



Planning Committee Report LA01/2018/1415/O	22 January 2019
PLANNING COMMITTEE	

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

<u>No:</u> LA01/2018/1415/O	<u>Ward:</u> Greysteel
<u>App Type:</u> Outline Planning	
<u>Address:</u> Site adjacent No 26 Brisland Road, Greysteel	
<u>Proposal:</u> Site for dwelling within existing cluster of development under policy CTY 2a of PPS 21	
<u>Con Area:</u> N/A	<u>Valid Date:</u> 13.11.2018
<u>Listed Building Grade:</u> N/A	
Agent: LKP, 2 Templetown Park, Maydown, Londonderry	
Applicant: Mr King, 24 Brisland Road, Greysteel	
Objections: 0	Petitions of Objection: 0
Support: 0	Petitions of Support: 0

Executive Summary

- The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations.
- The proposal fails to meet with the principle for a dwelling in a cluster in the Countryside. In addition it would add to a ribbon of development, fail to integrate and would erode rural character.
- The proposal is contrary to Policies CTY1, CTY 2a, CTY 8, CTY 13 and CTY 14 of PPS 21 and paragraphs 6.70 and 6.73 of the SPPS.

Drawings and additional information are available to view on the Planning Portal- www.planningni.gov.uk

1 Recommendation

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

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is a rectangular plot of land measuring 0.22 hectares in a rural area. The topography of the site is sloped down from Brisland Road northwards to Clooney Road. The site is vacant land that has had some infilling take place to raise levels closer to the height of Brisland Road. There is mature vegetation throughout the northern and eastern portions of the site. The northern boundary is defined by a 1 metre high post and wire fence with mature hedging also along the boundary 2-3 metres in height. The southern boundary adjacent Brisland Road is defined by a 1 metre high post and wire fence. The western boundary is defined by a 2 metre high timber panelled fence. The eastern boundary is defined by overgrown vegetation. The site has no existing road access.
- 2.2 There are no watercourses in the vicinity of the site. The local area is characterised by agricultural farm land, some residential properties on the Brisland Road and St Mary's Church is 300 metres to the east of the site. The Church Hall is also 100 metres to the east. The site is bounded on one side with a residential property to the west. Clooney Road is directly to the North, Brisland Road to the south and agricultural land to the east.
- 2.3 The site is located outside any settlement limit in the Countryside as shown in the Northern Area Plan 2016.

3 RELEVANT HISTORY

B/1989/0308 – Brisland Road, Longfield Beg, Eglinton – Site for dwelling – Permission Refused – 11.12.1989

4 THE APPLICATION

This application seeks permission for “Site for dwelling within existing cluster of development under CTY2a of PPS 21”.

5 PUBLICITY & CONSULTATIONS

5.1 External

All neighbours identified for notification within the terms of the legislation where notified on 5th December 2018. The application was advertised on 28th November 2018.

Internal

5.2 Environmental Health: No objection to the proposal.

Northern Ireland Water: No objection to the proposal, but have clarified that no mains is available for sewage disposal.

DFI Roads: No objection to the proposal.

HSENI – No objection to the proposal as the gas pipeline is 210 metres away from the site.

DAERA – Natural Environment Division: No objection to the proposal.

DAERA – Drainage and Water: No objection to the proposal.

6 MATERIAL CONSIDERATIONS

6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local development plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development

plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

6.2 The development plan is:

- Northern Area Plan 2016

6.3 The Regional Development Strategy (RDS) is a material consideration.

6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.

6.5 Due weight should be given to the relevant policies in the development plan.

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

7 RELEVANT POLICIES & GUIDANCE

Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS) 2015

Planning Policy Statement 2 (PPS 2) Natural Heritage

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

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

8 CONSIDERATIONS & ASSESSMENT

The main consideration in the determination of this application relate to the principle of development, Integration, Rural Character, Sewerage disposal, Access, Movement and Parking Natural Heritage, Appeal Precedent and Habitat Regulation Assessment.

