



<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2024/1045/O</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>25<sup>th</sup> February 2026</b>
<b>For Decision or For Information</b>	<b>For Decision – Referred Application by Ald John McAuley</b>

<b>Linkage to Council Strategy (2021-25)</b>	
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

<b>Estimated Timescale for Completion</b>	
Date to be Completed	

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

<b>Legal Considerations</b>	
Input of Legal Services Required	NO
Legal Opinion Obtained	NO

<b>Screening Requirements</b>	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:

<b><u>No:</u></b>	<b>LA01/2024/1045/O</b>	<b><u>Ward:</u></b>	<b>Dunloy</b>
<b><u>App Type:</u></b>	<b>Outline</b>		
<b><u>Address:</u></b>	<b>Land adjacent and South West of 44 Station Road, Dunloy</b>		
<b><u>Proposal:</u></b>	<b>Site for 2 infill dwellings in accordance with policy CTY.8 (2x two storey detached dwellings).</b>		
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Valid Date:</u></b>	<b>06.06.2023</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>		
<b>Agent:</b>	<b>GM Design Associates Ltd, 22 Lodge Road, Coleraine, BT51 2NB</b>		
<b>Applicant:</b>	<b>Dominic Kearns, 70B Mullan Road, Ballymoney, BT53 7DZ</b>		
<b>Objections: 0</b>	<b>Petitions of Objection: 0</b>		
<b>Support: 0</b>	<b>Petitions of Support: 0</b>		

## **EXECUTIVE SUMMARY**

- Outline planning permission is sought for two infill dwellings in accordance with Policy CTY 8 (Ribbon Development).
- The application site is located immediately adjacent and outside of the settlement development limit of Dunloy as identified in the Northern Area Plan (NAP) 2016. The site is not subject to any specific environmental designations.
- The principle of development is considered unacceptable having regard to Policy CTY8 as the proposal fails to meet with the provisions for an infill dwelling as the application site is not sited within an otherwise substantial and continuously built-up frontage.
- The proposal also fails policy CTY14 in that approving a dwelling on this site would result the creation of ribbon development along Station Road.
- The proposal also fails policy CTY15 in that the proposal would mar the distinction between the settlement of Dunloy and the surrounding countryside through urban sprawl
- NIEA, DFI Roads, Environmental Health, Northern Ireland Electricity and Translink were consulted on the application and raise no objection.
- NI Water have recommended refusal of the application due to the potential loss of amenity to occupants of the proposed development from odour
- There are no objections to the proposal.
- 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.planningsystemni.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 on lands adjacent to and south west of 44 Station Road, Dunloy. The site consists of a rectangular shaped plot which forms the southern/south-eastern portion of a wider agricultural field.
- 2.2 The site is agricultural in nature and accessed via an agricultural gate to the south-west corner. The site is bound to the roadside by mature vegetation, to the south-west by post and wire fencing and to the north-east by hedgerow and trees. The north -western boundary of the site remains undefined as this is where it meets the wider field.
- 2.3 The settlement development limit for Dunloy runs close to the south-western boundary of the site which defines the urban setting for the settlement. The surrounding area to the north, east and south east is rural in nature and characterised mainly by agricultural lands and single rural dwellings. A Waste Water Treatment Works is sited to north of the application site to the rear of the host field.
- 2.4 The application site is located outside of any settlement development limits as identified in the Northern Area Plan (NAP) 2016. The site is not subject to any specific environmental designations.

### 3 RELEVANT HISTORY

LA01/2023/0583/O – Proposed 1no. Infill dwelling - Land 30m West of 68 Ballywoodock Road, Castlerock – Current Application

### 4 THE APPLICATION

- 4.1 Outline Planning Permission is sought for two infill dwellings. No detailed plans have been provided in respect of the dwellings size and appearance however, the description of the proposal indicates a desire for two storey dwellings on the site.

### 5 PUBLICITY & CONSULTATIONS

#### 5.1 External

**Neighbours:** No objections have been received in relation to the application.

#### 5.2 Internal

**DFI Roads: No objection**

**Environmental Health: No objection**

**NI Water: Refuse**

**DAERA Water Management Unit: No objection**

**Translink: No objections**

**Northern Ireland Electricity: 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:

- 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**

The application has been assessed against the following planning policy and guidance:

[Regional Development Strategy 2035.](#)

[Northern Area Plan 2016.](#)

[Strategic Planning Policy Statement.](#)

[PPS 3: Access, Movement and Parking.](#)

[PPS11: Planning and Waste Management](#)

[PPS 21: Sustainable Development in the Countryside.](#)

### **Supplementary Planning Guidance**

[Building on Tradition: A Sustainable Design guide for Northern Ireland.](#)

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main consideration in the determination of this application relate to the Principle of Development, Integration and Rural Character, Urban Sprawl, HRA, Sewage Disposal, NI Water and Access Movement and Parking.

## **Principle of Development**

- 8.2 The policies outlined in paragraph 6.73 of the SPPS and Policy CTY 1 of PPS 21 state that there are a range of types of development which are considered acceptable in principle in the countryside. 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. The application is submitted for two infill dwellings within a gap, and therefore falls to be assessed under paragraph 6.73 of the SPPS and Policy CTY 8 of PPS 21.
- 8.3 Paragraph 6.73 of the SPPS and Policy CTY 8 of PPS 21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception within this policy 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 these 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 purpose of this policy the definition of a substantial and built-up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.
- 8.4 Paragraph 5.34 of PPS21 outlines that the gap to be considered is between buildings (building to building). To be acceptable under Policy CTY8 four specific elements are required to be met: the gap must be within an otherwise substantial and continuously built-up frontage; the gap site must be small; the existing development pattern along the frontage must be respected; and other planning and environmental requirements must be met.
- 8.5 The application site lies within the rural area and sits immediately adjacent and southwest of the dwelling at No. 44 Station Road. The application seeks to rely on the dwellings at No. 44 to the

northeast of the site, and Nos. 36, 34a, 34 and 30 to the southwest, to provide a substantial and continuously built-up frontage at this location. The dwellings at Nos. Nos. 36, 34a, 34 and 30 are located within the settlement limit of Dunloy. Consequently, they cannot be taken to represent buildings within or contributing to the formation of a substantial and continuously built-up frontage within the rural area.

