ADDENDUM
LA01/2022/0082/O

1.0 Update

1.1 PAC Decisions quoted in Paragraph 8.6 of the report for consideration.

Planning Appeals Commission

Appeal Decision

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Appeal Reference:	2015/A0221
Appeal by:	Mr R Bradley
Subject of Appeal:	The refusal of full planning permission
Proposed Development:	Two no. infill dwellings and garages
Location:	55m south of 4 Dullaghy Road, Kilrea, BT51 5XZ
Planning Authority:	Causeway Coast and Glens Borough Council
Application Reference:	LA01/2015/0224/F
Procedure:	Written representations and accompanied site on 22 June 2016.
Decision by:	Commissioner D McShane, 1 July 2016

Decision

1. The appeal is dismissed.

Reasons

2. The main issues in this appeal are:
   - whether the proposal is acceptable in principle in the countryside;
   - whether its impact on visual amenity would be acceptable;
   - whether it would have an acceptable impact on rural character; and
   - whether it would mar the distinction between the defined settlement limit of Boveedy and the surrounding countryside;

3. The Northern Area Plan 2016, which is the statutory development plan relevant to this appeal site, contains no material policies relating to dwellings in the countryside. The relevant policy context is therefore provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21); specifically Policies CTY 1, 8, 13, 14 and 15. Also pertinent is Planning Policy Statement 3: Access, Movement and Parking (PPS 3).

4. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. A number of instances when planning permission will be granted for an individual dwelling house are outlined. The Appellant argues that the appeal proposal represents an infill opportunity in accordance with Policy CTY 8.

5. Policy CTY 8 is entitled 'Ribbon Development' and states that planning permission will be refused for a dwelling that creates or adds to a ribbon of development. Paragraph 5.32 states that ribbon development is detrimental to the character, appearance and amenity of the countryside. Notwithstanding that this form of

development has been consistently opposed, policy goes on to state that an exception will be permitted for the development of a small gap site. The amplification text at paragraph 5.34 is clear that an exception will be permitted providing four specific elements are met. Namely, the gap site 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.

6. The first step in determining whether an "infill" opportunity exists is to identify whether there is a substantial and continuously built up frontage present. For the purpose of policy this "includes a line of three or more buildings along a road frontage without accompanying development to the rear". The appeal site lies between No.4 Dullaghy Road and No.4 Boveedy Road.

7. The dwelling and garage at No.4 Boveedy Road have a visual presence to and from the road and are accessed from it; however the plot on which they stand is separated from the road by ranch style fencing and paddock where horses are normally kept. A building has a frontage to a road if the plot on which it stands abuts or shares a boundary with that road; an access does not constitute a road frontage. The built development at No.4 Dullaghy Road is located within the settlement limit of Boveedy as designated by BD-01 in the NAP. The settled Commission position is that development within settlement limits cannot be included when considering development proposals under Policy CTY 8 as it occupies a different context in policy terms. The appeal site fails the first element that is required in order to qualify as an infill site. There is no substantial and continuously build up frontage at this location. As such, the appeal site, whatever its size cannot be a small gap as defined by CTY 8. Consequently, the appeal proposal also fails to meet the second and third elements required to satisfy the exception for infill development.

8. The fourth element of the infill policy in CTY 8 that must be considered is whether the appeal proposal meets other planning and environmental requirements. In the context of this appeal, the Planning Authority raises concerns under Policy CTY 13 and Policy CTY 14.

9. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. The Planning Authority cited Criteria (a) to (f). From the viewpoints identified on Boveedy and Dullaghy Roads, notwithstanding the removal of roadside vegetation to provide visibility splays, the proposed dwellings would not be prominent features in the landscape, given topography and mature vegetation along the northern and eastern boundaries of the site as well as mature vegetation beyond the site to the east. However, the design of the dwellings, particularly the large picture windows to their front elevations and the proposed boundary treatment; specifically the walls, gates and pillars are inappropriate for the site and its locality.

10. Ribbon development is not defined in policy however Paragraph 5.33 sets out what it can consist of. The words "visual linkage" are used in reference to what can constitute a ribbon of development and not in terms of what qualifies as an exception under infill. If the two appeal dwellings were to be approved, they would read with each other and with No.4 Boveedy Road creating a ribbon of

development and a built up appearance that would be detrimental to the character of this rural area. The sense of build up would be exacerbated by the erection of two identical dwellings, which have suburban design features. I find no support within Policy CTY 8 or Policies CTY 13 or CTY 14 for the proposal.