Planning Policy

- 8.1 The principle of the development proposed must be considered having regard to the Northern Area Plan and PPS policy documents specified above and the supplementary guidance.
- 8.2 The site falls outside any settlement limits and is in the rural countryside as defined by the NAP 2016.

Principle of Development

- 8.3 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.
- 8.4 The application was submitted for a new dwelling in an existing cluster, this is considered below under policy CTY 2a.
- 8.5 Policy CTY 2a - New dwellings in existing clusters states planning permission will be granted for a dwelling at an existing cluster of development providing 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.
 - Development would not adversely impact on residential amenity

- 8.6 The site lies outside a farm. There are a group of more than 4 dwellings located in close proximity to the site. There is a dwelling bounding the site to the west. On the opposite side of Brisland Road to the south is a row of detached dwellings with a Hall 100 m to the east and the Church 290 m to the east and the graveyard is adjacent the Church. The cluster of development at this location would meet the first criteria of CTY 2a.
- 8.7 There is a grouping of buildings that appear as a visual entity when viewed from Clooney Road and Brisland Road. The grouping is linear being approximately 580 metres in length and is from the Church to No 18 Brisland Road. The proposal meets criteria 2.
- 8.8 There are three focal points highlighted on the planning application, namely St Mary's RC Church, Church Hall & graveyard. The Church Hall is 100 metres south of the site, St Mary's Church is 290 metres to the east and the graveyard is 190 metres to the east. There is no cross roads in the vicinity of the site. The proposal meets criteria 3 of CTY 2a.
- 8.9 The site is bounded on one side to the west with a detached dwelling No 26 Brisland Road. To the south of the site is Brisland Road which creates a physical and visual separation between the site and No 33 Brisland Road on the opposite side of the road. The site therefore is not bounded by development to the south. The Clooney Road and open countryside is to the north. The site is not bounded by development to the north. To the east is an agricultural field with no development in it. The site is not bounded by development to the east. A suitable degree of enclosure has not been achieved. The proposal does not meet criteria 4 of CTY 2a.
- 8.10 The site is not considered to be rounding off and consolidation with an existing cluster because the site is only bounded on one side with existing development and the proposed development would extend the built development further along the road adding to the ribbon of development which would erode rural character and intrude visually into the open countryside. PAC decision 2018/A0088 strengthens the Council case as it is an example of development that is only bounded on one boundary by development in the cluster but the remaining three boundaries are with open countryside. Accordingly, development of the site would

not be absorbed into the existing cluster but would visually extend into the open countryside and alter its character. The proposal does not meet criteria 5.

- 8.11 As the site is outline, a condition could be attached to any decision limiting first floor windows on the first floor gable of the western elevation to be obscure glazing and a modest ridge height restriction should mean that are no overlooking or loss of amenity issues. The proposal could be conditioned so that it meets criteria 6.
- 8.12 The proposal is contrary to Policy CTY 2a because it is only bounded on one side so does not have a suitable degree of enclosure, it can not be easily absorbed into the existing cluster and will intrude into open Countryside.
- 8.13 The SPPS paragraph 6.73 and CTY 8 of PPS 21 applies and states planning permission will be refused for a building which creates or adds to a ribbon of development. The proposed site is located adjacent a row of 4 detached dwellings which share a common frontage onto Brisland Road. The proposal would add to ribbon development and the build up of development along Brisland Road and adversely impact on the visual amenity of the area. The proposal is also contrary to CTY 1 as there are no overriding reasons why this development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan.

