

<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2022/0061/O</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>28<sup>th</sup> September 2022</b>
<b>For Decision or For Information</b>	<b>For Decision – Referred Application by Cllr McGlinchey</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>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>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>LA01/2022/0061/O</b>	<b><u>Ward:</u> Garvagh</b>
<b><u>App Type:</u></b>	<b>Outline</b>	
<b><u>Address:</u></b>	<b>Lands located immediately North of 41B Tirkeeran Road, Garvagh</b>	
<b><u>Proposal:</u></b>	<b>Site for cluster dwelling in compliance with Policy CTY2A of PPS21</b>	
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Valid Date:</u> 18<sup>th</sup> January 2022</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	
<b>Agent:</b>	<b>MKA Planning</b>	
<b>Applicant:</b>	<b>Roisin Connolly</b>	
<b>Objections: 0</b>	<b>Petitions of Objection: 0</b>	
<b>Support: 0</b>	<b>Petitions of Support: 0</b>	

**Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)**

## **EXECUTIVE SUMMARY**

- Outline planning permission is sought for a dwelling within a cluster in accordance with Policy CTY2a of PPS21.
- The application site is located within the rural area as identified within the Northern Area Plan (NAP) 2016. The site is located on land immediately North of No. 41 Tirkeeran Road, Garvagh.
- The proposal fails to meet the criteria for the principle of development under Policy CTY 2a.
- The proposal also fails policy CTY14 in that approving a dwelling on this site would result in a suburban style build-up of development when viewed with existing buildings and would result in ribbon development. The proposal does not meet the exception under CTY8 as it is not a small gap site.
- DFI Roads, NI Water and NIEA (Water Management Unit), Environmental Health and DEARA were consulted on the application and raise no objection.
- 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.

## **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 conditions set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The application site is located within the rural area as identified within the Northern Area Plan (NAP) 2016. The site is located on land immediately North of No. 41 Tirkeenan Road, Garvagh.
- 2.2 The site is a rectangular plot of land and appears to be the rear garden of No. 41 Tirkeeran Road. The site is uneven under foot and the topography falls towards the northern boundary. The northern boundary is defined by scrub/hedging some 3-4metres in height and the eastern boundary is defined by mature trees some 6-7metres in height. The remaining boundaries are physically undefined and open to the wider area.
- 2.3 The site is accessed off an existing laneway which also serves a number of other properties.

## **3 RELEVANT HISTORY**

- 3.1 Reference: LA01/2022/0553/F  
Location: 20m North of 39A Tirkeeran Road, Garvagh, BT51 5AX  
Proposal: Full planning application for proposed dwelling.  
Decision: Under consideration
- 3.2 Reference: LA01/2020/0199/RM  
Location: Lands 50m North of, 41A Tirkeeran Road, Garvagh,  
Proposal: Proposed new dwelling and detached garage  
Decision: Permission Granted 24.03.2020
- 3.3 Reference: LA01/2018/1130/O  
Location: Lands 50m North of, 41A Tirkeeran Road, Garvagh,

Proposal: Site for Cluster Dwelling in Compliance with Policy CTY2A of PPS21

Decision: Permission Granted 14.02.2019

3.4 Appeal Ref: 2005/A470

Decision: Planning Appeal Upheld 27.03.2006

3.5 Reference: C/2004/0756/O

Location: Lands to the rear of No's 41 & 41A Tirkeeran Road, Garvagh

Proposal: Site of traditional rural dwelling

Decision: Permission Granted 06.09.2005

## **4 THE APPLICATION**

4.1 Application for outline permission for a dwelling within a cluster.

## **5 PUBLICITY & CONSULTATIONS**

### **5.1 External**

**Neighbours:** There are no objections to the application

### **5.2 Internal**

**Environmental Health Department:** No objection

**NI Water:** No objections

**DFI Roads:** No objection

**Historic Environment Division:** No objections

**NIEA (Water Management Unit):** No objections

**NIEA (Natural Environment Division):** 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.

PPS2: Natural Heritage

PPS 3: Access, Movement and Parking.

PPS 21: Sustainable Development in the Countryside.

### **Supplementary Planning Guidance**

Building on Tradition: A Sustainable Design guide for Northern Ireland.