11. Policy CTY 1 goes on to state that other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement. There was no evidence to demonstrate that there are overriding reason why the development is essential. I conclude that the proposal is unacceptable in principle and contrary to Policy CTY 1. Accordingly, the Planning Authority has sustained its first, second, fourth and fifth reasons for refusal based upon Policies CTY 1, 8, 13 and 14.

12. The NAP identifies a settlement limit for Boveedy. As stated in paragraph 5.84 of PPS 21, the principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built-up area and surrounding countryside. Policy CTY 15 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.

13. Boveedy is a linear settlement that has developed along Blackrock Road. The settlement limit to the south of No.4 Dullaghy Road is clearly defined by a row of mature evergreen trees. The appeal site is located immediately adjacent to their south. Notwithstanding that on passing No.4, the roof and gable of a building within the settlement as well as directional signage is visible in the distance to the north, the existing dwelling and the appeal site read clearly as being in the rural area. The erection of the two appeal dwellings, which it has already been concluded, would create a ribbon of development, would result both in urban sprawl and a marring of the distinction between the urban and rural areas.

14. The Appellant cited two DOE planning approvals in support of the appeal proposal. I am not persuaded that the physical context for those approvals is directly comparable with that of the appeal proposal. In any event, in those specific cases the Planning Authority determined that the settlements, the town of Ballycastle and the village of Foreglen, had the capacity to absorb further development into their built form without marring the distinction between the urban and rural areas or resulting in urban sprawl a detrimental impact. Policy CTY 15 is a visual test and there will be some instances where a proposal on the edge of a settlement would not be fatal but that is not the case in this instance. Boveedy is designated as a small settlement, the lowest ranking settlement in the settlement hierarchy, and it could not absorb the appeal proposal without causing unacceptable harm. Accordingly, the Planning Authority has sustained it sixth reason for refusal.

15. The Local Authority accepted that visibility splays could be achieved by means of attaching a negative condition. Accordingly, it has failed to sustain its third reason for refusal based upon Policy AMP 2 of PPS 3.

This decision is based on the following drawings:-

- CCG Drawing 01: Location Plan (Scale 1:2500)
- PSP-01 REV A: Proposed Site Plan (Scale 1:500)

- CCG Drawing 03: Proposed Sketch Plan – Floor Plan and Elevations (Scale 1:100)

COMMISSIONER D MCSHANE

Planning Appeals Commission

Appeal Decision

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Appeal Reference:	2020/A0121
Appeal by:	Mr Frank McCaughan
Appeal against:	The refusal of outline planning permission
Proposed Development:	Two infill dwellings and garages
Location:	90m south west of 185 Whitepark Road, Bushmills
Planning Authority:	Causeway Coast and Glens Borough Council
Application Reference:	LA01/2020/0038/O
Procedure:	Written representations and Commissioner's site visit on 1st September 2021
Decision by:	Commissioner Gareth Kerr, dated 10th September 2021

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council informed the agent one day before the deadline for submission of statements of case that it was withdrawing the fifth refusal reason based on the impact of the proposal on natural heritage. It stated that this was in response to a review of the site and the Biodiversity Checklist and appeal decision 2020/A0043 where they were unable to defend a similar refusal reason. The appellant argued that such a late withdrawal of a refusal reason was unreasonable, unacceptable and unprofessional as the appeal decision referred to was issued on 5th March 2020 and the Council could have informed all the parties of its decision well in advance of the submission date for evidence. However, in light of the remaining refusal reasons the appellant chose not to submit a claim for costs. Appeal decision 2020/A0043 is in fact dated 5th March 2021, only seven working days before the first submission date in this appeal. While it is poor practice to withdraw a refusal reason at such short notice, in this instance, the Council informed the appellant of its stance within six working days of receipt of the appeal decision. Contesting the fifth refusal reason takes up a relatively small proportion of the appellant's evidence. As the withdrawal of this reason is to the appellant's benefit, he has not been prejudiced by the Council's actions in this regard.

3. The Council's decision on the planning application was based on a single site location map. In response to the sixth refusal reason based on road safety concerns, the appellant submitted an additional concept plan showing that the required visibility splays from the proposed shared entrance could be achieved. As he was not given an opportunity to submit this information during the course of the

application and as this additional information concerns a matter raised by the Council, no prejudice arises and the additional drawing is admissible in the appeal.

