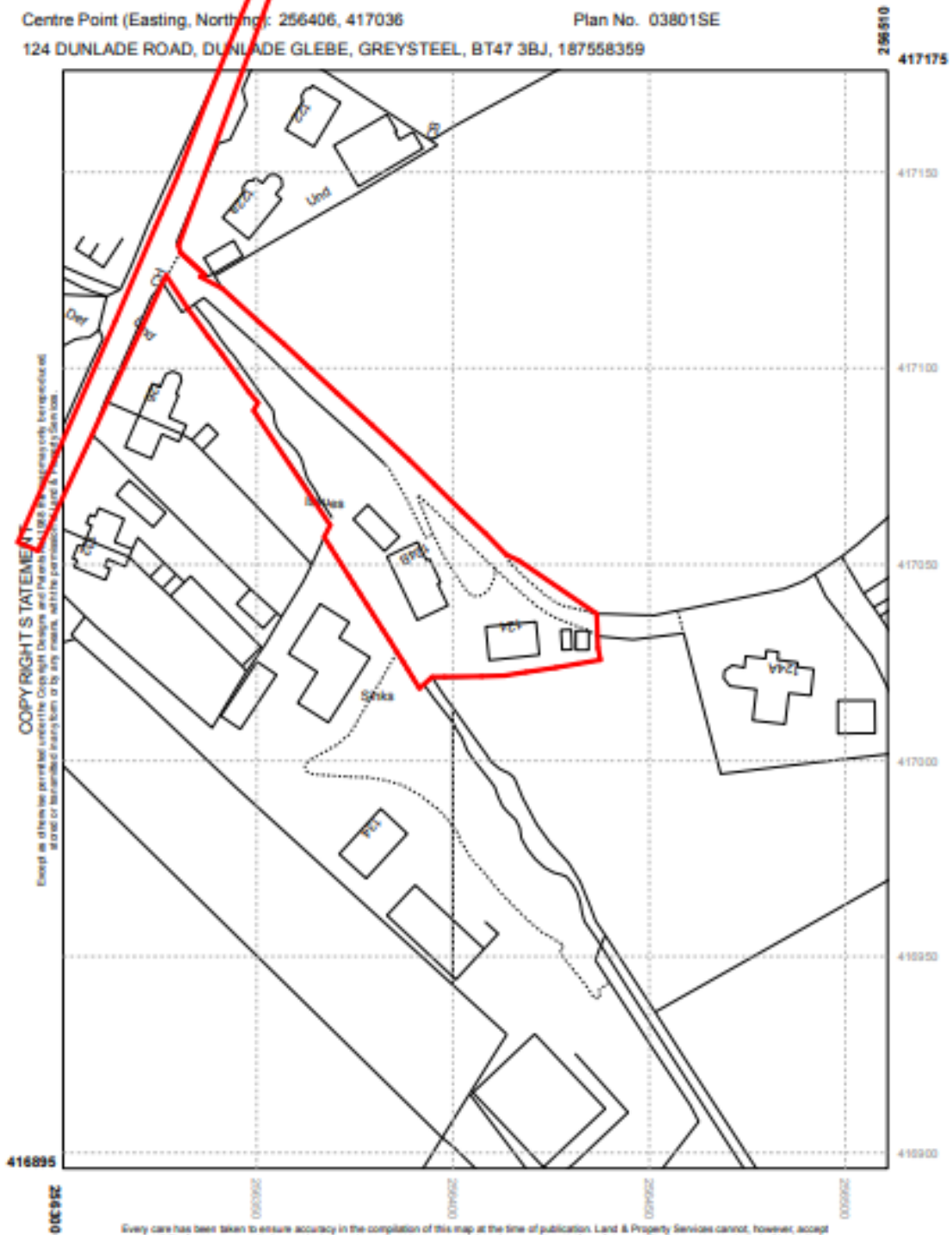
Centre Point (Easting, Northing): 256406, 417036

