

Title of Report:	Planning Committee Report – LA01/2021/1513/O
Committee Report Submitted To:	Planning Committee
Date of Meeting:	25th September 2024
For Decision or For Information	For Decision – Referred Application by Cllr Callan.

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>	LA01/2021/1513/O	<u>Ward:</u> Greysteel
<u>App Type:</u>	Outline	
<u>Address:</u>	Site adjacent to No. 40 Vale Road, Greysteel.	
<u>Proposal:</u>	Proposed site for infill dwelling in an established cluster – dwelling replacing existing property at 40a Vale Road.	
<u>Con Area:</u>	N/A	<u>Valid Date:</u> 8 December, 2021
<u>Listed Building Grade:</u>	N/A	
<u>Agent:</u>	AQB Architectural Workshop	
<u>Applicant:</u>	Mr Liam McKeever.	
Objections: 0	Petitions of Objection: 0	
Support: 0	Petitions of Support: 1	

EXECUTIVE SUMMARY

- Outline planning permission is sought for a dwelling under Planning Policy Statement 21: Sustainable Development in the Countryside.
- The site is located on land adjacent to 40a Vale Road, within the rural area as identified within the Northern Area Plan (NAP) 2016.
- The principle of development is not considered acceptable under Policy CTY 1 as there are overriding reasons why that development is essential and could not be located in a settlement.
- The proposal fails to meet the criteria for the principle of development under Policies CTY 2a, CTY 3, CTY 6 and CTY 8, and if approved, would add to a ribbon of development along Vale Road.
- DFI Roads, NI Water and NIEA (Water Management Unit), Environmental Health and DEARA were consulted on the application and raise no objection.
- Council have received a petition of support containing 21 signatures, attesting to the existence of a meeting spot known locally as Brolly's corner.
- Reasons for Referral by elected member are attached as an annex to this report.
- The application is recommended for Refusal.

Drawings and additional information are available to view on the Planning Portal- <https://planningregister.planningsystemni.gov.uk>

1 RECOMMENDATION

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

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is 0.61 hectares in size and is of a regular shape. The site is flat with an existing access off Vale Road. To the rear of the site, on the eastern boundary are a number of dwellings of various design. The northern boundary is defined by post and wire fencing with a native species hedge planted on the inside. The northern boundary is adjacent to the access lane for the properties positioned to the rear of the development site. Currently on the site is a static caravan and shipping container located on the south-eastern corner of the site.
- 2.2 The south-western boundary is defined by post and wire fencing with conifer trees along the length of the boundary. The roadside boundary (north-western) is defined by mature trees. The development site is lower than the existing road level by 1 - 1.5 metres. The access road to the site is defined on both sides by post and wire fencing. The topography of the site is level throughout.
- 2.3 The proposed site is in the rural countryside, outside any settlement limit or designations as defined by the Northern Area Plan 2016.

3 RELEVANT HISTORY

Enforcement

- 3.1 Application Number: B/2010/0026CA

Proposal: Unauthorised change of use of the land for the stationing of a mobile home, boat and metal lorry container, and the creation of an access and hardcore laneway.

Planning

- 3.2 B/2010/0104/O Proposal: Infill site for a detached single storey bungalow for owner occupation.
Decision: Permission Refused

4 THE APPLICATION

- 4.1 Proposed site for infill dwelling in an established cluster – dwelling replacing existing property at 40 Vale Road, Greysteel.

5 PUBLICITY & CONSULTATIONS

5.1 External

Neighbours: A petition of support containing 21 signatures has been received. The petition states, We hereby confirm that the area above, is known locally as Brolly's Corner, and is a recognised local meeting point. Named after Brolly's Farm and Brolly's Shop.

5.2 Internal

Environmental Health Department: No objection

NI Water: No objections

DFI Roads: No objection

NIEA WMU: 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 Due weight should be given to the relevant policies in the development plan.
- 6.4 The Regional Development Strategy (RDS) is a material consideration.
- 6.5 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.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

- 7.1 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.
- 7.2 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, integration, rural character, access, movement and parking.
- 8.2 **Access**

8.3 Planning Policy Statement 3 relates to vehicular and pedestrian access, transport assessment, and the protection of transport routes, and parking. Policy AMP2 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.

8.4 DFI Roads were consulted in relation to the proposal and offered no objection. The application as proposed is unlikely to prejudice road safety or significantly inconvenience the flow of traffic at this location.

Principle of Development

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

8.6 Policy CTY1 of PPS21 sets out a range of types of development which in principle are considered to be acceptable in the countryside, one of which is the infilling of a gap site under CTY 8.

8.7 CTY 8 states that: Development which creates or adds to a ribbon of development will be refused, however an exception will be permitted for the development of a small gap site within a substantial and continuously built up frontage.”