Integration

- 8.14 Policy CTY 1 of PPS 21 and paragraph 6.70 of the SPPS state that all proposals must be sited and designed to integrate into its setting, respect rural character, and be appropriately designed.
- 8.15 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. The site is adjacent Brisland Road and has only a post and wire fence along the roadside. The site has been infilled by material and if the overgrown vegetation was removed to facilitate development the proposed site would be open from critical views along Brisland Road for the duration of the site frontage and from the east of the

site. In addition the site is elevated above the adjacent Clooney Road to the north and if vegetation is removed from along the north and east boundaries the site would be prominent and fail to integrate when viewed critical views from Clooney Road adjacent the site. Views of the site from the west are limited on both Clooney Road and Brisland Road due to screening from the adjacent existing dwellings. The site fails to possess a suitable degree of enclosure to ensure the site adequately integrates. A new dwelling would be a prominent feature within the landscape when viewed from the east. The overall development would not visually integrate and would be a prominent feature in the landscape. The proposal fails to comply with Policy CTY 13.

Rural Character

- 8.16 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; 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;
 - (d) it creates or adds to a ribbon of development; or
 - (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.
- 8.17 The proposal is unduly prominent in the landscape as demonstrated above under section CTY 13 consideration. The proposal is contrary to criteria 'a'.
- 8.18 The proposal when viewed with existing buildings cumulatively will result in a build up of development detrimental to the rural character of this area. The proposal is contrary to criteria 'b'.
- 8.19 The proposal adds to a ribbon of development due to its siting alongside the row of 4 dwellings which share a common frontage to Brisland Road. The proposal is contrary to criteria 'd'.

- 8.20 A new access is proposed however as the site is roadside with no existing hedging the impact of ancillary works will not damage rural character. The proposal complies with criteria 'e'.
- 8.21 The proposal fails to comply with criteria 'a' 'b' and 'd' of Policy CTY 14 and paragraph 6.70 of the SPPS in that it will be prominent add to ribbon development and result in a build up of development which would erode rural character.

Sewerage disposal

- 8.22 Policy CTY 16 of PPS 21 – Development Relying on non-mains sewerage, applies and states 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. Applicants will be required to submit sufficient information on the means of sewerage to allow a proper assessment of such proposals to be made.
- In those areas identified as having a pollution risk development relying on non-mains sewerage will only be permitted in exceptional circumstances. The applicant proposes to discharge to mains however NI Water have indicated this is not available, so the applicant will be required to use a different method such as a septic tank. Environmental Health and DAERA Drainage and Water have been consulted and are content subject to standard conditions and informatives therefore the proposal complies with this policy.

Access, Movement and Parking

- 8.23 Policy AMP 2 of PPS 3 Access, Movement and Parking applies and 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.

8.24 DFI Roads have been consulted and on 11th December 2018 they confirmed they had no objection to the proposal. DFI Roads have indicated that 2m by 60m is the required visibility splays and the applicant has demonstrated on the plans that this is achievable. The Brisland Road is not a protected route. As DFI Roads are content the proposal complies with Policy AMP 2 of PPS 3 – Access, Movement and Parking.

Natural Heritage

8.25 Paragraph 6.169 of the SPPS and Policy NH 5 - Habitats, Species or Features of Natural Heritage Importance states planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to known:

- priority habitats;
- priority species;
- active peatland;
- ancient and long-established woodland;
- features of earth science conservation importance;
- features of the landscape which are of major importance for wild flora and fauna;
- rare or threatened native species;
- wetlands (includes river corridors); or
- other natural heritage features worthy of protection.

8.26 A development proposal which is likely to result in an unacceptable adverse impact on, or damage to, habitats, species or features may only be permitted where the benefits of the proposed development outweigh the value of the habitat, species or feature. In such cases, appropriate mitigation and/or compensatory measures will be required.

8.27 The applicant has submitted a biodiversity checklist which was requested by Natural Environment Division. The biodiversity checklist has been reviewed and no potential impacts have been identified. NED have been consulted about the document and have referred Planning to standard advice. The document has not identified any impacts and during the site inspection nothing was observed that would contradict this conclusion. On this basis the proposal complies with NH5 of PPS2 as it has been demonstrated

that the development would not be harmful to potential habitats, species or other natural heritage features worthy of protection.