124 DUNLADE ROAD, DUNLADE GLEBE, GREYSTEEL, BT47 3BJ, 187558359

Scale: 1:1,250

Order no. ORD86508

Plan No. 03801SE



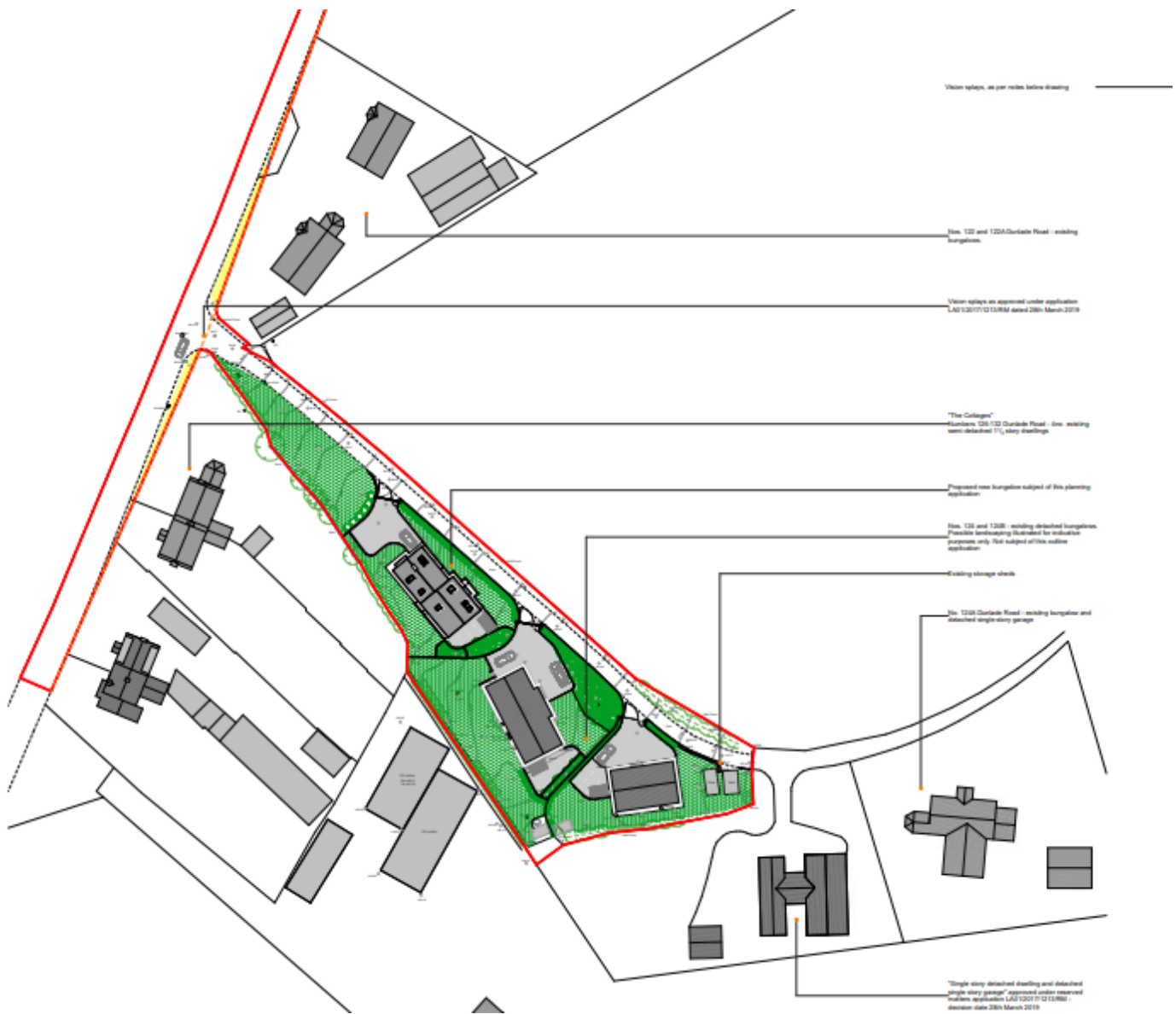
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Site Location Map

1:1250

Concept Plan – NTS



Referral Request

From: Dermot Nicholl
Sent: 21 March 2025 12:56
To: Planning
Subject: Request for deferral to planning committee

Good afternoon, I would like to request that the following application be deferred to the planning committee for the following reasons -

Application - LA01/2021/0777/O

Proposals relate to outline permission for a new detached bungalow adjacent to 2 no. existing dwellings under the ownership of the applicant. Access will be provided via existing private lane under the ownership of the applicant

Land immediately adjacent to 124B Dunlade Road, Greysteel

This is the planning department's reasons -

- Proposal is contrary to Policy CTY1 (Sustainable Development in the Countryside) on the basis of the below specific policies:
 1.
 1. CTY8 - Development of a gap site (the planners consider that the proposed site "is not a gap with a substantial and continuously built-up frontage").
 2. CTY 2a - Development within an existing cluster (the planners consider that the site is not within an existing cluster and is not associated with a focal point and is not located at a crossroads").

