

Title of Report:	Planning Committee Report – LA01/2021/1555/O
Committee Report Submitted To:	Planning Committee
Date of Meeting:	23rd November 2022
For Decision or For Information	For Decision – Referred Application by Cllr McGlinchey

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Development Management and Enforcement Manager

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

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:

	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

<u>No:</u>	LA01/2021/1555/O	<u>Ward:</u> Feeny
<u>App Type:</u>	Outline	
<u>Address:</u>	42m SW of No.18 Crock-Na-Brock Road, Foreglen, Dungiven	
<u>Proposal:</u>	Outline application for dwelling and garage.	
<u>Con Area:</u>	N/A	<u>Valid Date:</u> 22nd December
	2021	
<u>Listed Building Grade:</u>	N/A	
<u>Agent:</u>	OJQ Architecture	
<u>Applicant:</u>	Sean and Naomi O'Hara	
Objections: 0	Petitions of Objection: 0	
Support: 0	Petitions of Support: 0	

Drawings and additional information are available to view on the Planning Portal- 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 42 m SW of No. 18 Crock-Na-Brock, Foreglen, Dungiven.
- 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 42m SW of No. 18 Crock Na Brock, Foreglen, Dungiven.
- 2.2 The site is irregular in shape and some 0.338 hectares in size. The development site is some 300m due south from the main Foreglen Road. The site is flat in nature with little in the way of boundary definition. The southern boundary is defined by concrete post and wire fencing , with a steep embankment on the other side. The western boundary is undefined. The eastern boundary which zig zags the adjoining dwelling is defined by a small bank with ranch style fencing separating the development plot from the adjoining dwelling.
- 2.3 The site is accessed off an existing roadway which also serves a number of other properties.

3 RELEVANT HISTORY

- 3.1 Reference: B/1998/0100
Location: Crock-na-Brock, Limavady
Proposal: Site for bungalow
Decision: Planning Refused 24/07/1998

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

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.

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.

Access

- 8.2 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.
- 8.3 DFI Roads was consulted on the proposal and responded with no concerns subject to conditions.

Principle of Development

- 8.4 The principle of development must be considered having regard to the SPPS and PPS policy documents.
- 8.5 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

- 8.6 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.
- 8.7 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." The site lies adjacent to a 1.5 storey dwelling in an open part of the road, thereby being road frontage. The development site is outside of a farm. It is considered that the site is not part of a cluster given the degree of separation distance between the dwellings located along Crock Na Brock Road. Given this the proposed development fails to meet this criteria.

- 8.8 The second criterion of Policy CTY 2a states that the cluster must appear as a visual entity in the local landscape. The dwellings in the near vicinity do not appear as a visual entity in the local landscape due to the separation distances between the dwellings located along Crock Na Brock Road. The proposal therefore fails this part of the criteria.
- 8.9 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 church located approximately 350 metres from the site, a community hall located approximately 230 metres from the site and a standing stone located approximately 230 metres from the site. However, the site does not provide any physical connections to these sites. Appeal decisions 20017/A0168 and 2016/A0099 refer to distances and in those cases distances of 126m and 290m to the focal point were considered to be unacceptable separation from the cluster. This criteria has not been met.
- 8.10 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, west and east, and opens up into the wider countryside. The site has 4 boundaries (sides) of which one is only bounded. Dwelling no.18 bounds the site on one side. The site is very open bar the aforementioned, with no vegetation or

buildings to support the site providing a degree of enclosure. The proposal therefore fails this criterion.

- 8.11 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. The development site is out-with any visible cluster within the area. As there is no identifiable cluster the proposed site would not round off or consolidate the area and indeed would alter its existing character. What the proposal would encourage is an opening of the site to the countryside, which would lead to a ribboning effect along this particular stretch of the area. The proposal therefore fails this criterion.
- 8.12 In relation to the final criterion whereby development should not adversely impact on residential amenity. Although this is an outline application it is not anticipated that the adjoining property would lose residential amenity. The adjoining dwelling is on a higher level than the proposed site, windows could be conditioned as to limit the possibility of any visual intrusion. 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 the neighbouring property.
- 8.13 A support statement was submitted with the application. This document provides photographs from different points showing existing development around the site. It is considered that existing buildings located around the site are separate entities given the degree of separation between the buildings and are not read as a cluster of development. An aerial shot provided in the statement emphasises the degree of separation between the buildings. On the ground the existing dwellings read as being separate from each other and the proposed site is considered to be displaced from any development.