Reasons

3. The main issues in this appeal are whether the proposal is acceptable in principle in the countryside, whether the development would integrate into the surrounding landscape, whether it would detrimentally change the rural character of the area and whether it would prejudice road safety.

4. The Northern Area Plan 2016 (NAP) operates as the local development plan (LDP) for this area. Section 45 (1) of the Planning Act (Northern Ireland) 2011 states that regard must be had to the LDP, so far as material to the application, and to any other material considerations. Where regard is to be had to the LDP, Section 6 (4) of the Act requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise. In the NAP, the site is located in the open countryside and is not subject to any specific policy or designations. As the NAP does not contain any provisions for residential development in rural areas, I therefore turn to other material considerations.

5. The Strategic Planning Policy Statement for Northern Ireland (SPPS) retains certain existing Planning Policy Statements including Planning Policy Statement 3 – Access, Movement and Parking (PPS 3) in respect of road safety and Planning Policy Statement 21 – Sustainable Development in the Countryside (PPS 21). In respect of the issues in this appeal, the retained policies take precedence in decision making in accordance with the transitional arrangements outlined in the SPPS.

6. Policy CTY1 of PPS 21 identifies a range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. This includes the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY8. The premise of Policy CTY8 is to prevent ribbon development. However, it permits as an exception the development of a small gap site sufficient only to accommodate 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. A key consideration in the appeal is whether the site sits within a substantial and continuously built up frontage.

7. The policy defines a substantial and continuously built up frontage as including a line of three or more buildings along a road frontage without accompanying development to the rear. A building has a frontage to a road if the plot on which it stands abuts or shares a boundary with that road.

8. The north western boundary of the appeal site has a frontage of some 60 metres to Whitepark Road. To its west is a single storey dwelling (No. 188) with a large detached garage on a road frontage plot. To its east is another single storey dwelling (No. 186) sited centrally in a small farm yard and surrounded by several traditional farm buildings. However, this group of buildings is set back approximately 60m from the road along a laneway and behind an existing agricultural field. The concept plan submitted by the appellant confirms that the land between No. 186 and the road is

an agricultural field. Only the access lane to No. 186 extends to the Whitepark Road and an access alone does not constitute frontage. As the plot on which the buildings at No. 186 stand does not have frontage to the road, these buildings do not have frontage to the road. Consequently, there is no substantial and continuously built up frontage at this location. As such, the appeal site cannot constitute a small gap in such a frontage and the appeal proposal fails the fundamental requirement of the infill exception in Policy CTY8.

9. The policy goes on to require that the proposal respects the existing development pattern along the frontage. The subdivision of the entire field into two large landscaped plots and the use of a suburban-style paired entrance would not reflect the established pattern of development in this rural area where most existing buildings are grouped or clustered rather than lined out along the road. The plot depths of around 80 metres as shown on the concept plan significantly exceed the 40 to 50 metres estimated by the appellant and such plots are not found elsewhere in the area. The appellant argued that the set back of the buildings at No. 186 was not fatal to the proposal because Paragraph 5.33 of PPS 21 states that *a 'ribbon' does not necessarily have to be served by individual accesses nor have a continuous or uniform building line* and *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*. However, this part of the amplification of the policy is dealing with the wider concept of ribbon development which is detrimental to the character, appearance and amenity of the countryside and not the discrete issue of whether the existing buildings have road frontage. In accordance with the guidance in paragraph 5.33, the proposal would create a ribbon of development comprising the four proposed buildings, the buildings at No. 188 and the set back buildings at No. 186 which would be visually linked with those aforementioned.

10. The appellant cited four other planning approvals for infill dwellings by Causeway Coast and Glens Borough Council where some of the buildings in the built up frontage were set back a significant distance from the road. In respect of the first three examples given, none are directly comparable to the appeal proposal as the plots of each of the buildings referred to abut the road and share a boundary with it. I was not provided with details of how the fourth example was assessed by the Council, though it appears that the plots of each of the three existing dwellings extended to the road. The above cases do not demonstrate any inconsistency in decision-making that would outweigh the policy objections to the proposal. Each case must be considered on its own merits and in its own evidential context. As the proposed dwellings and garages do not meet the exception for infill development and would create ribbon development, the Council has sustained its second reason for refusal based on Policy CTY8.