And this is the rationale that we believe that it should be deferred to the planning committee -

In relation to CTY 1 - We believe that within the realms of this policy CTY 2a and CTY 8 are met and detailed below which can be further explained and backed up.

In relation to CTY8, we have demonstrated that there is a gap site, due to the fact that no.126 Dunlade Road forms the end of an existing ribbon of development - there is a strong visual link between this dwelling and the rest of the development ribbon. PPS21 notes that this is acceptable, even if the dwellings do not share a common frontage i.e. same access road.

In relation to CTY 2a, we have also demonstrated that the site is within a cluster of **12** other dwellings, and we have cited previously approved applications which determine that the proposed site does not need to be located at a focal point or a crossroads in order to be considered compliant with this policy.

We hope this information is sufficient for a deferral but if you require any further information at this point please let me know.

Kind Regards

Cllr Dermot Nicholl.

Sent from my iPad

Appendix 1
PAC Decision 2021/A0199

Appeal Reference:	2021/A0119
Appeal by:	Hiclar Trading Ltd
Appeal against:	The refusal of outline planning permission
Proposed Development:	Site for dwelling
Location:	65m south of 20 Boleran Road, Garvagh
Planning Authority:	Causeway Coast and Glens Borough Council
Application Reference:	LA01/2020/0614/O
Procedure:	Written Representations with Commissioner's Site Visit on 28 th April 2023
Decision by:	Commissioner B Stevenson, dated 30 th May 2023

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are whether the appeal proposal would:
 - be acceptable in principle in the countryside;
 - visually integrate into the landscape; and
 - detrimentally change the rural character of the area.
3. Section 45(1) of the Planning Act (Northern Ireland) 2011 indicates that in dealing with an application, regard must be had to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that regard must be had to the LDP unless material considerations indicate otherwise. The Northern Area Plan 2016 (NAP) operates as the statutory LDP for the area in which the appeal site is located in. In the NAP, the appeal site lies outside of any defined settlement limit and falls within the countryside. There are no policy provisions in the plan that are material to the appeal proposal.

4. The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS) sets out the transitional arrangements that will operate in the absence of an adopted Plan Strategy. Under those arrangements, the SPPS retains certain policies namely Planning Policy Statement 21 "Sustainable Development in the Countryside" (PPS21). In accordance with the transitional arrangements, as no conflict arises between the SPPS and PPS21 on the issues raised in this appeal, the latter provides the policy context for assessing the proposal.
5. Policy CTY1 'Development in the Countryside' of PPS21 lists 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 policy says that planning permission will be granted for an individual dwelling house in the countryside where the proposal would accord with Policy CTY2a or the exceptional clause of Policy CTY8 of PPS21. If a proposal satisfies either policy, it will also satisfy Policy CTY1 of PPS21.
6. Policy CTY2a is entitled 'New Dwellings in Existing Clusters' and it states that planning permission will be granted for a dwelling at an existing cluster of development provided certain criteria are all met. The first three criteria in Policy CTY2a give an indication of the intended meaning of a "cluster" of development. In relation to the first two criteria, no concerns were expressed in respect of the type and quantum of buildings that make up the "cluster" of development. Parties were also satisfied that those buildings appeared as a visual entity in the local landscape. The Council contend that the appeal proposal would fail to meet the third criterion of the policy.
7. The rectangular appeal site is approximately 45 metres set back from the Boleran Road and is located south-west of No. 20 behind a dwelling that is constructed up to wall plate level. Adjacent to the partially constructed dwelling, another dwelling is constructed up to sub-floor level. There is also a grouping of buildings comprising Nos. 6, 8, 11, 12, 14A, 16A, 16, 17, 18, 19, 20, 22, 24, 26, 28 and an unnumbered dwelling.
8. The third criterion of Policy CTY2a requires that the identified "cluster" is associated with a focal point such as a social/community building/facility or is located at a cross-roads. Whilst the wording of the policy does not provide an exhaustive list, in my judgement, it infers that a focal point should be some sort of building or facility where the local community can meet/socialise. To be 'associated with' means, to my mind, that there should be a visual and/or physical connection between the "cluster" of development and the focal point. The Council contend that there are no social buildings or community ones located within the grouping of development at this location and that the grouping is not located at a cross-roads. However, the Appellant argues that a public meeting point with a visual or physical relationship with the site can be a focal point. They go on to identify certain businesses and monuments associated with the grouping that they