- 8.6 The Preamble within PPS21 states that PPS21 sets out planning policies for development in the countryside. The preamble also clarifies that *“For the purpose of this document the countryside is defined as land lying outside of settlement limits as identified in development plans. The provisions of this document will apply to all areas of Northern Ireland’s Countryside”*.
- 8.7 Therefore, in assessing proposals for new infill dwellings the relevant buildings required to establish a substantial and continuously built-up frontage, must all exist within the countryside. This is the settled position of the Planning Department and this assessment is consistent with that of the Planning Appeals Commission as outlined in appeals 2020/A0162 and 2024/A0097. As there is only one dwelling within the countryside at this location there is no substantial and continuously built-up frontage and subsequently no gap in which to infill. The proposal is therefore contrary to Paragraph 6.73 of the SPPS and Policy CTY8.
- 8.8 Notwithstanding Paragraphs 8.5 to 8.7, and for information purposes, the relative frontages and plot sizes for each dwelling/building and the site are set out in Appendix 1. Having regard to the average frontages, this site would have a frontage length larger than the average plot width. The gap (building to building) could accommodate 3 dwellings while respecting the frontage lengths and development pattern. Even if it was accepted there is a continuous and built-up frontage for the purposes of CTY8, the gap site is not a small gap site capable of only accommodating up to a maximum of 2 dwellings. In terms of plot size the site area of the proposed site is significantly larger

than the surrounding plot sizes and would be out of keeping with the established pattern of development.

- 8.9 Additionally, as no overriding reason has been forthcoming as to why the development is essential in this location the development is contrary to Policy CTY1 of PPS21.

### **Integration & Rural Character.**

- 8.10 Policy CTY 13 states that 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.

- 8.11 As this is an outline application no detailed plans have been submitted regarding the design of the dwelling although the description of the proposal indicates a desire for two storey dwellings. Views of the application site are well screened on approach along Station Road in both directions by the existing built development and mature vegetation of the adjacent plots, with critical views largely limited to passing the site frontage. While views of the application site will be open and exposed on passing the site frontage it is considered that appropriately scaled development, retention of existing mature vegetation and provision of additional landscaping that the visual impact of the proposal would not be so significant as to merit refusal under Paragraph 6.70 of the SPPS and Policy CTY13 of PPS21.

- 8.12 CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A new building will be unacceptable where:

- a) It is unduly prominent in the landscape
- b) It results in a suburban style build up of development when viewed with existing and approved buildings
- c) It does not respect the traditional pattern of settlement exhibited in that area

- d) It creates a ribbon of development
- e) The impact of ancillary works (with the exception of necessary visibility splays) would damage rural character

8.13 As outlined above at Paragraphs 8.2 – 8.7 the proposal does not represent the infilling of a small gap site due to the lack of a substantial and continuously built-up frontage at this location.

8.14 Development of the application site would remove an important visual break which establishes the rural character of the area and provided a visual break to the settlement of Dunloy to the west of the site. The infilling of this gap would result in the proposal adding to development along this stretch of the road resulting in the creation of ribbon development. The proposal fails Paragraph 6.70 of the SPPS and criterion (d) of CTY14.

### **Urban Sprawl**

8.15 Paragraph 5.84 of PPS21 outlines that the principle of drawing a settlement limit is partly to promote and partly contain new development within that limit and so maintain a clear distinction between the built-up area and surrounding countryside. The development limit has been drawn around the dwellings to the west/south west of the site together with the higher density housing developments at Greenacre and Carrowdoon Park on the southern side of Station Road. The development limit provides for a compact cluster of development within the settlement limit. The dwelling at No. 44 Station Road is both physically and visually removed from the settlement limit by its distance and natural screening. Development of the application site would extend development outwards from the settlement limit into the countryside resulting in a visual link between the defined urban setting and the rural dwelling at No. 44 which, would mar the distinction between the settlement and countryside through urban sprawl. Consequently, the proposal is contrary to Paragraph 6.71 of the SPPS and Policy CTY15 of PPS21.

- 8.16 Within the referral request submission reference was made to planning appeal 2017/A0147 (Appendix 4) which, is argued, was allowed in a similar context to the application proposal. Appeal 2017/A0147 related to a small plot of land immediately adjacent and outside of the settlement limit of Dunloy. Within the appeal the Commission noted that “in its setting, it does not appear as unambiguously agricultural or rural in character”. The appeal further established that “Furthermore, on approach along the road in either direction, the proposed development, because of its design, the composition of the appeal site and its juxtaposition with adjacent development, would read as an integral, albeit extended part of the urban fabric of Dunloy. In these circumstances, while the proposal would offend policy, if constructed no detriment to rural character would be visually apparent”.
- 8.17 Appeal 2017/A0147 is not directly comparable to the application proposal given the site-specific circumstances outlined. The dwelling at No. 44 Station Rd does not read as part of the urban fabric of Dunloy, with the application site marking the transition from the urban setting of Dunloy to the open countryside and maintaining the rural character beyond the settlement limits.

### **Habitat Regulations Assessment**

- 8.18 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.

### **Sewage Disposal**

- 8.19 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.

- 8.20 The applicant proposes to discharge foul waste via septic tanks. Environmental Health and Water Management Unit have been consulted and are content therefore the proposal complies with CTY 16 of PPS 21.

### **NI Water**

- 8.21 Policy WM 5 - Development in the vicinity of Waste Management Facilities of PPS11- Planning and Waste Management states that Proposals involving the development of land in the vicinity of existing or approved waste management facilities and waste water treatment works (WWTWs), will only be permitted where all the following criteria are met:

- it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility; and
- it will not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment.

- 8.22 Within their consultation response NI Water advise that the proposed development may experience nuisance due to its proximity to the operations of the existing Wastewater Treatment Works. As the site is located wholly or partially within the Wastewater Treatment Work's odour consultation zone boundary an Odour Encroachment Assessment is required to determine the compatibility of these proposals with the existing operation of the Wastewater Treatment Works.

- 8.23 An Odour Encroachment Assessment was requested by the Planning Department however, the applicant advised that they did not intend to submit the assessment at this time. Therefore, it has not been demonstrated that there would not be an unacceptable loss of residential amenity from odour associated with the Wastewater Treatment Works to the occupants of the proposed development. The proposal is contrary to Paragraph 6.325 of the SPPS and Policy WM5 of PPS11.

## **Access Movement and Parking**

- 8.24 Planning Policy Statement 3 relates to vehicular and pedestrian access, transport assessment, and the protection of transport routes, and parking. Policy AMP2 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.
- 8.25 The Concept plan (Drawing 02) indicates the construction of two new accesses onto Station Rd. DFI Roads were consulted on the proposal and responded with no concerns but have provided specific details in terms of the required access arrangements including the provision of a central access point (paired access). The proposal meets with Policy AMP2 of PPS3.