Appeal Precedents provided by applicant

- 8.28 A copy of appeal decision 2019/A0018 has been submitted by the agent on 3rd May 2019 in an attempt to justify how it meets policy CTY 2a. Paragraphs 7-8 provides clear justification for refusal of the planning decision. The commissioner determined that the physical gap of existing vegetation and a laneway was such that the appeal site was not bounded by development on that side. This appeal precedent strengthens the Council's case because the site on Brisland Road that is subject to this application is also bounded on one side as the Brisland Road creates a physical and visual gap from the dwellings located on the opposite side of the road.
- 8.29 Appeal decision 2018/A0235 has been quoted as a precedent under policy CTY 2a. One of the issues dealt with in the appeal is whether the site is bounded on at least 2 sides with other development within the cluster. The access way serving No. 41 Tirkeeran Road and the commercial yard, which bound the appeal site to the east is considered development in the cluster and is visually linked with the appeal site. The decision by the PAC confirm the appeal site is bounded on 2 sides with development. Appeal decision 2018/A0235 is different to the site at Brisland Road in that the Brisland Road creates a physical and visual gap with the development on the opposite side of the road, meaning the site at Brisland Road is only bounded on one side with development.
- 8.30 Both PAC examples have been considered. They do not set a precedent. As the proposed development is only bounded on one side it does not have a suitable degree of enclosure, it can not be easily absorbed into the existing cluster. Planning officials would also advise that if the application site was approved it could set a wide ranging precedent for similar development along this stretch of Brisland Road that would be contrary to policy.

Habitats Regulations Assessment

- 8.31 Habitat Regulations Assessment Screening Checklist - Conservation (natural Habitats, etc) (Amendment) Regulations (Northern Ireland) 2015:

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.

Representations

- 8.32 There has been no representations made on the file.