consider to be policy compliant. They also argue that the "cluster" is located at a cross-roads.

9. The Appellant identifies (i) the townland of Tamnymore; (ii) numerous monuments in close proximity to the grouping; (iii) a residential care home; (iv) a picture framing business and (v) Bradley's Quarry as possible focal points. The map in the Appellant's Statement of Case denotes monuments in the area. However, none of them are within the identified grouping of development. The nursing home is also not at the grouping of development given that it is over 200-250m away. Bradley's Quarry is also over 200m away and it is visually separated from the grouping by a copse of mature trees and a lake. The quarry, the monuments and the care home have no visual or physical connection to the grouping of development. Moreover, a townland cannot be considered a focal point given its overall geographical size and scale nor can it be a social/community building or facility as stated in the policy. For these reasons, none are focal points and even if they were, they are not associated with the grouping or "cluster" of development.
10. In relation to the picture framing business, there is a sign advertising 'Linton Film Productions – Farming and Music DVD' to the front of the semi-detached dwelling at No. 26, which is part of the grouping. This private picture framing/film production business is to the rear of this dwelling. It is limited in size and is located within a residential curtilage. It would only attract certain occasional customers. While it may be recognised locally, I have no evidence that it operates as a social/community hub or event space for the community. Accordingly, I do not consider it to be a focal point as envisaged by the policy.
11. The Appellant refers to a cross-roads that existed at the junction of Limavady Road and Boleran Road. They say that this was once the main road into Garvagh and that it is still accessible today. The alleged cross-roads is at least 200-250m away from the grouping as referred to above and it is clearly no longer a cross-roads as it has a high gate and a wall closing off a previously used lane/road, which is now grassed over. In any event, given the separation distance, the subject grouping is not located at the alleged cross-roads. I therefore find that the grouping is neither associated with a focal point nor located at a cross-roads.
12. The Appellant argues that the Council's approach is at odds with certain appeal decisions. He contends that those decisions found that not meeting the policy in its entirety was not fatal, but rather the decisions recognised the overall thrust of the policy was to consolidate development. The referenced appeal decisions were not provided in evidence. I cannot therefore compare them to the circumstances of this case. In any event, my reading of the policy is that the first three criteria of Policy CTY2a define what a cluster of development is, and it is therefore vital that all three criteria be met for a dwelling to be permitted. Each case falls to be determined on its own merits within its site specific and evidential context and direct comparables between cases are rare. As I have already found that the cluster is neither associated with a focal point nor at a cross-roads, the appeal

proposal offends the third criterion of Policy CTY2a of PPS21. The Council's second reason for refusal is therefore sustained.

13. Policy CTY8 of PPS21 is entitled 'Ribbon Development' and it states that planning permission will be refused for a building which creates or adds to a ribbon of development. It goes on to say that an exception will be permitted subject to certain requirements. The Council contend that the appeal proposal would result in the creation of ribbon development along the existing lane. From the evidence, it would appear that the existing lane is that lane which provides access to the appeal site.
14. Paragraph 5.33 of PPS21 states that a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line. The paragraph also states 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. The Council argue that the proposed dwelling would be visually linked with approved and commenced development immediately to the north-east only and that it would have common frontage to the lane. However, the approved dwelling is not a building for the purposes of the policy given that it is merely erected to wall-plate level. The appeal proposal would therefore not create ribbon development along the lane as it would not share common frontage nor visually link with the approved and commenced development immediately to the north-east.
15. The policy states that "an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purposes of this policy, the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear." The word "includes" does not exclude accompanying development to the rear when considering a line of three or more buildings along a road frontage.
16. Neither party identifies any buildings on the Boleran Road that would make up the substantial and built up frontage. Nevertheless, the Council claim that there is no development to the south-west of the appeal site and so the land cannot be considered as a small gap site. In any case, as only the access to the appeal site would abut the Boleran Road, the proposed dwelling would not have common frontage with those buildings that have frontage onto that road. The appeal proposal cannot therefore be considered under the exceptional clause. Even though the appeal proposal would not comply with the exception to Policy CTY8, it would not create ribbon development with the approved and commenced development north-east of the appeal site and thus would not offend Policy CTY8 of PPS21 in this regard. The Council's fifth reason for refusal is therefore not sustained.