8.8 For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

8.9 The amplification text within Paragraph 5.34 of the policy clearly states that the gap is between houses or other buildings, and it requires four specific elements to be met; 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.

- 8.10 The proposed site is located adjacent to 2 dwellings which front onto Vale Road. The proposal seeks to extend the row of development creating a ribbon along the frontage. It is not within a gap and cannot be considered infill development.
- 8.11 With regards the development pattern, the application site covers an area of 0.61 hectares and a frontage length of 52 metres. No. 40 and 42 Vale Road have an average plot size of 0.175 hectares and an average frontage length of 25m.
- 8.12 The size of the application site is some 0.61 hectares, some 3 times larger than the existing pattern, therefore it does not respect the existing development pattern along the Vale Road.
- 8.13 Dwelling no. 40 has a frontage of 24 metres. Dwelling no. 42 Vale Road has a site frontage of 26m in length. This provides an average of 25 metres. The application site has a frontage of some 52 metres facing onto the Vale Road and as such, does not respect the existing development pattern.
- 8.14 Based on the above information it is considered that the application plot does not respect the development pattern within the area and as such, there is not a substantial and built up frontage for the purposes of CTY 8, as there is no gap site to develop. There is no further dwelling to the north to provide the gap between two buildings. The proposal fails to meet the principle policy test of CTY 8, as the site is located at the end of the current built up frontage onto Vale Road, and would therefore create a ribbon of development, along this stretch of the road.
- 8.15 In regards to the agents Supporting Statement where the agent states that the site is within a substantially, continuous built up frontage and respects the existing development pattern, in support of the application site, qualifying under Policy CTY 8, it falls short, as highlighted above from paragraphs 8.7 to 8.13. Under this policy CTY 8, it is considered that there is not a substantial and continuously built up frontage along this stretch of the Vale Road. The site is a very large corner plot at the end of the pattern of

development along this part of the Vale Road and would not constitute as a small gap site. Whilst the visual linkage test relates to establishing which buildings make up the ribbon of development, the development of a small gap site under the exception test relates to a frontage test only in that the small gap site must be within an otherwise substantial and continuously built up frontage.

8.16 Policy CTY 2a New Dwellings in Existing Clusters.

8.17 Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- a) The cluster of development lies outside a farm and consists of 4 or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures), of which at least three are dwellings.
- b) The cluster appears as a visual entity in the local landscape
- c) The cluster is associated with a focal point such as a social / community building / facility, or is located at a cross roads.
- d) Development of the site can be absorbed into the existing cluster through rounding off and consolidation and would not significantly alter its existing character, or visually intrude into the open countryside; and
- e) Development would not adversely impact on residential amenity.

8.18 The proposed development site lies outside of a farm and there are four dwellings located on lands around the application site. However, the site and the associated buildings do not form a cluster and are not eligible for consideration under CTY2a.

8.19 The proposed site is not visually associated with the grouping, as it is separated by the mature vegetation positioned on the south eastern boundary. This provides a visual break from the dwellings to the rear of the site and the dwellings fronting onto the Vale Road. Given the level of screening afforded, the grouping does not read as a visual entity in the landscape.

- 8.20 The proposed site is not associated with a focal point / social / community building or is located at a cross roads in the area. It is suggested from the agents supporting statement, that, there is a cluster at the application site, and is known as 'Upper Road' with the junction a recognised area of local interest known as Brolly's Corner with a local historic relationship with Brolly's shop and Brolly's farm.
- 8.21 The agent has provided a map identify the location of Brolly's Corner and the historic location of Brolly's shop, along with a petition of 21 signature confirming the area as a meeting spot. However, the application site is not at a crossroads and the shop no longer exists. Notwithstanding, the identified location of the shop is somewhat removed from the location of the site and the perceived cluster. Whilst the junction may naturally serve as an informal meeting spot in the area, it does not satisfy the requirements of the policy which calls for a social / community building / facility.
- 8.22 The agent further states that there are currently 7no dwellings within the cluster, with 16 buildings in total. No map / plan was received showing the extent to which the 16 dwellings encompassed, within the area. However, there are a total of 7 dwellings within the immediate vicinity, with 2 fronting onto the Vale Road and the reminder accessed from the existing laneway from the Vale Road to the dwellinghouses to the rear of the application site. One of the dwellings within the agents cluster is no the opposite side of Vale Road from the application site.
- 8.23 The site offers a degree of enclosure with the mature vegetation providing a backdrop to the site. However, the policy test calls for the development to be absorbed into the existing cluster through rounding off and consolidation and would not significantly alter its existing character, or visually intrude into the open countryside. The site is visually distinct from the existing buildings which are largely screened from view. Development of the site would therefore not round off or consolidate an existing group, but, would break out from the integrated grouping into an open adjacent field. The agent stated that the site would not have an impact on residential amenity. It is

considered that the design of any future submission would address these issues. As such, the proposal fails to meet the criteria under CTY2a.