## **8 CONSIDERATIONS & ASSESSMENT**

### **Planning Policy**

- 8.1 The main considerations in the determination of this application relate to the principle of development and character of the rural area.

### **PPS2: Natural Heritage**

- 8.2 Policy NH5 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.
- 8.3 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.
- 8.4 A Bio-Diversity checklist - Document 01 date stamped 25th January 2022 - was submitted to the Council. Q.6 was checked 'yes' as the site is within 25metres of a conifer plantation and field hedgerow over 1metre high and wide. The effect to local flora and fauna was considered negligible due to the siting of the proposed dwelling being located over 18metres from the plantation, the site is of little ecological value, the site will ensure there is little in the way of light pollution, using an existing

laneway and access; and there will be no removal of existing hedgerows or mature vegetation.

- 8.5 NIEA was consulted as part of this application and were content that the proposal would not unacceptable adverse impact on, or damage to, habitats, species or features.

### **Access**

- 8.6 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.

- 8.7 DFI Roads was consulted on the proposal and responded with no concerns subject to conditions.

### **8.8 Planning, Archaeology and Built Heritage**

Planning Policy sets out planning policies for the protection and conservation of archaeological remains and features of the built heritage Policy BH 2: The Protection of Archaeological Remains of Local Importance and their Settings:

- 8.9 The site is located within proximity to an Archaeological Site and Monument. Historic Environment Division was consulted on the proposal and are content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

### **Principle of Development**

- 8.10 The principle of development must be considered having regard to the SPPS and PPS policy documents.



8.11 Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Policy CTY1 indicates that the development of a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a may be acceptable.

### **Policy CTY2A**

- 8.12 Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:
- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
  - the cluster appears as a visual entity in the local landscape;
  - the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,
  - the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
  - development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
  - development would not adversely impact on residential amenity.
- 8.13 There is no justification or amplification text in Policy CTY2a to define what constitutes a cluster of development. However, the first three criteria give an indication of its meaning. The first criterion requires that "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." This suggests that an existing cluster of development is to be formed by

buildings. There is an existing cluster of development in this location which comprises a row of road frontage development along this part of Tirkeeran Road. This includes buildings running from No. 43 to the west to No. 41a to the east. At least three of these buildings are dwellings. The cluster of development lies outside a farm. The proposal therefore complies with the first criterion of Policy CTY2A.

- 8.14 The second criterion of Policy CTY 2a states that the cluster must appear as a visual entity in the local landscape. This part of the Tirkeeran Road has a built-up appearance due to the number of buildings in close proximity along the road. The buildings are visually linked and the cluster of development appears as a visual entity in the local landscape.
- 8.15 The third criterion of Policy CTY2a states that the cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads. There is a creche/playgroup located at No. 39 Tirkeeran Road, which was formerly a public house. This is accepted as a community building and is visually linked with the existing cluster of development. As the cluster is associated with a focal point, this criteria has been satisfied.
- 8.16 The fourth criterion of the policy states the site should provide a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. The site lacks boundaries to the south and west and opens up into the wider countryside. A laneway runs along the eastern boundary separating the site from No. 41C Tirkeeran Road. The site is only bounded on one side by No. 41B Tirkeeran Road. Development located to the opposite side of the laneway does not constitute as bounding the application site. Appeal refs: 2019/A0214 and 2020/A0112 confirm that the presence of a road separating the application site from the development on the opposite side of the road results in them not providing a degree of enclosure. It was confirmed that the site must physically adjoin the other development on at least

two sides and that a laneway would not constitute 'development' as it is not a building and cannot therefore 'enclose' in the way that a building would. The proposal therefore fails this criterion.

- 8.17 The fifth criterion of Policy CTY 2a requires that the development can be absorbed into the existing cluster, through rounding off or consolidation and will not significantly alter the character or visually intrude into the open countryside. Given the lack of enclosure it is considered the proposal will intrude into the open countryside and would have a detrimental impact on the area if approved.
- 8.18 In relation to the final criterion whereby development should not adversely impact on residential amenity, it is considered that an appropriately designed dwelling could be erected on site that would have no significant adverse impact on the residential amenity experienced at existing properties.
- 8.19 Whilst it is accepted that there is an existing cluster of development in the vicinity of the application site which appears as a visual entity and is associated with a focal point, it is considered the proposal does not provide a suitable degree of enclosure and the development does not round off or consolidate the existing cluster, rather the proposal would intrude into the open countryside. The proposal fails Policy CTY 2a of PPS 21.