17. Policy CTY13 of PPS21 is entitled 'Integration and Design of Buildings in the Countryside' and it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. It goes on to say that a new building will be unacceptable if it offends any of the requirements set out in the policy headnote. The Council contend that the proposal would offend criterion (c) of Policy CTY13 in that the new building would have to rely primarily on the use of new landscaping for integration.
18. The appeal site is cut out of an agricultural field and the proposal would be accessed from an existing lane that runs adjacent to the south-eastern boundary of Nos. 18 and 20 Boleran Road. The south-eastern and south-western boundaries of the appeal site are undefined and a post and wire fence demarcates the north-eastern boundary. The post and wire fence continues along the access lane defining the edge of the field. Trees define the north-western boundary of the appeal site that runs along the access lane adjacent to No. 20.
19. The Council identifies certain viewpoints that they consider are critical. The viewpoints are (i) between identified Viewpoints A and B along the access lane that provides access to the appeal site and the dwelling at No. 18, (ii) between identified Viewpoints C and D on the Boleran Road when travelling north-west and (iii) from identified Viewpoint E on the lane to the south. From those viewpoints, a new building on the site would have to rely primarily on new landscaping in order to visually integrate into the countryside given that two of the site boundaries are undefined and another is merely defined by a post and wire fence. The appeal proposal would therefore offend criterion (c) of Policy CTY13 of PPS21. The Council's third reason for refusal is sustained.
20. Policy CTY14 of PPS21 is entitled 'Rural Character' and it 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. It further states that a new building will be unacceptable under certain circumstances. Criterion (b) of Policy CTY14 states that a new building will be unacceptable where it results in a suburban style build-up of development when viewed with existing and approved buildings. The Council argue that a new building on the appeal site would offend this criterion.
21. Within the vicinity of the appeal site, there are 16 No. existing dwellings and the two dwellings under construction. As the appeal proposal would read with those existing buildings, it would add to the suburban style build-up of development in the area. It would also create a second row of development behind the approved development adjacent to the road. This would be detrimental to what remains of the rural character of the area. I therefore find that the appeal proposal would offend criterion (b) of Policy CTY14 of PPS21 and the Council's fourth reason for refusal is sustained.

22. Given that the appeal proposal would offend Policy CTY2a and the exceptional clause of Policy CTY8 and no overriding reasons were presented to demonstrate how the proposal is essential, it would also offend Policy CTY1 of PPS21. The Council has therefore sustained its first reason for refusal. Given that four of the five reasons for refusal are sustained, the appeal must fail.

This decision is based on a site location plan (Drawing 01) which was date stamped refused by the Council on 23rd July 2021 and received by the Council on 30th June 2020.

COMMISSIONER B STEVENSON

List of Documents

Planning Authority: -

"A1" Statement of Case
Causeway Coast and Glens Borough Council

"A2" Rebuttal Statement
Causeway Coast and Glens Borough Council

Appellant: -

"B1" Statement of Case
CMI Planners Ltd on behalf of Hiclar Trading Ltd

Appendix 2

PAC Decision 2024/A0021



Appeal Decision

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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 Causeway Coast and Glens Borough Council
Planning Authority:	
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

List of Appearances

Planning Authority:-	Mr Martin McErlain Ms Rachel McWilliams
Appellant:-	Mr Kieran Duffy Mr Lee Kennedy

List of Documents

Planning Authority:-	A	Statement of Case Causeway Coast and Glens Borough Council
	B	Rebuttal Statement Causeway Coast and Glens Borough Council
Appellant:-	C	Statement of Case Lee Kennedy Planning
	D	Rebuttal Statement Lee Kennedy Planning