Policy CTY 3 – Replacement Dwellings.

8.24 Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

8.25 Policy CTY 3 clearly states that buildings of a temporary construction will not be eligible for replacement under this policy.

8.26 The building that is subject to being replaced is a large static caravan. The caravan is propped up by blocks. It is well established that a caravan is considered to be a building of temporary construction. The following appeal decisions are of relevance in this case in terms of temporary structures.

- PAC 2013/ A0047, Milltown Road, Lislea, Camlough, Newry – Replacement of mobile home dismissed. PAC stated “whilst they collectively indicate a degree or permanency of habitation, the test on CTY 3 is whether or not there is a building to be replaced and if it exhibits the essential characteristics of a dwelling. The appeal proposal involves not a building but a mobile home which is of temporary construction and does not exhibit the essential characteristics of a dwelling”.
- PAC 2013/0074 Ballygowan Road, Hillsborough – replacement dwelling in lieu of prefabricated dwelling. PAC stated “taking PPS 21 as a whole there is provision for residential caravans and mobile homes under CTY 9. The policies contained within PPS 21 make distinction between dwellings and caravans. The wording of CTY 3 in relation to the building to be replaced exhibiting the essential characteristics of a dwelling and as a minimum having external structural walls intact suggests that to qualify, the

structure must be a building with conventionally built structural walls rather than be comprised of prefabricated shell structures such as caravans. I am reinforced in this by the distinction throughout PPS 21 between dwellings and caravans / mobile homes. Given this distinction I am not persuaded that a caravan which for the purposes of this policy is of temporary construction, can benefit from the policy provisions of CTY 3, notwithstanding how long it has occupied a site or its means of attachment to the ground”.

8.27 Although the structure in question has been in existence for over 5 years (presence on ariel photos). The building is of temporary construction and is not eligible for replacement under CTY 3.

CTY 6 – Personal and Domestic Circumstances.

8.28 Planning permission will be granted for a dwelling in the countryside for the long terms needs of the applicant, where there are compelling and site specific reasons for this related to the applicants personal or domestic circumstances and provided the following criteria are met:

- a) the applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused; and
- b) there are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

8.29 As part of the application the agent has submitted a supporting statement and medical information.

8.30 No specific details have been provided which outline the level of care required by the applicant or indeed who provides the primary care. It has not been demonstrated how the current level of care will

be provided / maintained. The supporting information outlines that the proposed dwelling will allow for the applicant to avail of independent living.

8.31 Of course, there is no opportunity for an extension or annex to the property as it stands, due to the temporary nature of the living accommodation. From assessing the information provided it would appear that the need for a dwelling was the subject of a cluster application, as reviewed above. The need for a new dwelling is not compelling and site specific, rather one of desire, over an alternative option within a nearby settlement, or of purchasing a development site in the rural vicinity. I am not persuaded that refusal of the application would cause undue hardship to the applicant. The proposal is therefore not in accordance with CTY 6.

8.32 Integration and Rural Character.

8.33 Policy CTY 1 of PPS 21 and Paragraph 6.70 of the SPPS is a material consideration and states that all proposals must be sited and designed to integrate into its setting, respect rural character and be appropriately designed.

8.34 Policy CTY 13 states that permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

8.35 No Concept plan was submitted with the application. An existing access would be utilised onto the Vale Road. DFI Roads were consulted and have returned with no concerns. The site is very large and open to view points travelling along the Vale Road from a northerly direction, with any given views being localised. While it is considered that a dwelling could be sited in place of the static caravan, nestling into the same position, in the southern corner of the site, to position a dwelling in this corner of the application site, it is considered that this would be behind the existing building line / development pattern along the Vale Road and thereby would not be acceptable.

8.36 While it is considered that there is good boundary treatments along the road frontage and south eastern boundary, it is further considered that due to the size of the site that additional new planting would be necessary, to further screen the development from the roadside approaching the site especially from the north.

8.37 Overall, it is considered that a modest dwelling could be integrated within the proposed site if the proposal met with one of the exceptions under CTY1.

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

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

8.39 No details have been provided, in regards to the siting and design. It is further considered that any development on this site would result in a suburban style build up of development when viewed with the existing buildings as the proposal would add to a ribbon of development (see paragraph 8.6 - 8.14). The size of the site would not respect the traditional pattern of settlement exhibited in the area.

8.40 The agent within the supporting statement quotes The High Court findings of Justice Scofield in the Case of Mr Duff V Newry Mourne and Down District Council, Ref: SCO11856 – delivered 24/05/2022.