## **9 CONCLUSION**

- 9.1 The application site fails to meet with the principal planning policies as there is no substantial and continuously built-up frontage at this location and subsequently no gap in which to infill. The application proposal fails to respect to adjacent pattern of development of the surrounding area and will result in the creation of ribbon development along Station Rd. The proposal would extend development outwards from the settlement limit which, would mar the distinction between the settlement and countryside through urban sprawl. No over-riding reasons have been provided as to why development is necessary at this location. It has not been demonstrated that there would not be an unacceptable loss of residential amenity to the occupants of the proposed development from the nearby Waste Water Treatment plant. The proposal is subsequently contrary to Paragraphs 6.70, 6.71, 6.73 and 6.325 of the SPPS and Policies

CTY1, CTY8, CTY13, CTY14 and CTY 15 of PPS21 and Policy WM5 of PPS11. Refusal is recommended.

## **10 REFUSAL REASONS**

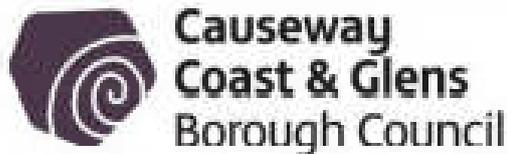
1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement and Policy CTY 1 of the Planning Policy Statement 21, Sustainable Development in the Countryside, in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Paragraph 6.73 of the SPPS and Policy CTY 8 of PPS 21: Sustainable Development in the Countryside in that there is no substantial and continuously built-up frontage at this location and the proposed development would, if permitted, result in the creation of ribbon development along Station Road.
3. The proposal is contrary to Paragraphs 6.70 and 6.73 of the SPPS and Policy CTY 14 of PPS 21: Sustainable Development in the Countryside in that the proposed development would, if permitted, create a ribbon of development along Station Road and would therefore result in a detrimental change to the rural character of the countryside.
4. The proposal is contrary to Paragraph 6.71 of the SPPS and Policy CTY 15 of PPS 21: Sustainable Development in the Countryside in the development would if permitted mar the distinction between the defined settlement limit of Dunloy and the surrounding countryside through urban sprawl.
5. The proposal is contrary to Paragraph 6.325 of the SPPS and Policy WM5 of PPS11: Planning and waste Management in that it has not been demonstrated that there would not be an unacceptable loss of residential amenity to the occupants of the proposed development.



# APPENDIX 1

Building No./Ref	Frontage (metres)	Plot Size (Acres)
No. 44	47 metres	0.15 Ha
No. 36	20.5 metres	0.05 Ha
No.34A	28.5 metres	0.1 Ha
No.34	56.5 metres	0.24 Ha
No.30	48.5 metres	0.29 Ha
Hall	50 metres	0.1 Ha
<b>AVERAGE</b>	<b>41.8 metres</b>	<b>0.155 Ha</b>
Application site	104 metres (52m per plot)	0.71 Ha (0.355 Ha per plot)
<p>The length of the <i>“Gap Site”</i> (Gable of No. 36 to No.44 Station) for the purposes of CTY 8 is @144 metres.</p>		

# Referral Request



Development Management  
Information Note 07

January 2024

## 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](mailto:planning@causewaycoastandglens.gov.uk)

<b>Planning Reference</b>	LA01/2024/1045/O Station Road Dunloy
<b>Elected Member Name</b>	Alderman John McAuley
<b>Contact Details</b>	Tel: 07736474848 Email:john.mcauley.dup@gmail.com
<b>Refusal Reasons</b>  Reasons for Refusal: <ul style="list-style-type: none"><li>• The proposal is contrary to paragraphs 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.</li><li>• The proposal is contrary to paragraphs 6.73 of the SPPS and Policy CTY 8 of PPS 21: Sustainable Development in the Countryside in that there is no substantial and continuously built-up frontage at this location and the proposal would, if permitted, result in the creation of ribbon development along Station Road.</li><li>• The proposal is contrary to paragraphs 6.70 and 6.73 of the SPPS and Policy CTY 14 of PPS 21: Sustainable Development in the Countryside in that the buildings would, if permitted, create a ribbon of development along Station Road and would therefore result in a detrimental change to the rural character of the countryside; and</li><li>• The proposal is contrary to paragraphs 6.71 and 6.73 of the SPPS and Policy CTY 15 of PPS 21: Sustainable Development in the Countryside in the development would if permitted mar the distinction between the defined settlement limit of Dunloy and the surrounding countryside through urban sprawl.</li></ul>	



**Additional Supporting Information:**

The planning reasons for the request are based on the following

- The site is a genuine infill opportunity compliant with Policy CTY 8 from PPS 21.
- The site has appropriate road frontage to accommodate 2 dwellings of comparable plot size/width and respects the pattern of development along the road frontage.
- There is a line of 3 or more dwellings along the road frontage. Policy CTY 8 does not specifically state that adjacent dwellings within a settlement cannot count as contributing to the row of 3 or more buildings.
- There is road frontage development on either side of Station Road to the northeast of the site. Given their position and frontage it is considered that they signify the approach to the settlement. Development on the site will therefore not physically mar the distinction between the countryside and the settlement on this approach to Dunloy.
- The application does not contribute to ribbon development.
- The PAC upheld an appeal (2017/A0147) in a similar context on the western side of Dunloy which should be considered in relation to the determination of this application.

## Appendix 2 – Appeal 2020/A0162



# Appeal Decision

Park House  
87/91 Great Victoria Street  
BELFAST  
BT2 7AG  
T: 028 9024 4710  
E: [info@pacni.gov.uk](mailto:info@pacni.gov.uk)

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<b>Appeal Reference:</b>	2020/A0162.
<b>Appeal by:</b>	Mr John McGowan.
<b>Appeal against:</b>	The refusal of outline planning permission.
<b>Proposed Development:</b>	One-and-a-half storey dwelling (including detached garage) as part of an infill application.
<b>Location:</b>	Site between 293 & 293b Drumsum Road, Drumsum.
<b>Planning Authority:</b>	Causeway Coast & Glens Borough Council.
<b>Application Reference:</b>	LA01/2019/1197/O.
<b>Procedure:</b>	Hearing on 26 October 2021.
<b>Decision by:</b>	Commissioner Mark Watson, dated 26 August 2022.

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### Decision

1. The appeal is dismissed.

### Reasons

2. The main issues in this appeal are whether or not the proposed development would:
  - be acceptable in principle in the countryside;
  - result in ribbon development;
  - be visually prominent and adversely impact on the rural character of part of the countryside;
  - mar the distinction between the urban area and countryside;
  - be at risk from flooding; and
  - be likely to have a significant effect on a Special Area of Conservation.

#### *Policy context*

3. The Northern Area Plan 2016 (NAP) operates as the statutory local development plan (LDP) for the proposal. In it the site lies in the countryside outwith but adjacent to the settlement limit of Drumsum village. There are no policies or designations pertinent to the appeal development and the NAP is not material in this case.
4. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for Northern Ireland (SPPS) and those of Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS21). The same is the case in respect of Planning Policy Statement 2 – Natural Heritage (PPS2) and Planning Policy Statement 15 (Revised) – Planning and Flood Risk (PPS15). The policy provisions of PPS21, PPS2 and PPS15 remain applicable to the proposed development.

