

# **Addendum 2**

## **LA01/2020/0456/O**

### **1.0 Update**

1.1 Following the site visit on 23.08.2021, Members asked for additional information to be provided. The information sought was:

- The planning history for No.98 Bolea Road, and a dwelling to the north/north east of the planning application site, further along the laneway.
- A larger scaled map showing development in the wider context of Bolea Road.
- PAC Decision 2019/A0160 – a decision where the Commissioner considered the issue of development on the opposite side of a lane & road.

### **2.0 Consideration**

#### **Planning History**

2.1 During the site visit further information was requested by Members regarding the planning history for 2 constructed dwellings near to the site. One dwelling is known as no.98 Bolea Road, and the second, a dwelling to the north/north east, appears to be No. 98a Bolea Road (Source: LPS Domestic Property Valuation). The relevant history is:

- No.98 Bolea Road - B/2003/0550/O & B/2006/0283/F  
Erection of two storey dwelling and detached garage, Rear of 96 and 102 Bolea Road, Limavady – Approved 20.10.2007
- Dwelling to the north/north east of the site, further along laneway (No.98a) - B/2004/0346/O & B/2008/0332/RM  
Erection of one and a half storey dwelling with detached garage, 300 metres north of 96 Bolea Road, Killbready, Limavady – Approved 20.07.2009

2.2 Both these dwellings were approved by The Planning Service (DOE) under the Planning Strategy for Rural Northern Ireland. The policy context is different for the assessment of the application

under consideration which is PPS 21 – Sustainable Development in the Countryside – mainly Policy CTY 2a.

### **Maps**

- 2.3 Larger scale maps at scales 1:5000, 1:7500 & 1:10000 have been attached as separate documents.

### **PAC Decision**

- 2.4 PAC Decision 2019/A0160 has been attached as a separate document.

### **3.0 Recommendation**

- 3.1 That the Committee note the contents of this Addendum and attachments, and agree with the recommendation to refuse as set out in Paragraph 9.1 of the Planning Committee Report.

Fly Date 14/08/2020

LA01/2020/0456/O



Fly Date 14/08/2020

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LA01/2020/0456/O



# Appeal Decision

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<b>Appeal Reference:</b>	2019/A0160
<b>Appeal by:</b>	Ms R Harbinson
<b>Appeal against:</b>	The refusal of outline planning permission
<b>Proposed Development:</b>	Site for dwelling and garage based upon Policy CTY 2a
<b>Location:</b>	30m north of 729 Feeny Road, Rallagh, Dungiven
<b>Planning Authority:</b>	Causeway Coast and Glens Borough Council
<b>Application Reference:</b>	LA01/2019/0188/O
<b>Procedure:</b>	Written representations and accompanied site visit on 5 March 2020
<b>Decision by:</b>	Commissioner McShane dated 7 April 2020.

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## Decision

1. The appeal is dismissed

## Reasons

2. The main issues in this appeal are:
  - whether the appeal proposal is acceptable in principle;
  - its impact on visual amenity and rural character; and
  - its impact on an Area of Outstanding Natural Beauty (AONB).
3. Section 6 (4) of the Planning Act (NI) 2011 requires that the determination of proposals must be in accordance with the local development plan (LDP) unless material considerations indicate otherwise. The Northern Area Plan 2016 (NAP) operates as a LDP. The appeal site is located outside any designated settlement development limit; there are no plan policies relevant to my assessment. I therefore turn to other material considerations.
4. As the appeal site is in the open countryside, Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) provides the relevant policy context. Policy NH 6 of Planning Policy Statement 2: Natural Heritage (PPS 2) is also pertinent, given the appeal site's location within the Sperrin AONB. PPS 21 and PPS 2 are identified by the Strategic Planning Policy Statement for NI (SPPS) as retained policy documents.
5. 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. The circumstances wherein planning permission will be granted for housing development are set out. A number of instances when planning permission will be granted for an individual dwelling house are outlined. The Appellant argued that the proposed dwelling would be

located in a cluster in accordance with Policy CTY 2a. The policy states that planning permission will be granted for a dwelling at an existing cluster, provided six specified criteria are met. The parties dispute the fourth and fifth criteria.