8.41 The agent specifically quotes Paragraph 91, Page 28 “I venture the following summary which (I hope) will be of assistance to decision

makers in this field”. Furthermore, in Paragraph 91 (vi) “The authority should nonetheless consider...the exception within the policy, which is to permit development where little or nothing is lost in terms of rural character”. The agent states that this aspect directly relates to their application site, which is bounded on all sides by development.

8.42 The above comments have been considered within the main body of the report Paragraphs 8.1 to 8.38. In the above arguments, it is clear that the agent believes there to be a small gap site which is suitable for development. In the case defined by the agent Mr Duff V Newry Mourne and Down District Council, the Judge (J Schoffield), where Mr Duff was challenging “The Council” to grant outline planning permission for two detached ‘infill’ dwellings at lands located between nos. 2 and 10 Glassdrumman Road, Ballynahinch.

8.43 Under the Discussion section, the first question to be answered was “would the development create or add to ribbon development”, and secondly “is it a small gap site within a continuously built up frontage”. In J Schoffield states that in both, it is a matter of assessment for the planning authority.

8.44 In Paragraph 91 (v) it states that “where the planning authority is satisfied that there is a substantial and continuously built up frontage, the next question is whether there is a small gap site. As the site is three times larger than the average existing plot it would be determined that the development alters the rural character of the area, and additionally would create a ribbon of development along Vale Road, as it is not a small gap site in an otherwise substantial and continuously built up frontage. As the application is based on its own merits with J Schoffield defining ribbon development, and, as established within the main body of the report, it is considered that there is not a continuous and built up frontage. The development would create a ribboning effect along the Vale Road.

8.45 In paragraph 91 (vi) it states “Where there is a small gap site, the authority should nonetheless consider whether, by permitting that site to be infilled, it is acting in accordance with, or contrary to, the purpose of the exception within the policy (which is to permit development where little or nothing is lost in terms of rural character because of the existing substantial and continuously built up frontage). Consistently with the guidance in Building in Tradition, this should include consideration of whether the grant of permission will result in the loss of an important visual break in the developed appearance of the local area. That, again, is a matter of planning judgement.

8.46 As Policy CTY 8 states “Planning permission will be refused for a building which creates or adds to a ribbon of development”. It further states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage in terms of size, scale, siting and plot size and meets other planning and environmental considerations. Based on the findings in the report, the site does not meet with the requisite character and appearance of the area in general.

Habitat Regulations

8.47 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 as outlined in policies CTY2a, CTY3, CTY6, CTY8 or CTY14.
- 9.3 In terms of CTY 2a, as explained in the report, in Paragraphs 8.16 to 8.22 it is considered that there is no cluster of development. Again under CTY 3 Paragraphs 8.23 to 8.26 inclusive the mobile home does not qualify as a replacement building as it is a temporary structure.
- 9.4 The proposal is contrary to Policy CTY 3 as the existing temporary structure is not eligible for consideration as a replacement dwelling and, it has not been demonstrated that there is a genuine case of personal and domestic circumstances as defined under CTY6. In addition, the proposal is contrary to 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 the existing buildings.
- 9.5 It has not been demonstrated that there is satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case under CTY 6.
- 9.6 As assessed under CTY 8 the site is not considered a small gap site and the development of this site will add to a ribbon of development along the Vale Road. The proposal would result in a suburban style build up and would not respect the traditional pattern of development. The proposal thereby does not meet the above criteria of CTY 14.

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 8 of Planning Policy Statement 21, in that it fails to meet with the provisions for an infill dwelling as the application site does not respect the existing development pattern along the Vale Road, and is not located within a substantial and continuously built up frontage.
3. This proposal is contrary to paragraph 6.70 of 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 create a ribbon of development, and would be detrimental to the rural character of the area by causing a suburban style build up of development when viewed with existing buildings.
4. The proposal is contrary to Paragraph 6.73 of the Strategic Planning Policy Statement for Northern Ireland and Policy CTY 6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of the case.
5. 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 site is not associated with a focal point or cross roads and does not appear as a visual entity when viewed from Vale Road.



From: Aaron Callan >
Sent: Monday, November 27, 2023 8:59 AM
To: Denise Dickson
Subject: Planning referral

Denise

Please find below reasons for the referral to committee for this application SITE AT 40 VALE RD –
Planning Ref :LA01/2021/1513/O

Site is at a defined grouping of dwellings positioned at a staggered junction.

Development has taken place around the site which creates the infill/ rounding off of the group.

Caravan on site with a postal address and exempt from enforcement at planning. In a sense has
planning by default.

Client has health concerns and letter of support from his doctors but this is secondary as site is
strong enough to approve without personal circumstances.

The dwelling would qualify for an NIHE Replacement Grant ; however government funding
drawbacks mean that this Grant Source / Route is unavailable.

Regards

Aaron

Sent from my iPhone