*The proposed development*

5. The appeal site comprises the western portion of an agricultural field situated along a laneway off Drumsum Road. The laneway serves three dwellings and several associated farm buildings, as well as affording access to a number of fields. Nos. 295 and 293b Drumsum Road lie on higher land to the north-east of the appeal site and are both two storey dwellings. There are a number of large agricultural buildings to the rear of No. 295. No. 293, a single storey dwelling and garage, lies at the end of the laneway and its curtilage is separated from the appeal site by an intervening small field. The appeal site itself is relatively flat in nature. It is covered in grass with some reeds in parts. A watercourse abuts the north-eastern boundary, with sporadic evergreen vegetation along part of that boundary. The lane-fronting and southern boundaries are both defined by post and wire fencing, whilst the eastern boundary is undefined. The laneway slopes up to the north-east where it ultimately joins to the Drumsum Road, adjacent to a Gaelic Athletic Association pitch.

*Principle of development*

6. Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8. It follows that if the development complies with CTY8 it will comply with Policy CTY1 of PPS21.
7. Policy CTY8 of PPS21 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Policy CTY8 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. The policy states that for its purposes, 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. Supplementary guidance on the assessment of infill sites is contained in Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside.
8. The Appellant considered that the appeal site was a policy compliant gap site, falling within an otherwise substantial and continuously built up frontage comprising Nos. 295, 293b and 293. The Council objected on the basis that No. 295 lay within the settlement limit, with No. 293b partially within in, whilst the appeal site and No. 293 both lay in the open countryside. The Appellant's representatives considered that the line of dwellings should still be counted as part of the existing substantial and continuously built up frontage, irrespective of their position relative to the settlement limit.
9. The preamble to PPS21 states that it sets out the policies for development in the countryside and that for the purposes of PPS21 the countryside is defined as land lying outside of settlement limits as defined in development plans. This distinction between land within and outwith settlement limits must be taken into account in the consideration of development proposals against the policies within PPS21. Whilst

Nos. 295 and 293b lie along the lane frontage, No. 295 is located within the settlement limit of Drumsum and No. 293b straddles the settlement limit. One dwelling occupies an urban context in policy terms, with the other partially doing so. Irrespective of any visual linkages those buildings may have with the appeal development and No. 293, they cannot be considered as part of an otherwise substantial and continuously and built up frontage in the countryside for the purposes of Policy CTY8. No. 293 does not have a frontage onto the laneway, but rather only has its access point onto it. Thus, there is not a line of three or more buildings along the lane frontage at this location. The Appellant referred me to paragraph 5.33 of PPS21, however, that provides information on what can constitute ribbon development, which is a different, albeit related matter, to whether or not a building has a frontage to a road or laneway.

10. Irrespective of whether or not a dwelling sited in accordance with that shown on the Appellant's Site Plan drawing would have a similar plot size to the nearby dwellings or that the existing pattern of development would be respected, the appeal site cannot qualify as a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage under Policy CTY8 of PPS21. The Appellant's analysis, including plot calculations and contextual elevations, would not persuade me otherwise.
11. As I have concluded above that the appeal site does not represent an exception under Policy CTY8, irrespective of the design and siting of the proposed buildings within the appeal site, there would be transient views and a sequential awareness along the laneway comprised of Nos. 295, 293b, the appeal development and No. 293. Despite Nos. 295 and 293b occupying an urban context for the most part, they would, along with the appeal dwelling and No. 293, nevertheless still read as ribbon development. These transient linked views of the existing buildings along with the appeal development would be evident from the Drumsum Road junction with Gortnagross Road travelling south-east towards the village. Longer distance views would also be available to the west along Gortnagross Road, but are less critical given the viewing distance involved, their angled nature and intervening vegetation at varying points. As the appeal development would create ribbon development and is not an exception under the policy, it is contrary to Policy CTY8 of PPS21 and the related provisions of the SPPS. The Council's second reason for refusal is sustained.

*Visual impact and the potential effects on rural character*

12. The Council also raised objections under Policies CTY13 and CTY14 of PPS21 in respect of visual prominence, lack of integration and change in rural character. Policy CTY13 of PPS21 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. Policy CTY14 of PPS21 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. Although the Appellant stated that the laneway is private it nevertheless serves three dwellings and irrespective of whether or not they are all within the wider family ownership, views on the laneway constitute public ones for the purposes of the policy in PPS21.
13. Two of the appeal site boundaries are defined by a post and wire fence. The northern boundary is defined by a watercourse and some sporadic vegetation along

parts of it, whilst the eastern boundary is undefined. Despite the flat nature of the site and the rising land to the north and north-east, the site would be heavily reliant on new planting for integration and any new dwelling on the site, irrespective of siting and design, would appear as a prominent feature in the landscape from short range critical views on the laneway approaching the site and from longer distance views on the Drumsurn Road. The mature trees further south of the site do not assist in terms of providing enclosure for the appeal development. Whilst the suggested one-and-a-half storey, 6.5m ridge height of the proposed dwelling would contextually fit in terms of design and character as a transitional feature between the existing dwellings at Nos. 295, 293b and 293, that would not overcome the issue of overall integration. Again, views from Gortnagross Road are less critical given the distance and angles of view, along with intervening vegetation at varying points. Nevertheless, for the reasons given above the appeal development would fail to satisfy Policy CTY13 of PPS21 read as a whole and the related provisions of the SPPS. The Appellant's supporting information, including that contained in the Design and Access Statement, would not persuade me otherwise. The third reason for refusal is sustained to the extent specified above.

14. I have already concluded that the appeal development would result in ribbon development along the laneway. The lack of enclosure arising from the composition of the existing site boundaries is such that the appeal development would, irrespective of siting or design of the dwelling in question, appear unduly prominent from views along the laneway and to a lesser extent the other views identified by the Council. Without prejudice to my conclusions on ribbon development above and for reasons expanded on pertaining to urban sprawl below, I do not agree that the appeal development would be sited to integrate with the group of buildings in the vicinity. The appeal development would result in a detrimental change in rural character, contrary to Policy CTY14 of PPS21 and the related provisions of the SPPS. The Council's fourth reason for refusal is sustained to the extent specified.