11. Policy CTY13 of PPS 21 deals with the integration and design of buildings in the countryside. It sets out seven criteria where new buildings will be unacceptable. The first four criteria are disputed in this appeal, namely: (a) it is a prominent feature in the landscape; (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; (c) it relies primarily on the use of new landscaping for integration; and (d) ancillary works do not integrate with their surroundings.

12. The appeal site occupies a conspicuous position in the local landscape given its location at the junction of the A2 Whitepark Road and the B146 Causeway Road and its rising topography in relation to public viewpoints on the local road network. It has strong hedge boundaries to the west and east and sparser hedges to part of the southern boundary and along the roadside to the north (which would have to be removed to provide access to the site). The open nature of the site and surrounding area means the proposed buildings would appear unduly prominent along a significant stretch of Whitepark Road and would appear particularly incongruous in the landscape when travelling south east along Causeway Road towards the T-junction. From here the buildings, even if restricted to single storey, would break the skyline and would fail to integrate with their surroundings. Only the existing trees to the eastern side of No. 188 Whitepark Road would provide a degree of screening, but they would not create an adequate sense of enclosure for the four buildings proposed. The development would rely on new landscaping to the north, east and south in order to visually integrate and such planting would not satisfactorily mitigate the impact of the development for some time. The works required to provide a visibility splay to the eastern side of the paired access would further open up views of the site along Whitepark Road. In light of the above considerations, the proposed buildings would not visually integrate into the surrounding landscape. The Council has sustained its third refusal reason based on Policy CTY13.

13. The impact of the development on rural character is considered under Policy CTY14 of PPS 21. It states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A new building will be unacceptable where any of the following five criteria are engaged: (a) it is unduly prominent in the landscape; or (b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or (c) it does not respect the traditional pattern of settlement exhibited in that area; or (d) it creates or adds to a ribbon of development or (e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character. Although only criteria (b) and (d) are mentioned in the fourth refusal reason, the Council argued in its evidence that the proposal would be contrary to all five criteria.

14. The main pattern of development found in the local area comprises clusters of buildings, often centred around a farm complex. There are relatively few examples of one-off houses. The proposal would divide an existing agricultural field into two large landscaped plots and would introduce four buildings that, when viewed with the development to either side, would read as suburban style build-up. It would not respect the traditional settlement pattern on Whitepark Road and would cause a detrimental change to the rural character of the area. I have already found that the buildings would be unduly prominent in the landscape and would create a ribbon of development. The Council has sustained its fourth reason for refusal based on Policy CTY14.

15. Policy AMP2 of PPS 3 states that planning permission will only be granted for a development proposal involving direct access onto a public road where such access will not prejudice road safety or significantly inconvenience the flow of traffic. Development Control Advice Note 15: Vehicular Access Standards (DCAN 15) sets out the standards that will be applied to new accesses to public roads. The Council considered that the appellant had not demonstrated the required visibility splays of

2.4m x 90m could be provided. The appellant pointed out that he had not been asked for this information during the application process, but has shown on the concept plan submitted with his Statement of Case that the splays can be provided.

16. There is a slight bend in the road to the west of the site which benefits visibility in this direction from the proposed entrance. The splay to this side should extend to the tangent of the bend (in front of No. 188). Although it is not indicated to the correct location on the drawing, I am satisfied from my observations on site that the splay can be achieved. To the eastern side, a 2.4m x 90m splay would require the setting back of the fence and wall along the appeal site, the entrance to No. 186 and the boundary of the next field. I am satisfied that if a condition was imposed requiring the provision of such splays prior to the occupation of the dwellings, there would be no prejudice to road safety. The Council has not sustained its sixth refusal reason based on Policy AMP2.

17. As no other overriding reasons have been presented to demonstrate how the proposal is essential, it is also contrary to Policy CTY1. The Council's first reason for refusal is sustained. The support of a local elected representative for the proposal does not outweigh the failures to meet policy identified above. As four of the reasons for refusal have been sustained and are determining, the appeal must fail.

This decision is based on Drawing No. 01 – Site location plan 1:2500, which was received by the Council on 10th January 2020 and Drawing No. PCP-01 – Concept Plan 1:500, which was received by the Commission on 16th March 2021.

COMMISSIONER GARETH KERR

2.0 Recommendation

2.1 That the Committee note the contents of this Addendum and agree with the recommendation to Refuse the application in accordance with Sections 1 and 9 of the Planning Committee report.