### **Policy CTY 13**

- 8.20 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 it is of an appropriate design.
- 8.21 A new building will be unacceptable where:
- (a) it is a prominent feature in the landscape; or
  - (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or

- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop; or
- (g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on a farm.

8.22 Paragraph 5.58 states the determination of whether a new building integrates into the landscape is not a test of invisibility; rather it requires an assessment of the extent to which the development of the proposed site will blend in unobtrusively with its immediate and wider surroundings.

8.23 Paragraph 5.57 states it is essential that similar care is exercised in the siting and design of new buildings to ensure they too can integrate harmoniously with their surroundings. The topography of the site falls slightly towards the northern boundary. As previously mentioned the site lacks boundaries to the south and west, however there are mature trees located along the eastern boundary that abuts the laneway that would screen views when travelling along the laneway. If approved, it is considered necessary to condition the existing vegetation to be retained. There would be no views of a dwelling on this site from the Tirkeeran Road due to screening from existing development and mature roadside vegetation.

8.24 Whilst it is noted that the site lacks established boundaries to the south and west, there would be no views from the public road, and very limited views from the laneway. It is considered that a dwelling would integrate into the landscape and would not be a prominent feature on the landscape.

8.25 It is considered a dwelling would integrate into the landscape in accordance with Policy CTY13 of PPS21.

#### **Policy CTY14**

8.26 Policy CTY14 of PPS21 states planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area.

8.27 Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. A new building will be unacceptable where:

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

8.28 There are a number of different ways in which new development in the countryside can impact detrimentally on rural character. One building by itself could have a significant effect on an area if it is poorly sited or designed and would be unduly prominent, particularly in more open and exposed landscapes.

8.29 It is considered that approving a dwelling on this site would result in a suburban style build-up of development when viewed with existing buildings and would result in ribbon development. The proposal does not meet the exception under CTY8 as it is not a small gap site located within a substantial and continuous frontage.

8.30 It is considered the proposal would cause a detrimental change to, or further erode the rural character of the area and is contrary to Policy CTY 14 of PPS 21.

### **Habitat Regulations Assessment**

8.31 The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the conservation (Natural habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

## **9 CONCLUSION**

9.1 The proposal is considered unacceptable in this location having regard to the Northern Area Plan 2016 and other material considerations, including the SPPS.

9.2 The proposal fails to meet the principle policy requirements under CTY1 for dwelling in the countryside as the proposal does not meet the criteria for a dwelling in an existing cluster, as outlined in Policy CTY2a.

9.3 The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that a dwelling would result in a suburban style build-up of development when viewed with existing buildings and would result in ribbon development. The proposal does not meet the exception under CTY8 as it is not a small gap site.