*Relationship to the settlement limit and urban sprawl*

15. Policy CTY15 of PPS21 states that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. The appeal site lies adjacent to but outside the development limit of Drumsurn. However, the appeal site is physically and visually distinct from the nearby buildings as a consequence of their position on higher land, together with the bank and watercourse along the site's north-eastern boundary, which separates the appeal site from the nearby buildings. The proposed development, sited on the southern section of the appeal site and designed as per the Appellant's supporting documentation, would reduce the overall gap between No. 293b and 293. However, there would still remain a sufficient physical and visual gap between the existing dwellings to the north and the appeal development as to avoid marring the distinction between Drumsurn and the surrounding countryside, or resulting in urban sprawl.
16. The Appellant referred to several groups of existing buildings in the locality to Drumsurn which he considered matched the disposition of the buildings at the laneway in question. I visited these during my site inspection. However, as I have found the appeal development would comply with Policy CTY15 of PPS21, I need not consider them further. For the reasons given above the appeal development meets Policy CTY15 of PPS21 and the related provisions of the SPPS. The Council's fifth reason for refusal is not sustained.

*Flooding / drainage and potential effects on nature conservation*

17. A mill race watercourse abuts the northern site boundary. The mill race is hydrologically linked to The River Roe and Tributaries Special Area of Conservation (SAC), as it enters the Castle River approximately 1.1 km downstream from the site. The Castle River supports nursery and spawning habitat for Atlantic Salmon, which is a key feature of the SAC. The SAC is afforded protection under the Conservation (Natural Habitats, etc.) Regulations (NI) 1995 (as amended) and the Environment (NI) Order 2002.
18. The appeal site also lies partly within the 1 in 100 year (q100) fluvial flood plain. The approximate northern half of the site lies within the q100 as broadly identified on the Strategic Flood Map. The P1 form which accompanied the planning application indicated that the appeal dwelling would be served by a septic tank and surface water disposed of via a soakaway. It is proposed to site the appeal dwelling outwith the identified q100 area, with the illustrative Site Plan showing a potential septic tank location.
19. The Council's concerns, based on the Shared Environment Service consultation response, related to the potential for contaminants entering the adjacent watercourse, which would then serve as a pollution pathway to the Castle River and adversely impacting on the salmon breeding habitat. The potential interactions between the appeal development, flood plain and watercourse are unknown. Such contaminants could arise from the initial construction phase of the dwelling and subsequent operation of the septic tank serving the new development. The Council considered that there was insufficient information pertaining to drainage on the site and its impact due to the adjacent watercourse and floodplain to be certain that the appeal development would not give rise to a significant effect on the SAC in question. No other existing or proposed projects were identified as being likely in combination with the appeal development to potentially have a significant effect on the SAC. Thus, from here on my consideration relates to the individual appeal development before me.
20. The Appellant pointed to the prohibitive costs of carrying out analysis on this matter, which would require modelling of both the mill race and Castle River. The Appellant considered that any flooding information could be submitted following the grant of planning permission and secured via planning condition. The interlinkage between the potential impacts on the SAC arising from interactions from the appeal development with the watercourse and floodplain are such that these issues are best considered together.
21. Policy NH1 of PPS2 states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects is not likely to have a significant effect on a European Site (Special Protection Area, proposed Special Protection Area, Special Areas of Conservation, candidate Special Areas of Conservation and Sites of Community Importance). The policy goes on to state that where a development is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the Department (or in the case of this appeal, the Commission) shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives. This policy requirement derives from Article 6(3) of the Habitats Directive which establishes the requirement that any plan or project likely

to have a significant effect on a SAC site shall be subject to an Appropriate Assessment (AA).

22. Policy FLD1 of PPS15 states that Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP of 1%) or the 1 in 200 year coastal flood plain (AEP of 0.5%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy. The Appellant proposes to site the dwelling and garage just outside the area broadly identified as lying within the q100 floodplain. Accordingly, the Council accepted that a Flood Risk Assessment (FRA) was not required, but nevertheless stated that a flooding study was still necessary in order to determine the extent of the floodplain in relation to the proposed dwelling. From the submitted evidence the appeal site is large enough to place a dwelling and garage outwith the q100 area as broadly indicated on the Strategic Flood Map, thus I am not persuaded that Policy FLD1 of PPS15 is engaged. The Council's sixth reason for refusal is not sustained.
23. Policy FLD3 of PPS15 states that a Drainage Assessment (DA) will also be required for any development proposal, except for minor development, where surface water run-off from the development may adversely impact upon other development or features of importance to nature conservation, archaeology or the built heritage. The appeal development is not minor development and a DA is required in this case.
24. Whilst it may be the case that the dwelling and garage can be sited outwith the q100 floodplain and notwithstanding the Appellant's testimony that the site has never flooded, I still consider that without further information on the precise extent of the floodplain in relation to the appeal site, the potential effects on and interrelationship between it and the appeal development cannot be determined. Whilst the appeal development may not require a FRA, the absence of information pertaining to flooding is a critical element in consideration of these matters for reasoning expanded on below.
25. The Appellant submitted a NI Biodiversity Checklist (NIBC) as part of the planning application process. The NIBC envisaged that no priority habitats would be adversely impacted by the appeal development. It also recommended best environmental practice during the construction phase to avoid any pollution entering the watercourse. The assessment within the NIBC was not disputed by the Council.
26. However, despite its conclusions, as well as the testimony of the Appellant's witnesses, I am not persuaded that the possibility of a significant effect on the integrity of the SAC in question can be ruled out, as I do not have information as to the hydraulic capacity of the mill race, nor the precise extent of the q100 floodplain in relation to the proposed dwelling and garage. The potential impacts arising from flooding taking place on any part of the wider appeal site (that area encompassed by the red line) and any possible interaction between any flooding, the appeal development when constructed and the mill race cannot be determined in the absence of such information. Whilst the development may not be speculative in nature, nor would it be in the Appellant's own interest to build within the floodplain and I have no reason to doubt that any construction would take place in a responsible and careful manner, that would not overcome the lack of information pertaining to the hydrological conditions at the site and potential interactions between the proposed dwelling, floodplain and SAC.

27. The stated prohibitive cost of undertaking the survey work and modelling is not justification for this lack of information at this stage. I do not agree that it could be provided following the grant of planning permission, as the principle of development would have already been granted prior to determining the potential effects of that permission on a key feature of the SAC. There remains reasonable scientific doubt as to the effects of the appeal development on the SAC. However, given the lack of flooding information I, as the competent authority, do not have sufficient information to determine whether or not the proposed development is likely to have significant effect and whether an AA is required in the first instance.
28. From the limited information submitted I cannot ascertain whether the appeal development would be likely or not to have a significant effect on the SAC in question. The development does not comply with Policy NH1 of PPS2, Policy FLD3 of PPS15, nor the related provisions of the SPPS for the reasons given above. The Council's seventh and eighth reasons for refusal are sustained.