- 8.14 Reference is made to pages 68 and 69 of Building on Tradition where it is stated that the diagrams shown provide more than one focal point with suitable sites physically distant from the community facilities still deemed acceptable. Having regard to these examples it is considered that each acceptable site shown within Building on Tradition are clearly located in areas where there are clusters of development which differs to this application which is not located within a cluster of development.
- 8.15 Within the supporting statement reference is also made to precedent cases which have been approved and include applications LA01/2021/0023/O, LA01/2019/0641/O and LA01/2017/0555/O. Application LA01/2021/0023/O was approved at Planning Committee and although the site was visually separate from the existing cluster the site was bounded on 2 sides by existing development which did provide a degree of enclosure of the site and the site was set back 210 metres from the road which limited views of the site. Application LA01/2019/0641/O was located within a cluster of development therefore it is distinguishable to the current application. Application LA01/2017/0555/O was considered to be within a cluster of development which is again distinguishable to the current site.
- 8.16 Furthermore, 2 similar cases both of which were refused by the Planning Committee of this Council LA01/2017/0857/O and LA01/2017/0858/O were dismissed at appeal (2018/A0088 and 2018/A0089) as the focal point that was the Chapel and Parochial House located to the north-east were not considered to be associated with the site.
- 8.17 Appeal reference 2010/A0202 was also raised by the agent which approved a cluster dwelling even though it was not associated with a cluster. Consideration must also be given to PAC decisions 2017/A0035 and 2019/A0160 which both state that the 1st three criteria of policy CTY2a give indication of its meaning. Appeal decision 2017/A0168 states that the word

‘associated’ in the third criterion refers to the cluster being physically associated with a focal point rather than a cultural or familial association. It also refers to failure to meet criteria 3 as a critical deficiency.

Policy CTY 8

- 8.18 Planning permission will be refused for a building which creates or adds to a ribbon of development. 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.
- 8.19 It can be stated, that the proposed site provides an opportunity whereby a ribboning would occur, as highlighted above under the consideration of Policy CTY 2a - New dwellings in existing clusters. There is no development located to the south of the site and given this there is no gap between buildings. It is also considered that there is not a continuous built up frontage.

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 The proposed site itself is flat with banking to the rear which leads to the new A6 Road. There is no vegetation on any of the boundaries, just concrete post and wire fencing on the southern boundary and ranch style fence as the party boundary between the site and dwelling no. 18. The area in general is not treelined or with mature hedging, and therefore is relatively open. The site would open up to be prominent within the landscape with no natural integration available through the topography of the site through existing boundary treatments. As outlined above the application site is devoid of any natural screening along the proposed boundaries, and would be fully reliant on new landscaping to absorb it into the site. When travelling past the site frontage and on approach from the north the application site would appear visually prominent in relation to the surrounding dwellings. Any dwelling on the site would appear prominent and would fail to integrate, subsequently rendering the application contrary to Policy CTY 13 of PPS 21.

Policy CTY14

8.23 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.

8.24 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.

8.25 It is considered that the proposal would be prominent in the landscape as demonstrated above under section CTY 13 consideration. The proposal would when viewed with the existing buildings in the general area, result in a suburban style build up of development. In terms of the traditional pattern of settlement in the area it is considered that the proposed plot size would be in keeping with plots in the general area. The proposal will also lead to ribbon development. It is considered that any ancillary works would not damage rural character in the area. The proposal therefore fails to comply with Policy CTY 14.

Habitat Regulations Assessment

8.26 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 CTY13 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that a dwelling would be a prominent feature on the landscape, has limited screening and 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 Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development consisting of 4 or more buildings of which at least three are dwellings, the cluster does not appear as a visual entity in the local landscape, the proposal is not associated with a focal point, 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 the dwelling would if permitted visually intrude into the open countryside.
3. 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 is not considered to be a small gap site within an otherwise substantial

and continuously built-up frontage and would create a ribbon of development.

4. The proposal is contrary to Paragraph 6.70 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape, the proposed site lacks long established natural boundaries, is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, the proposed building relies primarily on the use of new landscaping for integration, the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop 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 CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and the building would, if permitted create a ribbon of development along Crock-na-Brock Road which would therefore result in a detrimental change which would further erode the rural character of the Countryside.

Site Location Plan



Referral Request

From: Caroline White <
Sent: 07 September 2022 14:50
To: Planning <Planning@causewaycoastandglens.gov.uk>
Subject: Planning Deferral LA01/2021/1555/O

Good afternoon

Councillor Sean McGlinchey would ask for the planning reference LA01/2021/1555/O to be deferred for the following reason;

Sean feels it meets the Cluster Policy, it has a Mass Rock, Foreglen Hall and two sides of the site are bounded

Thank you in advance
Caroline

Caroline White
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