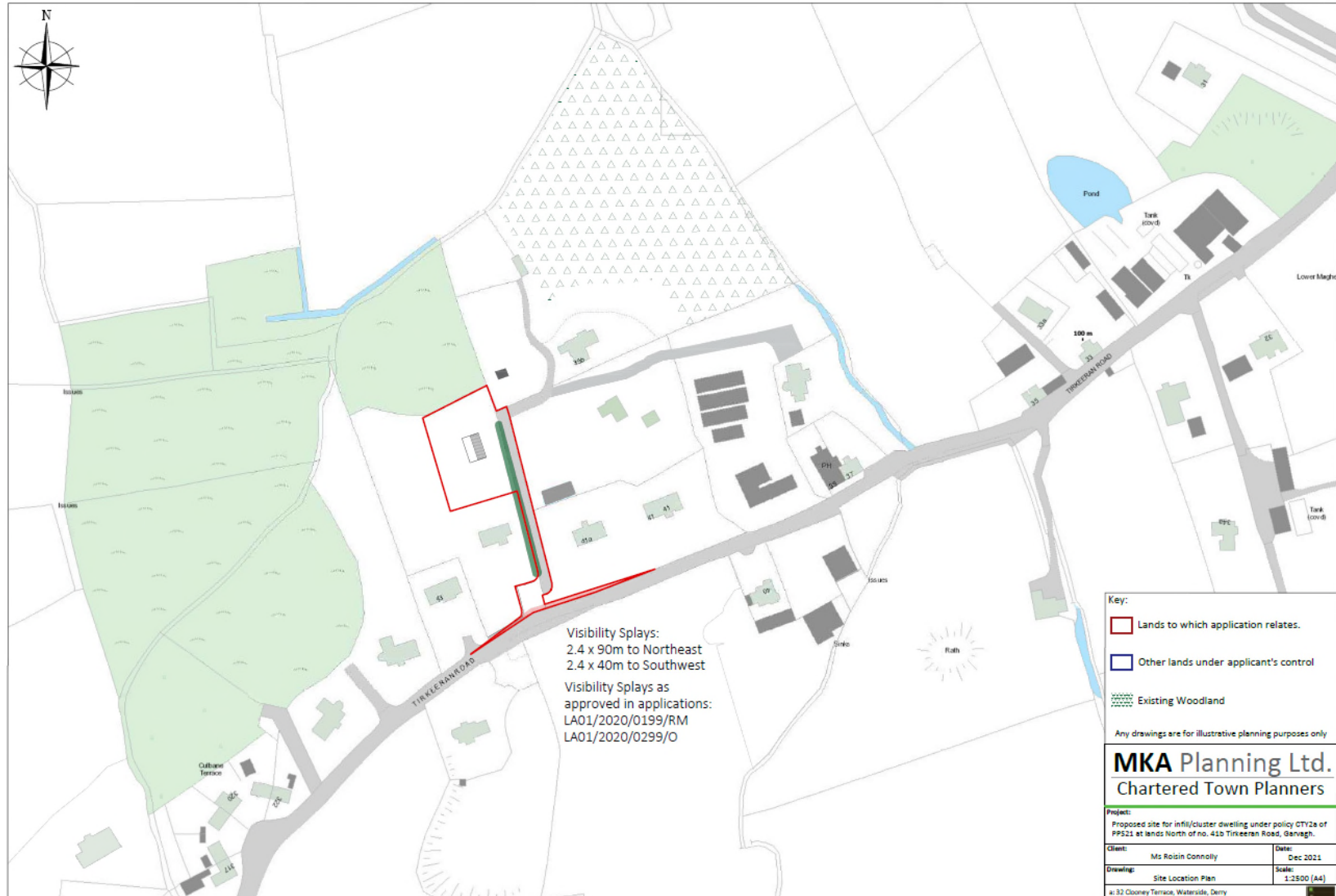
## **10 REFUSAL REASONS**

1. The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that

there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to the policy provisions of the Strategic Planning Policy Statement paragraph 6.73 and Policy CTY 2a of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site does not provide a suitable degree of enclosure and the development will not round off or consolidate the existing cluster, and it will visually intrude into the open countryside altering the existing character.
3. This proposal is contrary to paragraph 6.70 in the Strategic Planning Policy Statement and Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that if a dwelling were to be approved it would result in a suburban style build-up of development when viewed with existing buildings and would result in ribbon development.

# Site Location Plan





**REFERRAL REQUEST**

**From:** Caroline White <>

**Sent:** 01 July 2022 14:40

**To:** Planning <[Planning@causewaycoastandglens.gov.uk](mailto:Planning@causewaycoastandglens.gov.uk)>

**Subject:** LA01/2022/0061/O Referral

*Good afternoon,*

***RE: SITE FOR CLUSTER DWELLING IN COMPLIANCE WITH POLICY CTY2A OF PPS21 AT LANDS LOCATED IMMEDIATELY NORTH OF 41B TIRKEERAN ROAD, GARVAGH.***

***REF. NO. LA01/2022/0061/O***

Councillor Sean McGlinchey would like to ask for a referral of the above planning *LA01/2022/0061/O* for the following reasons:-

The application has been recommended for refusal because the planners feel that the application fails to meet the criteria for a cluster dwelling under Policy CTY2a.

I feel that the proposal constitutes a rounding off and consolidation of the existing cluster and will visually integrate and will not constitute ribbon development.

Caroline

Caroline White

[Caoimhe Archibald MLA](#)

[Office Manager](#)

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*email:*