*Conclusions*

29. As the appeal development does not meet Policy CTY8, it does not meet Policy CTY1 of PPS21, nor the related provisions of the SPPS. There are no overriding reasons why the development is essential and could not be located in a settlement. I am not persuaded that the particular location and characteristics of this site render it unique in any manner that would overcome the sustained objections to the proposed development. Nor would the fact that no further development could take place on the remainder of the site due to the q100 floodplain. The appeal development is not acceptable in principle in the countryside for the reasons given above. The Council's first reason for refusal is sustained.
30. The Appellant referred me to the judicial review judgement *Lamont v Department of the Environment* (2014). The *Lamont* judgment determined that in reaching planning decisions, although policy should be adhered to where possible, it also indicated that policy could and should be disapplied in circumstances where there is good reason to do, instead having regard to other material considerations. In this case I am not persuaded that there are any material considerations which outweigh the objections to the development or that would justify a departure from prevailing regional policy. Although two of the Council's reasons for refusal have not been sustained, the remaining ones are sustained to the extent specified above and are determining, the appeal must fail.

This decision is based on the following drawings submitted with the application:-

<b>DRAWING NUMBER</b>	<b>TITLE</b>	<b>SCALE</b>	<b>DATE</b>
01 Rev 01	Location Plan	1:2500	04 Aug 2020
02 Rev 01	Site Plan	1:1250	04 Aug 2020
03 Rev 01	Contextual Elevations	1:600	04 Aug 2020

**COMMISSIONER MARK WATSON**

### **List of Appearances**

Planning Authority:- Mr M McErlain (CC & G BC)

Appellant:- Mrs T Lamb (LAM Architects & Interiors)  
Mr S McCloskey (Architect)

### **List of Documents**

Planning Authority:- 'A' Statement of Case & Appendices (CC&G BC)

Appellant:- 'B' Statement of Case & Appendices (LAM Architects & Interiors)

## Appendix 3 – Appeal 2024/A0097



# Appeal Decision

Planning Appeals Commission  
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<b>Appeal Reference:</b>	2024/A0097
<b>Appeal by:</b>	Mr Coyles Wright
<b>Appeal against:</b>	The refusal of outline planning permission.
<b>Proposed Development:</b>	Proposed Infill Dwelling and Garage.
<b>Location:</b>	Approximately 65m South of No. 3a Heagles Road, Ballybogey.
<b>Planning Authority:</b>	Causeway Coast and Glens Borough Council.
<b>Application Reference:</b>	LA01/2022/1582/O
<b>Procedure:</b>	Written representations and Commissioner's site visit on 25 <sup>th</sup> March 2025.
<b>Decision by:</b>	Commissioner Jacqueline McParland, dated 3 <sup>rd</sup> April 2025.

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### 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;
  - add to ribbon development;
  - integrate into the rural landscape; and
  - mar the distinction between the settlement limit and the countryside.
3. Section 45(1) of the Planning Act (Northern Ireland) 2011 requires the Commission when dealing with an appeal to have regard to the Local Development Plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that where regard is to be had to the LDP, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
4. The Northern Area Plan 2016 (NAP) operates as the LDP for the area wherein the appeal site is located. In the NAP, the appeal site is in the countryside. The LDP refers to the final Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) as material to decisions relating to single houses in the countryside. Accordingly, PPS21 will take precedence in the consideration of this appeal. There are no other policies material in the NAP.
5. Transitional arrangements are set out in the Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development' (SPPS). Those arrangements are in operation until a Plan Strategy (PS) for each of the Council

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areas is adopted. As there is no adopted PS for this area, the SPPS retains certain Planning Policy Statements (PPSs) including PPS21. There is no conflict or change in policy direction between the provisions of the SPPS and PPS21 insofar as they relate to the issues that arise in this appeal. In accordance with the transitional arrangements, the retained policies provide the policy context for assessing the proposal.

6. Policy CTY1 of PPS21 is entitled 'Development in the Countryside'. It 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. The development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with Policy CTY8 'Ribbon Development' is one of those types of development. The appeal is made under this policy and underpins my consideration of the proposal as set out below.
7. Policy CTY8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. Notwithstanding the presumption against ribbon development, the policy permits under the exception test, 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. The policy defines a substantial and built-up frontage as including a line of three or more buildings along a road frontage without accompanying development to the rear.
8. The appeal site is rectangular in shape and comprises the southern half of a larger agricultural field. The appeal site's eastern boundary is demarcated by 8-metre-tall tree line which runs the length of the host field's boundary with Heagles Road. This boundary is set back behind a 2-metre grass verge from the roadside. Its northern boundary is undefined to the remainder of the field. Its southern boundary is defined by a 4-metre hedgerow whilst its southwestern boundary also comprises of a 7-8 metre tree line.
9. No. 5 Heagles Road is located adjacent to and directly south of the appeal site. This is a detached dwelling and a detached garage set in a large garden with access taken from Heagles Road. Directly adjacent to the appeal site and to the north is the remainder of the agricultural field. Adjacent to this lies a lane defined by 2 metre hedgerows which provides access to No. 3B Heagles Road and the agricultural sheds to the northwest of the appeal site. No. 3A Heagles Road, a detached dwelling lies directly north of the lane. A further lane serving No. 3D Heagles Road lies directly adjacent and north of No. 3A. North of that lane are two sheds and No. 3 Heagles Road. The village of Ballybogey is located around 110 metres to the north of the appeal site.
10. There is disagreement between parties as to whether the appeal site constitutes a gap site in a continuously and substantially built-up frontage. The preamble to PPS21 states that it sets out the policies for development in the countryside and that for the purposes of PPS21 the countryside is defined as land lying outside of settlement limits as defined in development plans. This distinction is an important consideration of PPS 21 in development proposals and is material to this appeal consideration. The development limit of Ballybogey has a narrow dog leg to its

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south which runs along Heagles Road. This area of the settlement limit comprises the front garden area on No. 3 and the two sheds to the south of it, which are set in their own curtilage. Whilst the dwelling at No. 3 is located within the rural area, its frontage and the entire curtilage of the two sheds located to its south are within the settlement limit. Consequently, in accordance with the preamble of PPS21 the buildings on these plots cannot be considered as part of the substantial and continuously built up frontage for the purposes of the policy.