6. The fourth criterion requires that the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. Whether the site provides a suitable degree of enclosure is considered below in relation to Policy CTY 13. A cluster of development is not defined by the policy, but its first three criteria give an indication of the intended meaning. The first criterion relates to the number and type of buildings involved. It requires that the cluster of development must lie outside of a farm and consist of four or more buildings (excluding buildings such as garages, *outbuildings* [my emphasis] and open sided structures) of which at least three are dwellings.
7. A 2.5m high, 3m deep, 8m wide corrugated metal structure with a mono pitch roof and earthen floor stands immediately adjacent to the south east of the appeal site. There was no dispute that the structure constitutes an outbuilding. Consequently, in policy terms, it cannot constitute part of the cluster.
8. From the identified LPA Viewpoints 1, 2, 3 and in transit, development on the appeal site would be visually linked with the dwellings at No.729 and 729a. However, they are physically separated from the appeal site by a laneway that runs along its southern border, which provides access to Nos. 729 and 727a, as well as to fields beyond. It became apparent at the site visit that No.727a is a farm dwelling, which along with its associated outbuildings physically and visually separates the appeal site from No.727. No.724 is physically and visually separated from the appeal site as it stands as a single dwelling on the opposite (western) side of Feeny Road. There is no development to the north east, north west or south east of the appeal site. The appeal site is not bounded on at least two sides with other development in the identified cluster. Consequently, the appeal proposal fails to meet the fourth criterion of Policy CTY 2a.
9. The fifth criterion requires that development on 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. However, as the appeal site is not bound on two sides by development within the cluster, the proposed dwelling and garage would extend development in a northern direction into the open countryside. This would result in a suburban build up of development, when viewed with existing buildings, which would have a detrimental impact on the rural character of the area. Consequently, the appeal proposal does not meet the fifth criterion of Policy CTY 2a.
10. Policy CTY 1 is clear that other types of development will only be permitted where there are overriding reasons why the development is essential at the rural location and could not be located in a settlement. Reference was made to the approval of applications for farm dwellings and wind turbines/farms in the area; however such developments are assessed in a different policy context. Their approval does not justify approval of the appeal proposal, which is contrary to Policy CTY 2a. Accordingly, the Council has sustained its first and second reasons for refusal based upon Policies CTY 1 and CTY 2a of PPS 21.

11. 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. Notwithstanding that this is an application for outline planning permission, it was indicated that the proposed dwelling would be approximately 6.5m high and 180sqm. From the identified LPA Viewpoints the proposed dwelling, which would stand approximately 80m back from the road, would read against a backdrop of mature vegetation and rising land, which would provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape. In this context, notwithstanding the absence of boundaries to the north east and north west of the appeal site, the proposed development would not appear visually prominent. Accordingly, the Council has failed to sustain its third reason for refusal based upon Policy CTY 13 of PPS 21.
12. Policy 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. It has already been concluded above that the proposed dwelling and garage would result in a build up of development when viewed with existing buildings that would extend development to the north into the open countryside. This would have an unacceptable detrimental impact on the rural character of this area. The Council has sustained its fourth reason for refusal based upon Policy CTY 14 of PPS 21.
13. The appeal site is located in the Sperrin AONB, which is extensive stretching from the Strule Valley in the west to the perimeter of the Lough Neagh Lowlands in the east. Policy NH 6 of PPS 2 states that planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality and three stated criteria are met. This is an outline application; therefore no details on design are available. However, it has been concluded above that the siting of the proposed development would be unacceptable in terms of its impact on rural character. It therefore follows that it also offends Criterion (a) of Policy NH6, which requires siting to be sympathetic to the special character of the AONB in general and of the particular locality. The Council has sustained its fifth reason for refusal based upon Policy NH6 of PPS 2.

This decision is based on the following drawing:

- LPA Drwg No.01: Location Map (Scale 1:2500).

**COMMISSIONER D MCSHANE**



**List of Appearances**

Planning Authority:- Ms H Clarke  
Appellant:- Mr C Cassidy

**List of Documents**

Planning Authority:- "LPA 1" Statement of Case and Appendices  
"LPS 2" Rebuttal Statement  
Appellant:- "APP 1" Statement of Case