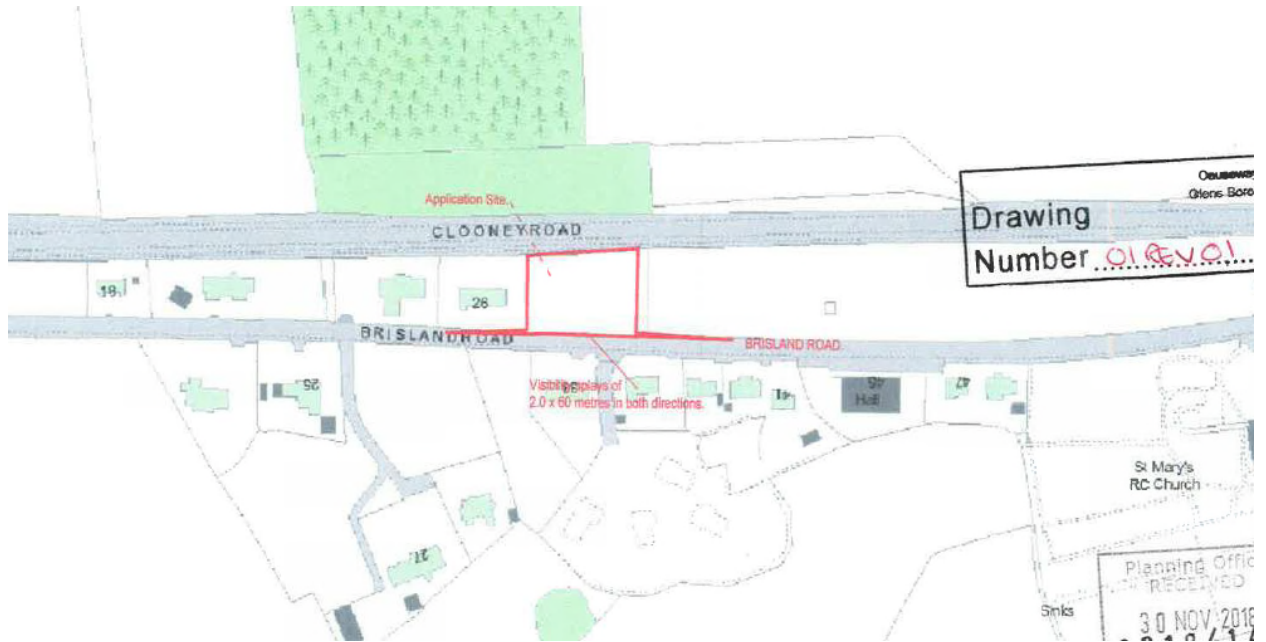
9 CONCLUSION

- 9.1 The proposal is considered unacceptable at this location having regard to the Northern Area Plan and other material considerations, including the SPPS and Planning Policy Statements 2, 3, and 21. The proposal fails to meet with the principle for a dwelling in a cluster in the Countryside. In addition it would add to a ribbon of development, fail to integrate and would erode rural character. Consultee responses have been considered. As the proposal has not complied with various planning policies it is unacceptable, and refusal is recommended.

10 REASONS FOR REFUSAL

1. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policies CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement and Policy CTY 8, of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal would, if permitted, result in a building which adds to a ribbon of development and the build up of development along Brisland Road and adversely impact on the visual amenity of the area.
3. The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement and Policy CTY 2a, of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal does not have a suitable degree of enclosure and as a result it can not be absorbed into the existing cluster through rounding off and consolidation and it will visually intrude into the open countryside.
4. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed is a prominent feature in the landscape, the site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and it relies primarily on the use of new landscaping for integration and therefore would not visually integrate into the surrounding landscape.
5. The proposal is contrary to paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape, add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Site Location



Erratum

LA01/2018/1415/O

Paragraph 10 Refusal Reason 3 states;

The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement and Policy CTY 2a, of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposal does not have a suitable degree of enclosure and as a result it can not be absorbed into the existing cluster through rounding off and consolidation and it will visually intrude into the open countryside.

Paragraph 10, Refusal Reason 3 has been amended to read;

The proposal is contrary to paragraph 6.73 of the Strategic Planning Policy Statement and Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure and as a result it can not be absorbed into the existing cluster through rounding off and consolidation and the dwelling would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.

Addendum

LA01/2018/1415/O

Update

The application came before committee in December but was deferred by Committee for site visit. The applicant has stated within a cover letter submitted with the application that CTY 7 of PPS 21 is a material consideration and that the proposal meets the policy criteria for CTY 7. This however has never been substantiated during the processing of the application.

Paragraph 6.73 of the SPPS and Policy CTY 7 – Dwellings For Non-Agricultural Business Enterprises states planning permission will be granted for a dwelling house in connection with an established non-agricultural business enterprise where a site specific need can be clearly demonstrated that makes it essential for one of the firm's employees to live at the site of their work. Where such a need is accepted the dwelling house will need to be located beside, or within, the boundaries of the business enterprise and integrate with the buildings on the site. The site is located on vacant land which is not within the curtilage of a non agricultural business. No evidence has been forthcoming in relation to the location or details of the non agricultural business enterprise. Therefore it has not been established that the site is connected with an established non-agricultural business enterprise and that there is a site specific need which makes it essential for one of the firms employees to live at the site of their work.

Planning application LA01/2016/0526/F is quoted in the supporting statement as being a direct comparison. LA01/2016/0526/F was bounded by development to the west and south so was bounded on 2 sides by development. LA01/2016/0526/F was absorbed into the existing cluster through rounding off and did not significantly alter the existing character, or visually intrude into the open countryside. The application LA01/2016/0526/F is not comparable to the current application under consideration.

The example 2017/A0095 is a withdrawn appeal in Banbridge which is a different council area and the proposal is for industrial development. This appeal decision is not relevant. The planning applications LA11/2016/0217/O, LA11/2016/1006/O, LA11/2015/0584/O and A/2014/0421/O have been decided by a different council area so are not comparable and as no details of the cases have been provided it is not possible to comment further.

Recommendation

That the Committee notes the contents of the Addendum and agrees with the recommendation to refuse, as set out in paragraph 9.1 of the Planning Committee Report.