11. The garage at No. 5 is set back and partially sited behind the rear elevation wall of the dwelling. As such, I do not consider it to comprise a building with frontage along the roadside. The remainder of the buildings are sited back from Heagles Road and have no frontage to it. Accordingly, as only the two buildings of Nos. 5 and 3A have frontage onto Heagles Road the appeal site does not represent a small gap within a substantial and continuously built up frontage.
12. Notwithstanding this, even if the garage was considered a qualifying building and the appeal site did comprise a gap site between three buildings with frontage onto Heagles Road, the gap between No. 5 and No. 3A measures around 140 metres. The average frontage of both Nos 5 & 3A is around 37 metres. Accordingly, the gap between No. 5 and No. 3A could accommodate more than two dwellings and would not constitute a small gap. Nevertheless, for the reasons given above, the appeal proposal does not meet the exception test within Policy CTY8.
13. The Council consider that the appeal development would result in the addition of ribbon development along Heagles Road when read with the development at Nos. 3A and 5 Heagles Road and the agricultural sheds. PPS21 does not provide a comprehensive definition of ribbon development, however paragraph 5.33 of Policy CTY8 indicates that it 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. When travelling along the Heagles Road in both directions, the proposed dwelling would also be read together with the dwellings and accesses at Nos.5 & 3A and the agricultural shed to the northwest of the appeal site. Accordingly, it would result in the addition of ribbon development along Heagles Road. The proposal would fail to comply with Policy CTY8 of PPS21. The Council has sustained its second reason for refusal.
14. Policy CTY13 'Integration of buildings in the Countryside' 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 list seven criteria in which a new building will be unacceptable. The Council argue that the appeal development fails to meet two of those criteria, namely (a) and (c). Criterion (a) states that a new building will be unacceptable where is a prominent feature on the landscape. The appeal site falls away from the level of the road and would have a backdrop of trees around 7-8 metres high to its rear. A 4-metre hedge to the south of the appeal site would also provide a means of enclosure. Both of these boundaries can be retained by condition in the event of an approval. Accordingly, sufficient backdrop is available, and the proposal would not be unduly prominent in the landscape.

15. Criterion (c) of Policy CTY13 states that a new building will be unacceptable where it relies primarily on the use of new landscaping for integration. The Council consider that the roadside tree line would have to be removed to allow for satisfactory access to be implemented. The Department of Infrastructure (DfI) Roads in its consultation response dated 31<sup>st</sup> January 2022 have indicated that splays of 2.4 metres by 60 metres would be required to provide a safe access. In the notes section it further adds 'cut back hedges, brambles/ prune trees'. The Council have not explicitly stated how much of the roadside boundary would have to be removed to achieve the required splays. The trees along the roadside boundary are sited around 2 metres back from the roadside. Given DfI roads comments and my on-site observations, I agree with the appellant that as the roadside verge is wide, this would result in the removal of only around 10 trees to accommodate the required access and splays. This would result in the remaining trees remaining to provide sufficient integration which could be retained by condition in the event of an approval. The remaining trees north of the site would also be in place. Any further applications for a dwelling on this part of the field are speculative and I must consider the site and proposal before me as it is at present. The existing 4 metres hedgerow to the south and the 7-8 metre trees to the west together with the remaining trees along the roadside would also provide sufficient existing integration to the appeal proposal. It would not be dependent on new landscaping for integration. Consequently, given the lower topography of the site and the existing mature vegetation surrounding three boundaries of the site, I consider that the proposal would comply with criteria (a) and (c) of Policy CTY13 of PPS21. The Council has not sustained its third reason for refusal.
16. The Council also consider that the proposed development is contrary to Policy CTY14 'Rural Character' of PPS21. Policy CTY14 of PPS21 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. I have already found that the proposal would add to a ribbon of development, thus the appeal development does not meet criterion (d) of Policy CTY14. Furthermore, criterion (a) of Policy CTY14 also states that a new building will be unacceptable where it is unduly prominent in the landscape. I have also previously concluded that subject to appropriate conditions being attached in the event of an approval, the proposal would not appear unduly prominent in the landscape. Accordingly, the Council has sustained its fourth refusal reason only insofar as it relates to criterion (d) of Policy CTY14.
17. Policy CTY15 'Setting of Settlements' of PPS21 states that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. The appeal site is located around 110 metres away from the settlement limit of Ballybogey. Closer to and immediately adjacent to the settlement limit are buildings at Nos. 3, 3D, 3A and 3B Heagles Road which are all located in the rural area. These buildings, given their proximity and visual appreciation with the development contained within the settlement limit all mar the distinction of the settlement limit and the rural area already. When viewed from Heagles Road, no clear distinction exists between the development on land inside the settlement limit and the development in the rural area surrounding it. Notwithstanding this, given the existing mature vegetation surrounding the larger agricultural field in which the appeal site is located and its location around 110 metres south of the settlement limit, I do not consider that the appeal proposal, in itself, would mar the distinction

of the settlement limit of Ballybogey as designated within the LDP. Accordingly, the proposal complies with Policy CTY15. The Council has not sustained its fifth reason for refusal.

18. I have concluded that the proposal does not represent one of the types of development that are considered to be acceptable in principle in the countryside, and no overriding reasons were presented to demonstrate how the appeal development is essential and could not be located in a settlement. It is, therefore, also contrary to Policy CTY1 of PPS21. The Council's first reason for refusal is sustained.
19. For the reasons given above, the Council's first, second and fourth reasons for refusal have been sustained as far as stated and are determining. The appeal must fail.

This decision is based on the following drawing:-

Drawing No. PD001, Site Location Plan, Scale 1:2500, dated by the agent 27.10.2022.

**COMMISSIONER JACQUELINE MCPARLAND**

**List of Documents**

Planning Authority:-

"A1" Statement of Case

"A2" Rebuttal

Appellant:-

"B1" Statement of Case (2020 Architects)

"B2" Rebuttal (2020 Architects)

## Appendix 4 – Appeal 2017/A0147



# Appeal Decision

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<b>Appeal Reference:</b>	2017/A0147
<b>Appeal by:</b>	Mr Damian McMullan
<b>Appeal against:</b>	The refusal of outline planning permission.
<b>Proposed Development:</b>	Two No. semi detached dwellings.
<b>Location:</b>	Lands adjacent to 142 Tullaghans Road, Dunloy.
<b>Planning Authority:</b>	Causeway Coast & Glens Borough Council.
<b>Application Reference:</b>	LA01/2016/1445/O
<b>Procedure:</b>	Hearing on 16 <sup>th</sup> January 2018.
<b>Decision by:</b>	Commissioner Damien Hannon, dated 9 <sup>th</sup> May 2018.

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### Decision

1. The appeal is allowed and outline planning permission is granted subject to the conditions set out below.

### Reasons

2. The main issues in this appeal are whether the proposal is acceptable in principle in the countryside and its impact on rural character.
3. Article 45 of the Planning Act (NI) 2011 requires the Commission, in dealing with an appeal, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. The Northern Area Plan 2016 (NAP) was adopted in September 2015 and operates as the relevant statutory LDP. Designation DL 01 of the NAP specifies a settlement limit for Dunloy and while the appeal site borders the Dunloy settlement limit, it is designated as located in the countryside. The NAP however, contains no provisions specific to this proposal for a pair of semi detached dwellings in the countryside.
4. Furthermore, there is no conflict between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this appeal. Consequently, the policy context is provided by Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21).
5. The appellant argued that the proposal would fall within one of the range of types of development, set out in Policy CTY 1 of PPS 21 as acceptable in principle in the countryside, namely the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.
6. Policies CTY 8 and CTY 14 state that planning permission will be refused for a building which creates or adds to a ribbon of development. The appeal site is a

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rectangular field measuring some 65m deep with a 28m frontage onto Tullaghans Road. An existing sheep shed lies to the rear of the appeal site abutting its northern boundary. The site is bounded to the west by Nos 140 and 142, a pair of semi-detached properties fronting Tullaghans Road. The proposed pair of dwellings would, in conjunction with this pair, create a ribbon of development fronting Tullaghans Road. Policy CTY 8 also states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 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 environmental requirements.

7. The appellant did not state that the existing sheep shed had a frontage onto the road but argued the appeal plot to be a gap site within an otherwise substantial and continuously built up frontage comprising Nos 140 and 142 Tullaghans Road and a terrace of dwellings at 22 -34 Carness Drive. This terrace, to the east of the appeal site, forms part of a housing estate within the development limit of Dunloy. Notwithstanding that this terrace is located outwith the countryside, the dwellings do not have a frontage onto Tullaghans Road as their defined rear curtilage boundaries are separated from the road by a communal green area. Consequently, the appeal site is not part of an otherwise continuously built up frontage for the purposes of Policy CTY 8 and the proposal does not constitute a gap site, set out in Policy CTY 8 as acceptable in the countryside.
8. Paragraph 5.32 of the justification and amplification of Policy CTY 8 states that ribbon development is detrimental to the character, appearance and amenity of the countryside. It creates and reinforces a built-up appearance to roads, footpaths and private laneways and can sterilise back-land, often hampering the planned expansion of settlements. It can also make access to farmland difficult and cause road safety problems. Ribbon development has consistently been opposed and will continue to be unacceptable. Policy CTY 14 adds 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
9. In this case the proposal would not sterilise backland as access from Tullaghans Road, to the farmland to the north would be retained via a laneway running along the eastern boundary of the appeal site. Nonetheless, the appeal site lies within the countryside and the proposal, because of its bulk, massing and siting close to the road would create ribboning and appear as an addition to suburban style development, reinforcing the built up appearance of the road. The proposal would, in conjunction with Nos 140 and 142, create a ribbon of development fronting the road and would run contrary to Policies CTY 8 and CTY 14. I consequently conclude the Council's objection on rural character grounds to be well founded.
10. Policy CTY 1 goes on to state that other types of development in the countryside will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. No such case was advanced and I conclude that the proposal does not meet any of the exceptions in Policy CTY 21. The Council's objection in principle based on Policy CTY 1 is upheld.

11. It is stated in paragraph 5 of PPS 21 that the provisions of its policies will prevail unless there are other overriding policy or material considerations that outweigh them and justify a contrary decision. The appellant stated that a pattern of inconsistency in decision making has been established in respect of similar cases and that the proposal constituted beneficial 'rounding off'. He argued these to constitute two material considerations which, either individually or in combination, were sufficient to outweigh any sustained objection on policy grounds.
12. The appellant referred to a number of approvals in respect of proposals that he regarded as comparable with the appeal scheme and argued that this established a pattern of policy interpretation that should, in the interests of consistency, be applied in this case. However, some of the approvals referred to were granted by a different planning authority namely the former Department of the Environment (DOE) and not the Council. Furthermore, having considered the circumstances pertaining to each, I conclude that none of these proposals are on all fours with the appeal proposal. In these circumstances I do not consider that a pattern of inconsistency in decision making, which should be weighed in favour of the proposal, has been established.
13. The appellant made the point that while designated in the countryside in the NAP, the appeal site was within the settlement limit of the preceding North East Area Plan 2002. However, it would not be appropriate for me to revisit the provisions of a statutory and recently adopted plan through this appeal. The appeal site lies within the countryside and I have concluded that the proposal would run contrary to policies CTY 1, CTY 8 CTY 14 of PPS 21.
14. The appeal site is an open rectangular field with a shed and trimmed hedge boundaries. In its setting, it does not appear as unambiguously agricultural or rural in character. Rather, it presents as a side garden area to adjoining property or as a remnant site just as much as it would an agricultural field within the countryside. It is proposed to site the proposed pair in line with the existing pair of semi detached properties. This arrangement, which could be secured by condition, would respect the existing development pattern along the frontage. Furthermore, on approach along the road in either direction, the proposed development, because of its design, the composition of the appeal site and its juxtaposition with adjacent development, would read as an integral, albeit extended part of the urban fabric of Dunloy. In these circumstances, while the proposal would offend policy, if constructed no detriment to rural character would be visually apparent.
15. Also, given existing vegetation and boundary treatment, the retention and augmentation of which can be secured through condition, the proposal marks an opportunity to deliver an environmental enhancement through provision of a clearer, coherent, logical and unambiguous edge to the settlement limit. The fact that the proposal would deliver a better environmental outcome without visual detriment to rural character leads me to conclude there to be overriding material considerations that outweigh any academic conflict with policy and justifies a contrary decision. Required visibility splays should be provided in the interests of road safety. In these circumstances the appeal succeeds and outline planning permission is granted.

## **Conditions.**

1. Except as expressly provided for by Conditions 2 and 3 the following reserved matters shall be as approved by the Council – the siting, design and external appearance of the dwellings. Any application for approval of reserved matters shall incorporate plans and sections indicating existing and proposed ground levels and proposed finished floor levels, all in relation to a known datum point. The drawings shall also indicate the location, height and materials of any proposed retaining walls.
2. The dwellings shall be sited in general accordance with the 1:500 scale Block Plan received by the Council on 14<sup>th</sup> February 2017 and numbered 02A by them.
3. Visibility splays of 2.4m x 80m shall be laid in both directions along Tullaghans Road in accordance with 1:500 scale Block Plan received by the Council on 14<sup>th</sup> February 2017 and numbered 02A by them prior to occupation of any dwelling hereby approved and shall be thereafter permanently retained.
4. No development shall take place until there has been submitted to and approved by the planning authority a landscaping scheme showing trees and hedgerows to be retained and the location, numbers, species and sizes of trees and shrubs to be planted within the site. The scheme should incorporate retention of existing hedging along the site's eastern and western boundaries and the planting of native species hedge behind required visibility splays. The scheme of planting as finally approved shall be carried out during the first planting season after any of the dwellings are occupied. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the council gives written consent to any variation.
5. The development shall be begun before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
6. Application for approval of the reserved matters shall be made to the council before the expiration of three years from the date of this decision.

This decision is based on the following drawings:-

1:1250 scale Site Location Map received by Causeway Coast and Glens District council on 27<sup>th</sup> October 2017 and numbered 01A by them.

1:500 scale Block Plan received by Causeway Coast and Glens District council on 27<sup>th</sup> October 2017 and numbered 02A by them.

**COMMISSIONER DAMIEN HANNON**